

State of Idaho
Department of Water Resources

AMENDED WATER RIGHT LICENSE AMENDED

License of Water Right No. 47-7676 Priority October 30, 1980 Amount 175.0 cfs

THIS IS TO CERTIFY, that Twin Falls Bank & Trust Company
of Twin Falls, Idaho, has complied with the terms and conditions of Permit
No. 47-7676 issued pursuant to Application for Permit dated October 30, 1980,
and has submitted proof to the Department of Water Resources on December 7, 1983,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 175.0 cfs of water from Rock Creek,
tributary to Snake River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Power	from <u>January 1</u> to <u>December 31</u> at	<u>175.0 cfs</u> and <u>n/a</u>	
	from _____ to _____ at _____ cfs and _____		
	from _____ to _____ at _____ cfs and _____		

Subject, however, to the condition that no more than 175.0 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
n/a acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25 Twp.
9S, Rge. 16E in the County of Twin Falls

Description and location of place of use:

Twp.	Range	Sec.	NEW				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
9S	16E	23																	

Total number of acres irrigated _____

Use of water under this license is subject to control by the watermaster of State Water District No. 47-0, Rock Creek.

The diversion and use of water under this license is subject to review by the Director 35 years from the date of issuance. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

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.

MICROFILMED

Note: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law. This right may be forfeited by five years of non-use.

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 9TH day of July, 1984.

Norman C. Young
Director

DRT

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 47-7676 Priority October 30, 1980 Amount 175 cfs

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established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Power	from <u>January 1</u> to <u>December 31</u> at <u>175</u> cfs and <u>n/a</u>		
	from _____ at _____ cfs and _____		
	from _____ at _____ cfs and _____		

Subject, however, to the condition that no more than 175 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
n/a acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25,
Twp 9S, Rge 16E in the County of Twin Falls

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				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 $\frac{1}{4}$	
9S	16E	23													

Total number of acres irrigated _____

Use of water under this license is subject to control by the watermaster of
State Water District No. 47-0, Rock Creek.
The diversion and use of water under this license is subject to review by the
Director thirty-five (35) years from the date of issuance. Upon appropriate
findings relative to the interest of the public, the Director may cancel all or
any part of the use authorized herein and may revise, delete or add conditions
under which the right may be exercised.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 6TH day of
JUNE, 19 84.

Acting for the Director

MICROFILMED

WATER RIGHT SPLIT
SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Orginial Application	47-7676	Bruce C. Mecham ✓	200.0 cfs
Full Assignment of Application	47-7676	Cogeneration, Inc. ✓	~~200.0~~ 200.0 cfs
Application approved on 1-26-1982			
Full Assignment of Permit	47-7676	Twin Falls Bank & Trust Co. ✓	200.0 cfs

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APR 1 1983

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

AFFIDAVIT RE COLLATERAL ASSIGNMENT OF WATER PERMIT
NO. 47-7676 FOR POWER PURPOSES

STATE OF IDAHO)
) ss.
County of Twin Falls)

IVAN B. SKINNER, being first duly sworn on his oath,
deposes and says that:

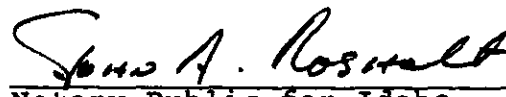
Affiant is the Senior Vice President of TWIN FALLS BANK
& TRUST COMPANY (herein called the "Bank") and has personal
knowledge of the facts herein set forth.

The Bank was chartered by the State of Idaho in 1908 as
a state bank and since then has been and now is an Idaho state
banking corporation with its principal office located at 102 Main
Avenue South (P.O. Box 7), Twin Falls, Idaho 83301, and that the
corporate records of the Bank are kept at that address.

The principal officers of the Bank are:

<u>Name</u>	<u>Title</u>
Curtis T. Eaton	President & Chairman of the Board
Curtis H. Eaton	Executive Vice President
Ivan B. Skinner	Senior Vice President
C. Alan Horner	Vice President
Helen McCallie	Secretary

SUBSCRIBED AND SWORN To before me this 30th day of March,
1983.



Notary Public for Idaho
Residing at Twin Falls, Idaho
My bond expires: 1986

RECEIVED

APR 1 1983

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF WATER PERMIT

No. 47-7676

FOR VALUE RECEIVED, the undersigned Permittee,
COGENERATION, INC., joined by its undersigned joint venturers,
hereby assign and transfer unto TWIN FALLS BANK & TRUST COMPANY,
a state banking corporation, 102 Main Avenue South (P.O. Box 7),
Twin Falls, Idaho 83301 (hereinafter called "Bank"), all of
its/their right, title and interest in and to Water Permit No.
47-7676.

This Assignment is given for collateral loan purposes,
primarily secured by a Deed of Trust from the undersigned as
Grantor, to TitleFact, Inc., as Trustee, and Bank as Beneficiary,
covering the real property situate in Twin Falls, County, Idaho,
described or referred to in said water permit.

The Bank is a state bank qualified under the laws of the
State of Idaho, with its principal office at Twin Falls, Idaho.

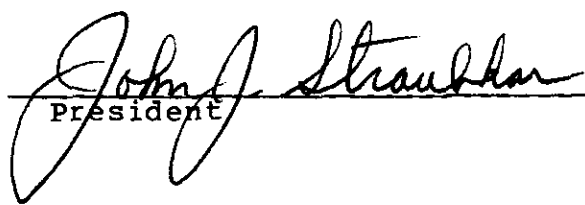
DATED this 28th day of March, 1983.

COGENERATION, INC.

ATTEST


Secretary

By


President

R.K.T. CO, a Limited Partnership
By GLOBE REALTY, INC.

By *Bruce C. Pletcher*
President

ATTEST:

Secretary

TFH, a Limited Partnership
By HYROCK, INC.

By *Donald A. Jensen*
President

ATTEST:

Secretary

(jointly and severally)

doing business as
"ROCK CREEK JOINT VENTURE"

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 30th day of March, 1983, before me, a
Notary Public in and for said State, personally appeared
JOHN J. STRAUBHAR and DELBERT W. BLOCK, known or
identified to me to be the president and secretary of
COGENERATION, INC., an Idaho corporation, the corporation that
executed the foregoing instrument or the persons 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.

Sean A. Roswell
Notary Public for Idaho
Residing at Twin Falls, Idaho

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 30th day of March, 1983, before me, a Notary Public in and for said State, personally appeared BRUCE C. MEACHAM ~~MECHAN~~ and _____, known or identified to me to be the president ~~and secretary~~ of GLOBE REALTY, INC., an Idaho corporation, sole general partner of R.K.T. Co., a Limited Partnership, the corporation that executed the foregoing instrument or the persons 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.

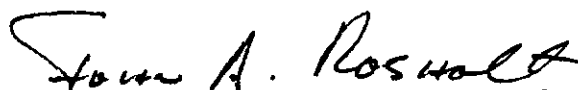


Notary Public for Idaho
Residing at Twin Falls, Idaho

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 30th day of March, 1983, before me, a Notary Public in and for said State, personally appeared DONALD A. JENSEN and _____, known or identified to me to be the president ~~and secretary~~ of HYROCK, INC., an Idaho corporation, sole general partner of TFH, a Limited Partnership, the corporation that executed the foregoing instrument or the persons 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.



Notary Public for Idaho
Residing at Twin Falls, Idaho

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

APPROVED

To change the point of diversion and/or the place of use.

Comes now Cogeneration, Inc.

of (address) 250 So. Beechwood Ave., Boise, Idaho 83709, and represents to the

Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 47-7676, and requests that the permit and permit map be changed as follows:

1. Point of diversion: NW ¼ NW ¼, Section 25, Township 9S, Range 16E, B.M.,
County of Twin Falls. Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 200cfs for Power Generation 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)

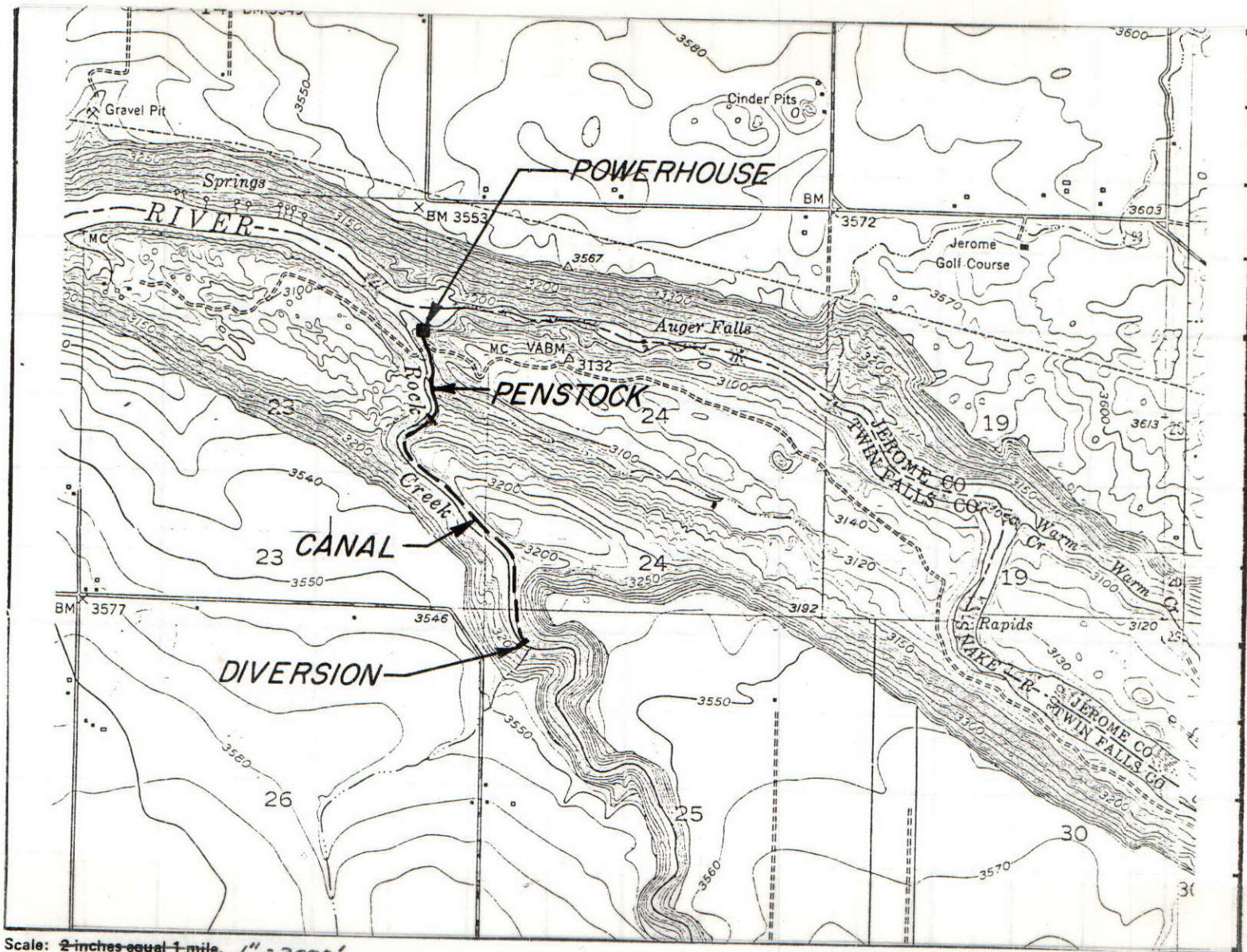
3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	16E	23				<u>40 1/2</u> <u>X</u>													

Total number of acres to be irrigated = -

4. a. Who owns the property at the point of diversion? Idaho Frozen Foods
b. Who owns the land to be irrigated or the place of use? Idaho Frozen Foods
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Agreement between Rosalee Dingwall and Cogeneration for power generation rights. Agreement between Cogeneration, Inc. and Idaho Frozen Foods for easement for facilities and for construction and maintenance.

Complete the following map by showing land and point of diversion as proposed by this amendment.
Show 40-acre subdivisions, townships, ranges and ditches.



That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Twin Falls, Idaho, this 11 day of May, 1982.

Robert C. Muth
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by LH Fee = \$20.00 # 22200

Received by tgk Date 5/22/82

Publication prepared by musgr Date 6/10/82

Published in times news

Publication dates 6/17 & 6/24/82

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON

of the Department of Water Resources hereby

APPROVE the above Application for Amendment of Permit No. 47-7676 provided the

Permit holder complies with the conditions of approval listed on the fourth (4th)

page of the original Permit.

Witness my hand this 30th day of

August, 19 82

L. Glen Saxton
Chief, Operations Bureau

STATE OF IDAHO

ASSIGNED TO:
Cogeneration, Inc.
250 South Beechwood Ave.
Boise, ID 83709
10/27/1981

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT **APPROVED**

To appropriate the public waters of the State of Idaho

1. Name of applicant Bruce C. Meham Phone 733-2626

Post office address 1509 North Juniper, Twin Falls, Idaho 83301

2. Source of water supply Rock Creek which is a tributary of Snake River

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

Range 16 E. B.M. Twin Falls County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 200 cfs for Power Generation 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. 200 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. A diversion structure will be

constructed approximately 1,750' north and 900' west of the S.E. corner of

Sec. 23, a penstock will be built to a power house located approximately

3,200' north and 900' west of the S.E. corner of Sec. 23.

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

capacity N/A acre-feet, materials used in storage dam: N/A

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

c. Proposed well diameter is N/A inches; proposed depth of well is N/A feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial

use is 2 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 23 Township 9 S.

Range 16 E. B.M.

(2) Amount of power to be generated: 2,200 horsepower under 110 feet of head.

(3) List number of each kind of livestock to be watered N/A

(4) Name of municipality to be served N/A, or number of families to be

supplied with domestic water N/A.

(5) If water is to be used for other purposes describe: _____

UNRECORDED

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. None

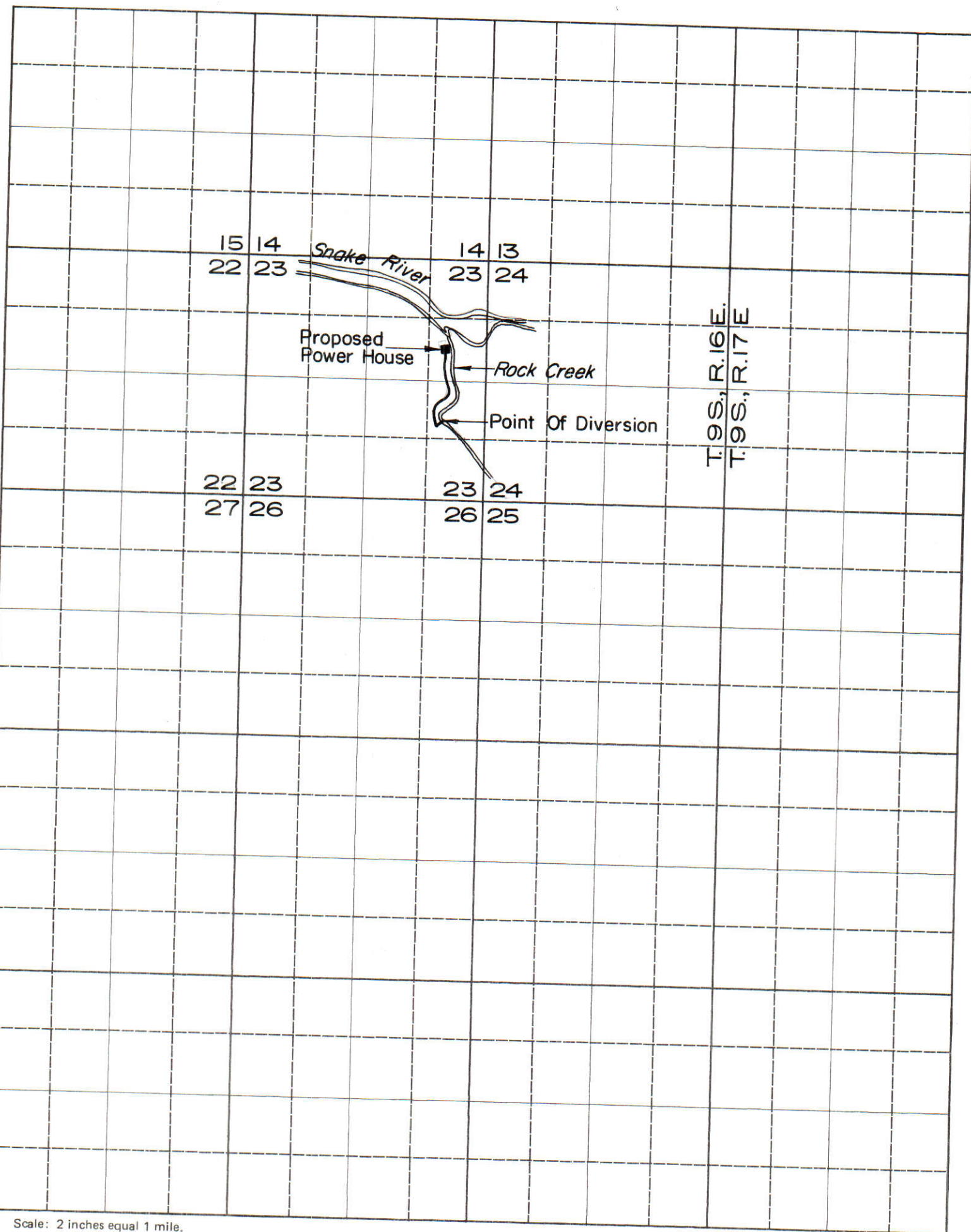
9. a. Who owns the property at the point of diversion Rosalee Dingwall

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Applicant has obtained an option agreement with
the property owner.

10. Remarks

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.

MICROFILMED

James C. McLean
(Applicant)

Processed Priority 10/30/1980

Received by TGB Date 10-30-80 Time 12:00
Preliminary check by ADM Fee \$ 1725⁰⁰ 100 #16649
Receipted by TGB Date 10-30-80
Publication prepared by marya Date 11/13/80
Published in Times News
Publication dates 11/27 + 12/4/80
Publication approved marya Date 11/19/80
Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by RK

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. 47-7676, 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 February 1, 19 84.

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 Section 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.

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Use of water under this permit is subject to control by the watermaster of State Water District No. 47-0, Rock Creek.

Witness my hand this 26th day of January, 1982.

J. Glen Saxton
Chief, Operations Bureau

RECEIVED
FILMED

State of Idaho
Department of Water Resources

RECEIVED

ASSIGNMENT OF ~~PERMIT~~ APPLICATION

OCT 27 1981

I, Bruce C. Mecham, hereby assign to Cogeneration, Inc.
a single man
of 250 South Beechwood Avenue, Boise, Idaho 83709
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 47-7676
to appropriate the public waters of the State of Idaho.

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

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

Made this 27th day of October, 19 81.

Bruce C. Mecham, a single man
~~Permit Holder~~
Application Holder

Spouse of Permit Holder

State of Idaho)
County of Twin Falls) ss.

On this 27th day of October, 19 81, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) / (they) executed the same.

seal

Sharon A. Lousier
Notary Public residing at
Twin Falls, Idaho

My commission expires:
Lifetime

RECORDED

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

RECEIVED

AUG 26 1981

Department of Water Resources

Ownership of Facilities: (To be completed for hydropower projects only)

The hydropower facility to be developed pursuant to the attached Application for
Permit:

☒ Will not utilize existing man-made irrigation facilities such as a dam or a canal.

☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.

☐ Will utilize existing man-made irrigation facilities such as a dam or a canal and the owner of the facilities is the signee of this affidavit.

(check one)

[Signature]
Applicant

State of Idaho)
County of Ada) ss.

On this 25th day of August, 19 81, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (she) (they) executed the same.

[Signature]
Notary Public residing at

seal

Boise, Idaho

My commission expires:

N/A

RECEIVED

**NOTICE OF
AMENDMENT TO
A WATER PERMIT
NO. 47-7676**

Notice is hereby given that Cogeneration, Inc. is the holder of approved permit No. 47-7676 authorizing the diversion of 200 cubic feet per second of water from Rock Creek tributary of Snake River in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T9S, R16E, B.M., County of Twin Falls, to be used for power generation within SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, T9S, R16E, B.M.

The permit holder has applied to the Department of Water Resources for an Amendment to the permit, to change to Point of diversion and place of use as follows:
Point(s) of Diversion: NW $\frac{1}{4}$ NW, Sec. 25, T9S, R16E, B.M., Twin Falls County
Place of Use: LT12 (SE $\frac{1}{4}$ NE), Sec. 23, T9S, R16E

Any protest against approval of the amending of Permit No. 47-7676 as set forth above must be filed with the Idaho Department of Water Resources 1041 Blue Lakes Blvd. North, Twin Falls, Idaho, 83301, on or before July 6, 1982.

A. KENNETH DUNN
Director

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF TWIN FALLS }

ss.

N^o 11667

I, Linda Capps McSwine being first duly sworn up-
oath, depose and say that I am Rene Clark 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
June 17, 1982, and ending with the issue dated
June 24, 1982.

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

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

Linda Capps McSwine
Subscribed and sworn to before me on this 24 day of

June, 1982
Goldie J. Lawrence
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

MICROFILMED

JUN 2 1982

Department of Water Resources
Boise, Idaho

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

RECEIVED
JAN 27 1981
DEPARTMENT OF WATER RESOURCES
BOISE, IDAHO

A. Individual Applicant or Individual Members of a Partnership:

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

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

/s/ _____

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

/s/ _____

Notary Public

Residence _____

My Commission expires _____

B. Corporation:

I John J. Straubhar of Boise, County of _____
(name) (city)

Ada, State of Idaho, being first duly sworn, depose and say: That I am the designated
registered agent of the Cogeneration, Inc.;
(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 2405 Spring Mtn. Drive, Boise
(city)

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

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

/s/ John J. Straubhar, President

Subscribed and sworn to before me this 23rd day of April, 19 81

/s/ William Briske

Notary Public
Residence Boise, Idaho

My Commission Expires na

ORIGINAL COPY

IN FILE C2-7343

RECEIVED

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

RECEIVED

OCT 27 1981

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

1. Individual Applicant or Individual Members of a Partnership:

Department of Water Resources
Southern District Office

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

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

2. Corporation:

I, D.W. Block of Twin Falls,
(name) (city)

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

Cogeneration Inc.: that as such I am in charge of the registered
(name of corporation)

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

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

by Section 30-1-52, Idaho Code: and that Cogeneration Inc
(name of corporation)

is a corporation qualified to do business in the State of Idaho under the laws of
the State of Idaho.

3. Ownership of Facilities: (To be completed for hydropower projects only)

The hydropower facility to be developed pursuant to the attached Application for
Permit:

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

State of Idaho)
County of Twin Falls) ss.

D.W. Block
Applicant ~~SECRETARY~~

On this 29th day of October, 19 81, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (she) (they) executed the same.

Loren O. Palmer
Notary Public residing at

seal

Twin Falls, ID

My commission expires:

Life

RECEIVED

Individual Owner

AFFIDAVIT TO ESTABLISH RESIDENCE

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

/s/ Bruce E. Mecham

Subscribed and sworn to before me this 30th day of October, 1980

/s/ Laron A. Browser

Notary Public
Residence Twin Falls, Idaho
My Commission Expires Lifetime

Corporation or Association

AFFIDAVIT TO ESTABLISH RESIDENCE
OR QUALIFICATIONS TO DO BUSINESS UNDER THE LAWS OF
IDAHO...

I, _____ of _____, County of _____, State of Idaho, being first duly sworn, depose and say: That I am the designated statutory agent of the _____, that as such I am in charge of the registered office of the said _____, as provided by Section 30-143, Idaho Code, at _____, Idaho, wherein are kept the records provided by Section 30-144, Idaho Code, and that _____ is a legal _____ qualified to do business in the 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

47-7676
MECHAM, BRUCE C
1509 N. JUNIPER
TWIN FALLS, ID 83301
Source: ROCK CREEK tribu-
tary to SNAKE RIVER
Date Filed: 10/30/1980
Amount: 200.00 CFS
Diversion Point: NESE Sec
23 T 09S R 16E, TWIN
FALLS Co.
Use: POWER (200.00 CFS)
from 01/01 to 12/31
Place of Use: SENE Sec 23 T
09S R 16E
Diversion
PENSTOCK Means:
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 re-
ceived on or before DE-
CEMBER 15, 1980.
C. STEPHEN ALLRED
Director
PUBLISH: Thursday, Nov.
27, and Dec. 4, 1980.

MICROFILMED

Affidavit of Publication

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

Nº 10288

I, Linda Capps McSwine being first duly sworn upon
oath, depose and say that I am Print Clerk of the TIMES-NEWS,
published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of
the notice of advertisement, as per clipping attached, was published in the regular and
entire issue of said newspaper, and not in any supplement thereof, for Two
consecutive Weeks, commencing with the issue dated
November 27, 1980, and ending with the issue dated
December 4, 1980.

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 there-
of, Thursday is announced as the day on which said legal notices will be published.

Linda Capps McSwine
Subscribed and sworn to before me on this 4 day of

December, 1980.

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

HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

ROBERT I. TROXELL
JESS B. HAWLEY, JR.
JOHN T. HAWLEY, P.A.
THOMAS A. MILLER
M. NEAL NEWHOUSE
CRAIG L. MEADOWS
JOSEPH D. MCCOLLUM, JR.
WAYNE B. SLAUGHTER, JR.
GARY D. SABBITT
P. CRAIG STORTI
MERLYN W. CLARK
RICHARD F. GOODSON
CARL W. HARDER
PHILLIP M. BARBER
DONALD E. KNICKREHM
EDWIN V. APEL, JR.
EUGENE A. RITTI
KAREN L. LANSING
RICHARD G. SMITH
JOHN F. KURTZ, JR.
ROBERT S. ERICKSON
NICHOLAS G. MILLER
BRENT F. LLOYD

JOHN MCGOWN, JR.
ALBERT P. BARKER
DON A. OLOWINSKI
JOHN T. HAWLEY, JR.
RONALD E. BUSH
STEVEN W. BERENTER
KENNETH C. HOWELL
RITA L. BERRY
MICHAEL M. STODDARD
JOSEPH P. LANGFIELD
SUSAN D. MINER
KEVIN J. BEATON
PATRICK V. COLLINS
CHRIS F. ODE
DAVID A. CHANNER
BRAD F. MILLER
STEVEN R. ORMISTON
WILLIAM J. DAVIS*
JOHN B. HINTON*
JULIA A. CROSSLAND
RICHARD B. BURLEIGH
RANDOLPH J. HILL*
*NOT ADMITTED IN IDAHO

FIRST INTERSTATE CENTER
SUITE 1000
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

TELECOPIER
(208) 342-3829

PAUL B. ENNIS
(1916-1982)

POCATELLO OFFICE
125 NORTH GARFIELD
POST OFFICE BOX 4167
POCATELLO, IDAHO 83205

TELEPHONE
(208) 233-0845

TELECOPIER
(208) 233-1304

February 28, 1990

RECEIVED
MAR 1 1990

Department of Water Resources
State Office
1301 N. Orchard Street
Boise, ID 83720

Department of Water Resources

Attn: Mr. Jim Johnson

Re: Water Right License No. 47-7676,
First Security Bank of Idaho Loan
to Rock Creek Joint Venture

Dear Mr. Johnson:

As I advised you during our telephone conversation of this morning, our firm represents First Security Bank of Idaho ("Bank"). On or about December 20, 1989, First Security Bank of Idaho made a loan to the Rock Creek Joint Venture. The repayment of this loan is secured by certain real and personal property located in Twin Falls County, Idaho. The water provided for in Water Right License No. 47-7676 is appurtenant to the real property which was given as security for the repayment of this loan.

Would you please place this letter in the Department's file for Water Right License No. 47-7676. In the event there are any protests or any applications for the change in place of use, point of diversion, or any other matters filed in connection with Water Right License No. 47-7676, we would appreciate it if you would notify First Security Bank of Idaho of any such filings or protests. Please notify First Security Bank of Idaho at the following address:

First Security Bank of Idaho
Commercial Banking Division
119 N. 9th Street
P. O. Box 7069
Boise, ID 83730

HAWLEY TROXELL ENNIS & HAWLEY

Mr. Jim Johnson
February 28, 1990
Page 2

We would also appreciate you providing our office with a copy of any such filings or protests.

Please acknowledge receipt of this letter and return the acknowledged copy of this letter to our office as soon as possible.

If you have any questions concerning this matter, please give me a call. Thank you for your anticipated time and consideration.

Very truly yours,

Richard F. Goodson

Richard F. Goodson

RFG:ca

cc: Mike G. McKeon

Receipt of this letter is acknowledged this _____ day
of _____, 1990.

DEPARTMENT OF WATER RESOURCES

By _____

Name: _____

Title: _____

Jim Johnson
Water Rights Supervisor

INTER-DEPARTMENT MEMO — 1

FROM Loten Holmes - Southern

DATE 7/9/85

TO Kay Walker - File 42-7676

RECEIVED

JUL 12 1985

SUBJECT Photos

Department of Water Resources

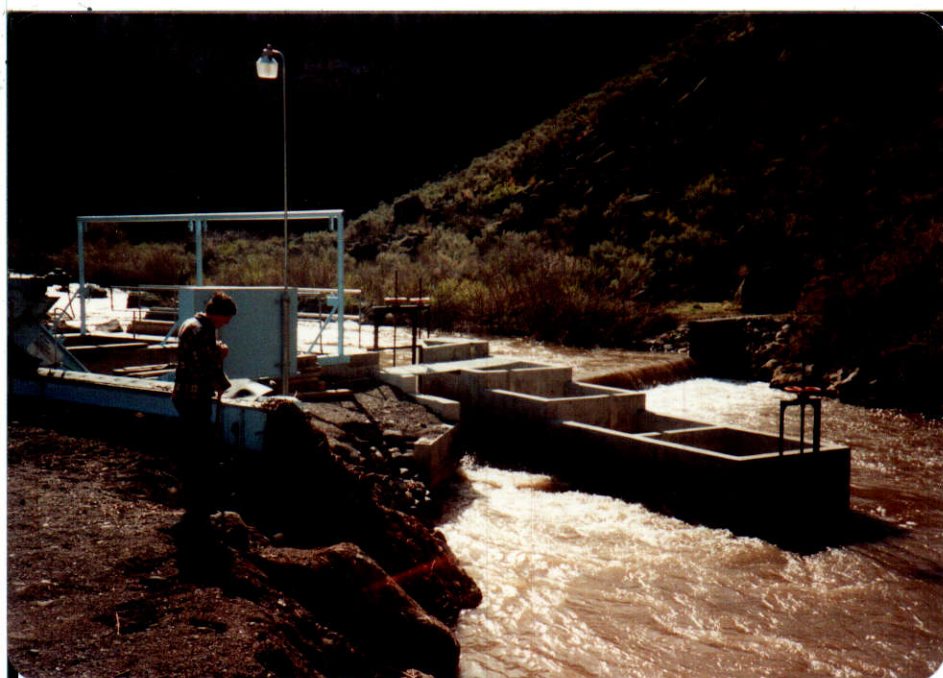
I apparently hadn't gotten the photos back when the licensing report was formatted.

Anyway, here are photos taken during the field exam for the file.

LH

SIGNATURE











PJE

HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

PAUL B. ENNIS
(1916-1982)

ROBERT I. TROXELL
JESS B. HAWLEY, JR.
JACK HAWLEY, P.A.
THOMAS A. MILLER
M. NEAL NEWHOUSE
CRAIG L. MEADOWS
JOSEPH D. McCOLLUM, JR.
WAYNE B. SLAUGHTER, JR.
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ALBERT P. BARKER
JOHN T. HAWLEY, JR.
DON A. OLOWINSKI
J. CHARLES HERWORTH
NICHOLAS G. MILLER
RONALD E. BUSH
STEVEN W. BERENTER
CATHY R. SILAK
KENNETH C. HOWELL

December 21, 1984

ONE CAPITAL CENTER
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

RECEIVED
DEC 27 1984

Department of Water Resources

David J. Barber
Deputy Attorney General
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: License No. 47-7676 issued to Twin Falls
Bank & Trust Company (Rock Creek Hydro Project)

Dear Mr. Barber:

I appreciate your taking the time to respond to my inquiries by your letter of November 13th, but I do want you to know for the record that I strongly disagree with the reasoning and conclusions contained therein.

Yours truly,


THOMAS A. MILLER

TAM: jw

MICROFILMED



SHOROCK HYDRO, INC.

PUBLIC CORRESPONDENCE
OSEC

P-6450

June 12, 1984

Mr. Raymond J. O'Connor, Chairman
Federal Energy Regulatory Commission
825 N. Capitol Street, N.E.
Washington, D.C. 20426

Dear Mr. O'Connor:

Re: Validity of On-Line Exempted Hydroelectric Project #6450

I am the President of a hydroelectric firm called SHOROCK HYDRO, Inc. (formerly Cogeneration, Inc.) and I must write you and express my concern about our existing hydroelectric project which was exempted from license in 1982. We have two hydroelectric plants which were exempted from licensing and have been operating for one and two years, respectively.

To give you some background, our Rock Creek Plant, FERC No. 6450, has been in operation since September 16, 1983, and has been producing in excess of our contracted capacity since start-up. We have a 35-year contract or power sales agreement with Idaho Power Company. The hydroelectric facility is entirely on private lands and we have a 30-year lease plus a 30-year renewable lease option with the property owner. We are contractually obligated to pay the land owner a percentage of power generated for lease rights to their property.

The Rock Creek facility is at the confluence of Rock Creek and the Snake River and derives its energy from Rock Creek itself. Rock Creek is a natural waterway in Twin Falls County, Idaho and is also used as an irrigation water wasteway during irrigation season. Rock Creek is in a narrow canyon, with limited access and is not used for recreational purposes. It is not an acknowledged sport fishery and does not have the sport fishing concerns that other live streams might have. The facility does have a three-foot high diversion structure, a fish ladder and fish screens which were constructed to the Fish and Game specifications. The Fish and Game have inspected the facility on numerous occasions to watch it operate and they are using it as a exemplary model for other hydroelectric developers to use on their projects.

The May 10, 1984, decision of the Ninth Circuit Court of Appeals in the case of the Tulalip Tribes, et al, vs. FERC has created some problems for us as we were within days of re-financing the Rock Creek project with a long-term loan. To explain, we have a non-recourse refinancing commitment with CIGNA (Connecticut General Life Insurance Company). This commitment is for a 15-year amortization with a fixed rate at 13.7 percent. The commitment expires June 15, 1984. There is a possibility of extending the commitment expiration to July 13,

Mr. Raymond J. O'Connor

-2-

June 12, 1984

1984, which is the best we can hope for. If the commitment deadline is not met and we do not close the loan, we are committed to pay all legal fees which are presently in excess of \$30,000 and will exceed \$40,000 by closing time. We are also committed to a brokerage fee to Tippet Land and Mortgage in the amount of \$72,300. Because of these contractual commitments and liabilities, we have no choice but to continue with the preparation of all the refinancing documents in an attempt to complete the closing. If the commitment deadline is not met, we are not only obligated to the above-mentioned costs, but to duplicate the same refinancing commitment our interest rate will be at least 15.76 percent. This would cause us to pay additional interest over the 15-year period of approximately \$610,000. As you can see, the financial impact on us is substantial. It could be devastating to the Rock Creek Project.

We presently have a 35-year contract with Idaho Power to purchase all energy produced. If this ruling is not promptly corrected, the validity of our Power Sales and Purchase Contract could be jeopardized, which could mean the loss of our ability to repay the capital improvements that we have incurred to date. Hopefully, you can see the short- and long-term effect of the May 10, court ruling. To avoid these severe consequences, we need an immediate opinion from FERC counsel assuring us Grandfather Rights or immediate minor license status in order to complete our present financing package on the Rock Creek Project. We also request immediate assurance that exemptions completed in our operating plants will not be jeopardized by a rather extreme all-encompassing ruling.

Our timing on this project refinancing is very critical and requires immediate action, which is the reason for writing you directly. The legal and political solutions to this problem will take months, perhaps years. It appears that our best remedy is a direct appeal to you for action. If it would expedite things, we would be happy to meet with you in Washington, D.C. We could even show you a video tape of the project which shows the diversion, fish ladder and fish screens in action and will give you an appreciation for our exempted project.

We are enclosing a copy of a letter we received from CIGNA which outlines their concerns as a financier of hydro projects.

Please call me at (208) 376-7330 if you can help us with our critical time problem.

Yours truly,

SHOROCK HYDRO, INC.

John J. Straubhar, P.E.
John J. Straubhar, P.E.
President

JJS:dp

Enclosure

cc: Commissioner Shelton
Kris Nygaard
Senator James McClure
Senator Steve Symms
Congressman Larry Craig

MICROFILMED

Theodore S. Chapman
D.C. Prof.
Chapman and Cutler
829 1936

Law Offices of
CHAPMAN AND CUTLER

a partnership including professional corporations
111 West Monroe Street, Chicago, Illinois 60603
TWA 900-221 2103 Telex 206281
Telephone 312 845 3000

Salt Lake City Office
50 South Main Street
Salt Lake City, Utah 84144
Telephone 801 533 0906

Law Offices of
CHAPMAN AND CUTLER

Russell G. Kvanvig, Esq.
June 5, 1984
Page Two

June 5, 1984

Russell G. Kvanvig, Esq.
Stephan, Slavin and Kvanvig
Twin Falls Bank & Trust
Company Building
P.O. Box 38
Twin Falls, ID 83301

Re: Rock Creek Joint Venture

Dear Russell:

We have been asked to articulate the concerns of Connecticut General Life Insurance Company ("Connecticut General") in connection with the situation created by the May 10 decision of the Ninth Circuit Court of Appeals in the case of The Tulalip Tribes of Washington, et al v. Federal Energy Regulatory Commission and to indicate the assurances that Connecticut General will require before proceeding with the proposed financing of the Rock Creek hydro project (the "project").

It is the concern of Connecticut General that, to the extent that the Federal Energy Regulatory Commission (the "Commission") exceeded its authority in issuing the rules with respect to the definition of "dam" (18 CFR §4.102(a)) and the limitations on "diversion structures" eligible for exemption (18 CFR §4.102(i)(11)(A) and (B)), the exemptions issued on the basis of such rules are equally void and ineffective to the extent they have been granted for diversion dams such as the one constructed for the Rock Creek project. As this seems to be the inescapable conclusion from the above-mentioned case, Connecticut General, taking into consideration that the financing of the Rock Creek project would be on a non-recourse basis, has the following concerns:

1. Even though the facility fits the definition of a qualified small power production facility, as defined in the Public Utility Regulatory Policies Act of 1978 ("PURPA"), is there any requirement that it must be licensed or exempt in order to claim the benefits of PURPA and require the sale of the electric power generated by the facility to be purchased by public utilities to which it is delivered?

2. May the Attorney General or the Commission shut the facility down unless it is licensed?

3. To what extent are the venturers liable for the various fines and penalties set forth in Section 825 of the Federal Power Act unless and until the project is licensed?

4. If the project is neither licensed nor exempt, to what extent is the venture protected from other licensed applicants that might seek to take over and develop the project?

5. Is there any reason known to the Commission or anyone why a license would not issue upon application should it ultimately be determined that the project needed to be licensed?

6. If the project is licensed, Connecticut General has some concern as to the financial ability of the venture to meet any requirement in the terms and conditions applicable to the license requiring the licensee within five years from the date of the license to acquire title in fee or the right to use in perpetuity all lands making up the project site.

Accordingly, in order to proceed Connecticut General requests the unqualified legal opinion of General Counsel for the Commission to the effect that:

1. The project is a qualified small power production facility as defined in the Public Utility Regulatory Policies Act of 1978 ("PURPA"), whether or not the project is licensed under the Federal Power Act or exempt from licensing under the Rules of the Federal Energy Regulatory Commission and applicable statutes, including the provisions of PURPA as amended by the Energy Security Act of 1980 (16 U.S.C., §§2706 and 2708(b)).

2. Notwithstanding lack of such licensing or exemption, the owners of the project have priority of control, development and operation of the project and are protected from permit or license applicants that would seek to take or develop the project.

3. Because the project is a qualified small power production facility, the sale of electric power generated by the facility is subject to the guidelines contained in PURPA and is required to be purchased by the public utilities to which it is delivered whether or not the project is licensed or exempt from licensing under the Federal Power Act.

C O P Y

C O P Y

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CHAPMAN AND CUTLER

Russell G. Kvanvig, Esq.
June 5, 1984
Page Three

4. Whether or not the project is licensed or exempt, the owners and operators of the project will not be subject to prosecution under or the penalties prescribed by 16 U.S.C., §§820, 825m, 825n, 825o or 825p solely by reason of failure to hold or to have previously obtained a license or to be exempt from the licensing provisions of the Federal Power Act, nor may the Federal Energy Regulatory Commission or the Attorney General commence proceedings under any of the afore-said Sections for such cause.

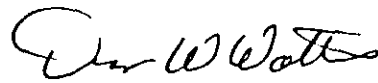
5. In the event it should be determined that a license must be issued, such counsel, after reviewing all information furnished by the venture to the Commission, knows of no reason why a license would not be issued to the venture for the project and such license would not require the venture to acquire title and fee or the right to use in perpetuity the lands making up the project site.

In addition to the above, Connecticut General will require an unqualified opinion of independent counsel satisfactory to them to the effect that the Power Sale Agreement with Idaho Power Company is a legal, valid and binding contract and is unaffected by the unlicensed or non-exempt status of the project.

Very truly yours,

CHAPMAN AND CUTLER

By



Dey W. Watts, P.C.

DWW:bmd

cc: Mr. Bruce C. Mecham ✓
Patricia E. Naktenis, Esq.
Thomas A. Miller, Esq.

C O P Y

MICROFILMED

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

21 FERC ¶62,266

-2-

Cogeneration, Inc.)

Project No. 6450-000

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MW OR LESS

(Issued November 17, 1982)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 Subpart K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

- 1/ Cogeneration, Inc., Project No. 6450-000, filed on June 18, 1982.
- 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).
- 3/ Authority to act on this matter is delegated to the Deputy Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1981) FERC Statutes and Regulations ¶30,238. This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, FERC Statutes and Regulations ¶29,052 47 Fed. Reg. 19014 (1982). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

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

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

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

It is ordered that:

Rock Creek Hydroelectric Project No. 6450 as described and designated in Cogeneration, Inc.'s application filed on June 18, 1982, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106 of the Commission's regulations attached hereto as Form E-2, 18 C.F.R. §4.106, 45 Fed. Reg. 76115 (November 18, 1980), and the following Special Articles.

Article 6. The Exemptee shall, prior to the commencement of any construction, consult with the Idaho State Historic Preservation Officer (SHPO) to: (1) determine the scope of any necessary cultural resource survey; (2) conduct such a survey; and, (3) prepare a report to be filed with the SHPO describing the results of its survey work, providing an assessment of the significance of the cultural resources inventoried, including possible eligibility for the National Register of Historic Places, and setting forth recommendations for the avoidance of, or mitigation of damage to, significant properties at the project. Any necessary mitigation work should be undertaken by the Exemptee in cooperation with the SHPO and in accordance with a schedule and plan negotiated between the Exemptee and the SHPO. The Exemptee shall make available funds in a reasonable amount for any survey and mitigation work as required. If any previously unrecorded archeological or historical sites are discovered during the course of construction or development of any project works or other facilities at the project, construction activity shall be halted, a qualified archeologist shall be

consulted to determine the significance of the sites, and the Exemptee shall consult with the SHPO to develop and implement a mitigation plan for the protection of significant archeological or historical resources.

Article 7. The construction, operation, and maintenance of the exempt project may be reviewed by the Commission and subjected to further requirements for consistency with the terms and conditions to the regional fish and wildlife program developed pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. Inconsistencies between the regional plan and the mandatory conditions under Article 2 will be resolved by the Commission.

Robert E. Jackowski
Deputy Director, Office of
Electric Power Regulation

Robert E. Jackowski

Project No. 6450-000

-2-

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Cogeneration, Inc.) Project No. 6450-000

NOTICE OF APPLICATION FOR EXEMPTION FOR SMALL HYDROELECTRIC
POWER PROJECT UNDER 5 MW CAPACITY
(August 27, 1982)

Take notice that on June 18, 1982, Cogeneration, Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§2705 and 2788 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6450) would be located on Rock Creek in Twin Falls County, Idaho. Correspondence with the Applicant should be directed to: Mr. John J. Strabhaar, President, P.O. Box 768, Borah Station, Boise, Idaho 83701.

Project Description - The proposed project would consist of: (1) a 6-foot-high, 50-foot-long diversion structure; (2) a 3,500-foot-long concrete flume; (3) a 72-inch-diameter, 1,800-foot-long penstock; (4) a powerhouse containing four generating units with a combined rated capacity of 2,542 kW; and (5) appurtenant facilities.

Purpose of Exemption - An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments - The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed

to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be submitted to substantiate issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application - Any qualified licensee applicant desiring to file a competing application must submit to the Commission, on or before September 1, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. §4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. §4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene - Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§21.11 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 1, 1982.

Filing and Service of Responsive Documents - Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and three copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 425 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 2B at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb
Secretary

PROJECT Rock Creek

JOB NO. _____

SHEET _____

DESIGNED KALAA/KALAADATE 4/33/84ITEM @ BRIDGE

CHECKED _____

DATE _____

(SECTION D)

DISTANCE	DEPTH	REV @ .3	V, fps	REV @ .8	V, fps	TIME	ANGLE
0	5.9	0	0	0	0	50s	0
6" 1.5		95	3.24	95	3.24		
2'6" 2.5		101	3.44	105	3.57		
4'6" 4.5		100	3.41	100	3.41		
6'6" 6.5		101	3.44	93	3.17		
8'6" 8.5		93	3.17	82	2.79		
10'4" 10.33		63	2.15	71	2.42		
10'10" 10.83		0	0	0	0		

$Q = 193.76 \text{ cfs}$

A little sediment near the edges

BRIDGE IS APPROX. 40 FT FROM A BEND

DEBRIS GETTING THROUGH SCREEN AT TOP

all four turbines running

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JUN 7 1984

Department of Water Resources

PROJECT Rock CR

JOB NO. _____

SHEET _____

DESIGNED Kelner/KelnerDATE 4/23/04ITEM HALEWAY DOWN APPROACH
(SECTION 2)

CHECKED _____

DATE _____

DISTANCE	DEPTH sediment	4.8 FT		1.2 FT		Time	ANGLE
		Rev @ .2	V, f/s	Rev @ .2	V, f/s		
0	6' 5.9	0		0		50s	0
1		50	1.71	55	1.88		
3		55	1.88	57	1.94		
5		72	2.45	56	1.91		
7		79	2.69	60	2.05		
9		80	2.73	63	2.15		
11		79	2.69	68	2.32		
13		78	2.66	75	2.56		
14.5		75	2.56	70	2.39		
15.5		0	0	0	0		

Q = 195.52 cfs

0.1 to .2 inches of sediment on
BOTTOM

SUBTRACT

OK

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PROJECT Peck CB

JOB NO. _____

SHEET _____

DESIGNED KOLAR/KOLARDATE 4/22/84ITEM AT 90° ANGLE PT AHEAD OF RACKS

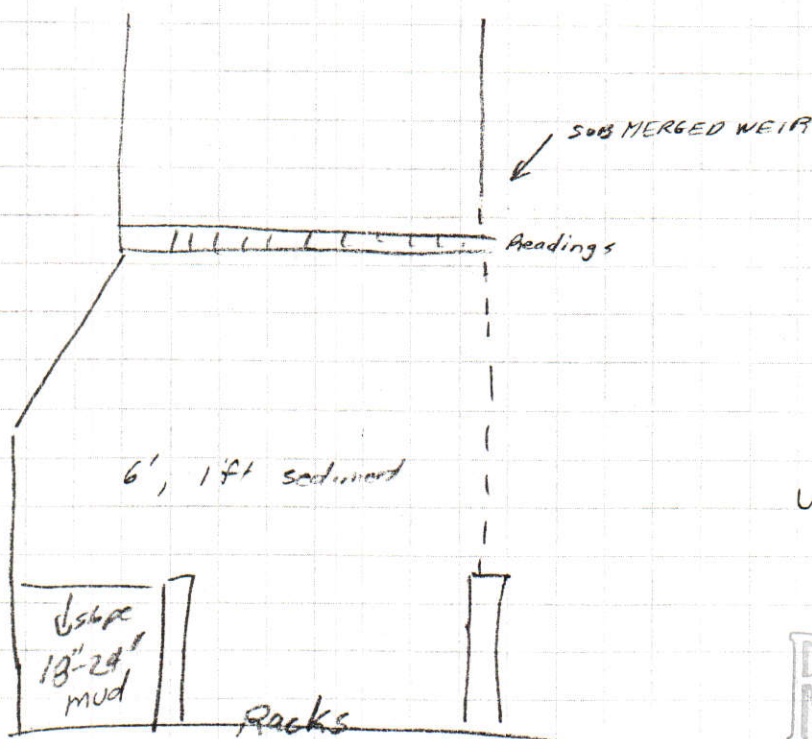
CHECKED _____

DATE _____

(SECTION 3)

DISTANCE	DEPTH	RECORD 2	V, fps	RECORD 8	V, fps	TIME	ANGLE
0	6	0	0	0	0	505	0
1	6	67	2.28	53	1.81		
3	6	67	2.28	52	1.77		
5	6	70	2.39	62	2.11		
7	5.8	73	2.49	60	2.05		
9	5.8	77	2.69	53	1.81		
11	5.65.7	79	2.69	48	1.64		
13	5.6	73	2.49	57	1.94		
14.5	5.6	65	2.22	58	1.98		
15.5	5.6	0	0	0	0		

$$Q = 183.21 \text{ cfs}$$



$$W, NO = 301 \Rightarrow V = 10.23 \text{ fps} \\ = 7 \text{ mph}$$

RECEIVED

JUN 7 1984

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Department of Water Resources

PROJECT ROCK CREEK

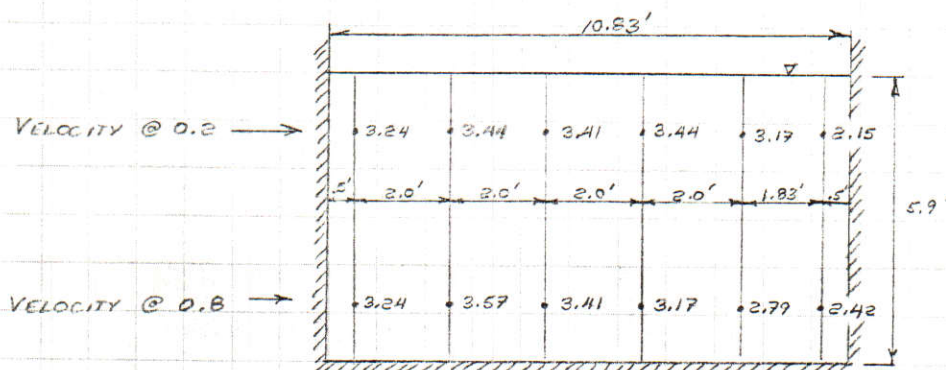
JOB NO. _____

SHEET 1/1DESIGNED RLKDATE 4/23/84ITEM VELOCITY PROFILES - ALL TURBINE CHECKED _____

DATE _____

RUNNING @ 175 cfs

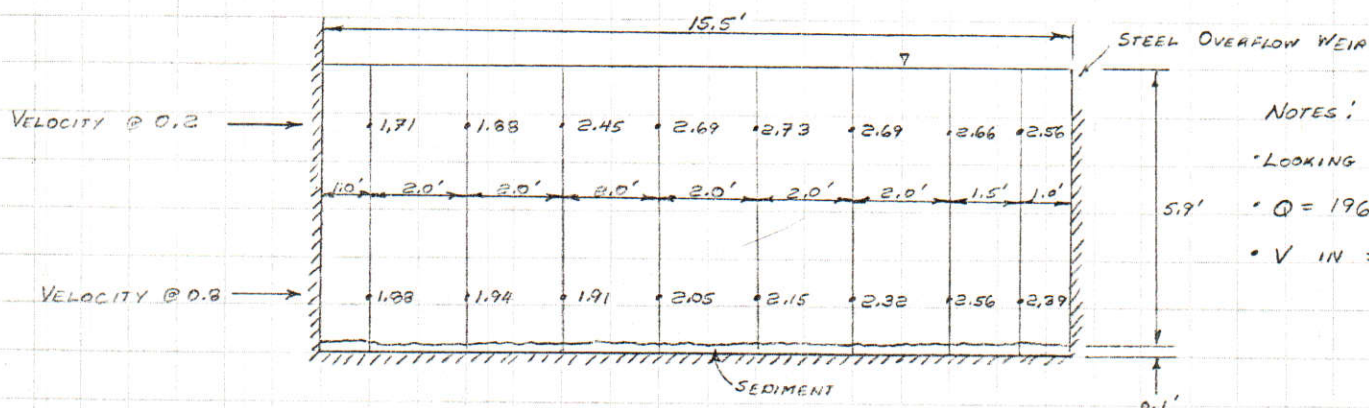
① UPSTREAM FROM BRIDGE



NOTES:

- LOOKING UPSTREAM
- VERY LITTLE SEDIMENT
- $Q = 194$ cfs
- V IN FPS
- APPROX. 40' DOWNST.
- FROM 30° BEND

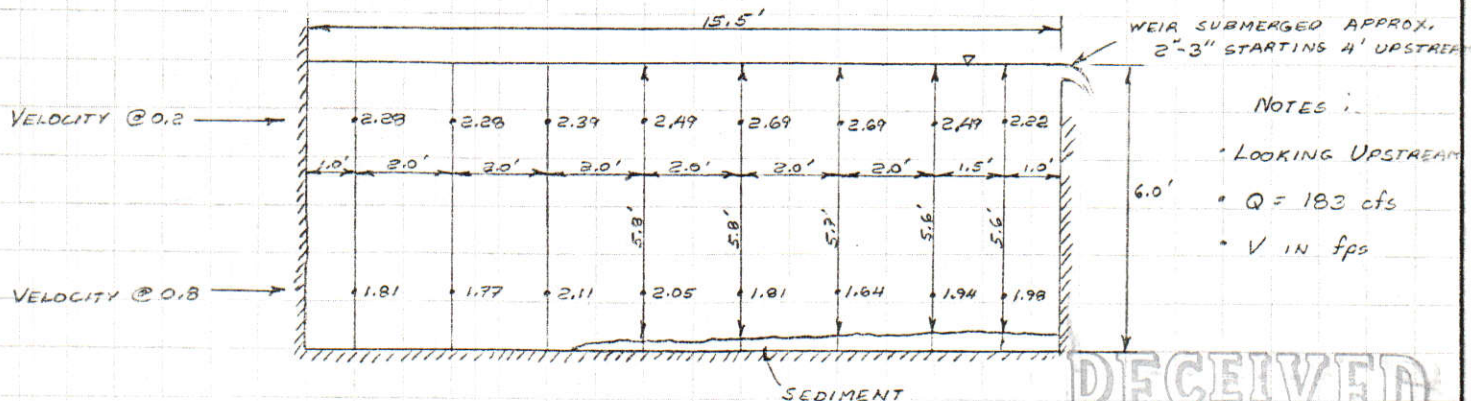
② HALFWAY DOWN APPROACH TO TRASH RACKS



NOTES:

- LOOKING UPSTREAM
- $Q = 196$ cfs
- V IN FPS

③ AT FIRST ANGLE POINT BEFORE TRASH RACKS



NOTES:

- LOOKING UPSTREAM
- $Q = 183$ cfs
- V IN FPS

RECEIVED

JUN 7 1984

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STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

BOISE 83720

JIM JONES
ATTORNEY GENERAL

November 13, 1984

DEPARTMENT OF WATER RESOURCES
STATEHOUSE, BOISE, IDAHO 83720
TELEPHONE: (208) 334-4448

Mr. Thomas A. Miller
Hawley, Troxell, Ennis & Hawley
P.O. Box 1617
Boise, ID 83701

RE: License No. 47-7676 Issued to Twin Falls Bank & Trust

Dear Mr. Miller:

The Department of Water Resources asked that I respond to your letters dated June 7, 1984, and October 11, 1984, regarding License No. 47-7676 issued to Twin Falls Bank & Trust for a hydroelectric project on Rock Creek in Twin Falls County, State of Idaho. In addition, this letter is in response to your phone call to me in June, 1984. Your letter and your telephone request asked for an explanation of the authority to include the following condition in License No. 47-7676:

The diversion and use of water under this license is subject to review by the Director 35 years from the date of issuance. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

Your requests raise at least two separate legal issues: (1) Does the Department have the authority to include a term condition in a water right entitlement, which limits the duration of the water right entitlement? (2) If the answer to the first question is in the affirmative, does the Department have the authority to include such a provision upon issuance of the license when such a provision did not appear in the permit?

The first issue basically involves an interpretation of Article XV of the Idaho Constitution and of Title 42, Idaho Code. Idaho Const., Article XV, § 3 provides that "The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except that the state

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may regulate and limit the use thereof for power purposes." Title 42, Idaho Code implements Idaho Const., Article XV. As I am sure you are well aware, the Department has the authority to approve, subject to conditions, or to deny applications to appropriate water in conformance with criteria set forth in Idaho Code § 42-203 (Supp. 1984). The similar permit statute for ground-water has been upheld as constitutional. State ex rel. Tappan v. Smith, 92 Idaho 451 (1968). If the Department has the authority to deny an application to appropriate water because the application is made for speculative purposes or the approval of the application is not in the local public interest, the Department a fortiori can condition the permit to assure that the approval is in the local public interest, including the limitation of the duration of the license. Accordingly, I have advised the Department that it has the authority to condition permits for a limited term.

The second issue is of special concern here because the developers of the project were not aware that such a condition would be imposed at licensing and I have advised the Department that the inclusion of such a condition at the license stage is appropriate only if an adequate factual basis for its inclusion exists. While I was not aware of the Department's action with respect to License No. 47-7676 at the time you spoke to me, I am convinced that two separate legal bases generally allow such an inclusion in appropriate cases at the time of licensing, which is prior to vesting of the water right by issuance of a license.

The first legal basis is contained in the recent decision of the Idaho Supreme Court in Kootenai Environmental Alliance, Inc. v. Panhandle Yacht Club, Inc., 105 Idaho 622 (1983). In that case the Idaho Supreme Court applied the public trust doctrine to a grant of a lease to a private entity for use of private docking facilities on a bay in a navigable lake. The Idaho Supreme Court relied on the public trust doctrine as applied by the California Supreme Court in National Audubon Society v. Superior Court, 33 Cal.3d 419, 658 P.2d 709 (1983), commonly referred to as the "Mono Lake Case".

The California Supreme Court held in the Mono Lake case that the State has not only a continuing authority but an obligation to reassess the allocation of public trust resources. the Mono Lake case remanded for trial the issue of whether the City of Los Angeles should be enjoined from diverting waters of four small tributaries of Mono Lake because of the adverse environmental consequences of such diversions on the biota of the Mono Lake

ecosystem. The fact that the City of Los Angeles had perfected the claimed water rights for domestic and power uses in conformance with applicable state law did not prevent a reallocation under the public trust doctrine.

A term condition in a license provides a procedure for the State to conduct that reassessment. Furthermore, such a term condition provides a limitation on the timing of that reassessment by the Department. Unless extraordinary changes occurred after the issuance of a license with the term condition, that condition would preclude the Department from conducting a reassessment at a date earlier than the date provided in the term condition.

The second legal basis refers to an old and often ignored aspect of the appropriation law of the western United States. Simply put, the public policy of the arid western states generally prohibits the waste of its water resources. Glenn Dale Ranches v. Shaub, 94 Idaho 585 (1972). The California Supreme Court stated this limitation very well as follows:

What is a beneficial use, of course, depends upon the facts and circumstances of each case. What may be a reasonable beneficial use, where water is present in excess of all needs, would not be a reasonable beneficial use in an area of great scarcity and great need. What is a beneficial use at one time may, because of changed conditions, become a waste of water at a later time.

Tulare Irr. Dist. v. Lindsay Strathmore Irr. Dist., 3 Cal.2d 489, 567, 45 P.2d 972, 1007 (1935). A term condition in a license provides the procedure for the state to reassess whether the use of water by a licensee continues to be a reasonable and beneficial use of water.

Finally, I would like to apologize to you for not providing an earlier response. The Swan Falls litigation and other litigation have prevented me from promptly responding to many inquiries.

Sincerely,


David J. Barber
Deputy Attorney General
Department of Water Resources

DJB:jh

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HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

PAUL S. ENNIS
(1916-1982)

ROBERT I. TROXELL
JESS S. HAWLEY, JR.
JACK HAWLEY, P. A.
THOMAS A. MILLER
M. NEAL NEWHOUSE
CRAIG L. MEADOWS
JOSEPH D. McCOLLUM, JR.
WAYNE S. SLAUGHTER, JR.
GARY D. BABBITT, P.A.
P. CRAIG STORTI
MERLYN W. CLARK
RICHARD F. GOODSON, P.A.
CARL W. HARDER
PHILLIP M. BARBER
DONALD E. KNICKREHM
EDWIN V. APEL, JR.
EUGENE A. RITTI
KAREN L. LANSING
RICHARD G. SMITH
JOHN F. KURTZ, JR.
LINDA L. HOLDEMAN
BRENT F. LLOYD
JOHN MCGOWN, JR.
ALBERT P. BARKER
JOHN T. HAWLEY, JR.
DON A. OLOWINSKI
J. CHARLES HEPWORTH
NICHOLAS G. MILLER
RONALD E. BUSH
STEVEN W. BERENTER
CATHY R. SILAK

October 11, 1984

ONE CAPITAL CENTER
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

RECEIVED
OCT 12 1984

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

Department of Water Resources

Attention: Mr. Jim Johnson, Water Distribution Supervisor
or Mr. David R. Tuthill, Jr.

Re: Water Right License No. 47-7676 - Twin Falls
Bank & Trust Company

Gentlemen:

Enclosed is a copy of my letter to you of June 7 to
which I have not had a response.

The day before the date of that letter the License
was issued on Permit No. 47-7676. A copy of the License
is attached for convenient reference. I notice that the
License contained the condition referred to in my June 7
letter except that it provided for a review in thirty-five
(35) years rather than in thirty (30) years.

I would appreciate very much being advised of the legal
authority relied upon by the Department in attaching such a
condition to the License.

Thank you for your consideration.

Yours truly,


THOMAS A. MILLER

TAM:jan
Enclosures
cc: ✓ David J. Barber, Esq.

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HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

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DON A. OLOWINSKI
J. CHARLES HERWORTH
NICHOLAS G. MILLER
RONALD E. BUSH

PAUL B. ENNIS
(1916-1982)

June 7, 1984

ONE CAPITAL CENTER
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

RECEIVED
OCT 12 1984

HAND CARRY

Department of Water Resources

Department of Water Resources
State Office
450 W. State Street
Boise, Idaho 83702

Attention: Mr. Jim Johnson
Water Distribution Supervisor

(or David R. Tuthill, Jr.)

Re: Permit No. 47-7676

Gentlemen:

I write as attorney for Twin Falls Bank & Trust Company regarding the attached letter from the Department to the Bank dated May 25, 1984. I also received a copy of Mr. Straubhar's attached letter to you of June 5th.

Under "Conditions" to be inserted in the license to be issued is the following note: "*The diversion and use of water under this license is subject to review by the Director thirty (30) years from the date of issuance. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised."

The permit did not contain such a condition. I would appreciate being advised of the legal authority relied upon by the Department in attaching that condition to the license.

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HAWLEY TROXELL ENNIS & HAWLEY

I would appreciate hearing from you at your earliest convenience. Thank you for your usual consideration.

Yours truly,

THOMAS A. MILLER

TAM:jw
Enc.

cc David J. Barber, Esq. (HAND CARRY)
Asst. Attorney General
Dept. of Water Resources

Twin Falls Bank & Trust Co.
P. O. Box 7
Twin Falls, Idaho 83301
Attn: C. Alan Horner, V. P.

Mr. Bruce Mecham
Globe Realty, Inc.
P. O. Box 1787
Twin Falls, Idaho 83301

John J. Straubhar
J-U-B Engineers, Inc.
250 S. Beechwood Ave.
Boise, Idaho 83709

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State of Idaho
Department of Water Resources

RECEIVED
JUN 12 1984

WATER RIGHT LICENSE

Department of Water Resources

License of Water Right No. 47-7676 Priority October 30, 1980 Amount 175 cfs

THIS IS TO CERTIFY, that Twin Falls Bank & Trust Company
of Twin Falls, Idaho, has complied with the terms and conditions of Permit
No. 47-7676 issued pursuant to Application for Permit dated October 30, 1980,
and has submitted proof to the Department of Water Resources on December 7, 1983,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 175.0 cfs of water from Rock Creek,
tributary to Snake River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Power	from <u>January 1</u> to <u>December 31</u>	at <u>175</u> cfs and	<u>n/a</u>
	from _____ to _____	at _____ cfs and	
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 175 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
n/a acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25,
Twp 9S, Rge 16E in the County of Twin Falls

Description and location of place of use:

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 $\frac{1}{4}$	
9S	16E	23				X													

Total number of acres irrigated _____

Use of water under this license is subject to control by the watermaster of
State Water District No. 47-0, Rock Creek.

The diversion and use of water under this license is subject to review by the
Director thirty-five (35) years from the date of issuance. Upon appropriate
findings relative to the interest of the public, the Director may cancel all or
any part of the use authorized herein and may revise, delete or add conditions
under which the right may be exercised.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 6TH day of

JUNE, 19 84.

Acting for the Director

MICROFILMED
Norman C. Young



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

July 10, 1984

RE: Water Right License No. 47-7676

Twin Falls Bank & Trust Company
P.O. Box 7
Twin Falls, ID 83301

Gentlemen:

Upon reviewing your newly issued license, we discovered that the subordination clause contained in the permit was inadvertently omitted from your license. Thus, we are forwarding an Amended copy of License Number 47-7676 which contains the following condition shown on the permit as issued on January 26, 1982:

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.

As near as we have been able to determine, the error is a result of insufficient proof-reading. Please accept our apology for the clerical error.

Sincerely,


NORMAN C. YOUNG
Administrator, Resources Admin. Div.

NCY:kw
Enclosure

cc: Bruce Mecham, Shorock Hydro
Thomas Miller
JUB - Jack Straubhar

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MEMORANDUM TO THE FILE

TO: Water Right File No. 47-7676
FROM: Dave Tuthill *DT*
DATE: June 12, 1985
RE: Clerical Error in Original License

The purpose of this memorandum is to document circumstances relative to the issuance of a water right license for Water Right No. 47-7676 on June 6, 1984.

The Department received Application for Permit No. 47-7676 on October 30, 1980. Conditions of approval were added to the permit which was subsequently issued on January 26, 1982. One condition states as follows:

"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."

The Department received proof of beneficial use for the project described in the permit on December 7, 1983. Pursuant to a request by the permit holder to expedite licensing, the Department conducted a field examination on May 9, 1984, and a letter describing the results of the examination was prepared on May 25, 1984. This letter, and the resulting license prepared on June 6, 1984, inadvertently omitted the above-referenced condition of approval. Use of this condition of approval is standard procedure for licensing of water rights for power purposes, and should have been included on the license issued on June 6, 1984. Subsequently, the condition was added in an amended license issued on July 9, 1984.

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OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO

TO: David Barber and

Date June 29, 1984

FROM: Norm Young
Clive Strong *afs*

☒ Necessary Action	☐ For Your Information
☐ Per Conversation	☐ Returned
☐ Note and See Me	☐ As Requested
☐ Approval	☐ Signature

REMARKS:

I have attached a memorandum prepared by my research assistant. Her review of applicable precedent suggests that the Department is on firm ground in reforming license number 47-7676 to include a subordination clause. I believe, however, that a letter and reformed license should be sent immediately.

The 35 year term condition raises different legal issues and should be handled separately from the subordination issue. Therefore, I have drafted a proposed letter for the subordination issue. Please review and make any changes you feel are appropriate. I intentionally omitted any discussion of departmental policy since it is not relevant to the clerical error issue.

Phil is drafting for Tuthell & J.
I believe an affidavit should be prepared by those parties involved in this error for use in any litigation that may result.

Please check the subordination clause I used in the letter with the language in the permit. There seems to be some confusion regarding the proper language. *Use same language as on the permit.*

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M E M O R A N D U M

TO: CLIVE STRONG
FROM: LORI MANN *LM*
RE: WATER LICENSE ISSUED WITHOUT SUBORDINATION CLAUSE
DATE: 6/29/84

ISSUE

Can the Department of Water Resources amend a recently issued water license that had a portion of it omitted due to an inadvertent clerical error?

CONCLUSION

Yes. Administrative officers have power to correct inadvertent ministerial errors in their orders.

ANALYSIS

The courts have long recognized that administrative agencies may correct inadvertent ministerial errors. Chlorine Institute, Inc. v. Occupational Safety and Health Administration, 613 F.2d 120 (1980); American Trucking Association, Inc. v. Frisco Transportation Company, 358 U.S. 133 (1958); United States v. Seatrains Lines, Inc., 329 U.S. 424 (1947); Bell v. Hearn, 60 U.S. 252 (1857). In fact, the presence of authority in administrative officers and tribunals to correct such errors has long been recognized--probably so well recognized that little discussion has ensued in the reported cases. American Trucking, supra, at 145. This doctrine was also recognized in the

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dicta of International Paper Company v. FERC, Slip Opinion No. 89-2032 (1984).

What constitutes a ministerial error is well illustrated in the American Trucking case. There, a railroad affiliate (Frisco) had acquired several independent motor carriers pursuant to a statute that had long been construed to limit such acquisitions to operations which are auxiliary or supplementary to train service, at least in the absence of special circumstances which might justify less restrictive operations. Frisco had initially requested unrestricted operating authority. The hearing examiner recommended approval of each acquisition "subject to such further limitations, restrictions, or modifications as the Commission may find necessary. . . to insure that the service shall be auxiliary to the train service of the [parent] railroad." A division of the Commission subsequently adopted the examiner's recommendations, including the above-quoted reservation.

The operating certificates issued by the Commission staff did not, however, contain the original reservation of authority. In an "exhaustive report," the division concluded that the original reservation of authority had been inadvertently omitted from the certificates and was able to show how it probably occurred: the staff had no authority to amend original orders and the publishing of the certificates by the Commission staff was purely a mechanical task, limited to the reproduction of the original order.

The United States Supreme Court held that the evidence sufficiently supported the conclusion that the omission was inadvertent and that the Commission had the power to correct such errors.

The case at hand is very similar to the American Trucking case. Here, the original permit issued by the Department contained a subordination of water rights clause. This permit was issued to Co-Generation, Inc.. Ten days after the permit was issued, a letter was sent, as is Department policy, in which the terms and restrictions of the permit and final license were discussed. In this letter, the subordination clause found in the permit was omitted. The letter also contained a limited term (30 years) for the license. This term was not found in the permit. The licensee responded by saying that he had thought licenses were issued in perpetuity but that he was later informed that he was incorrect. As such, he gave his "grudging approval" and requested that the term be extended to 35 years. The Department agreed and the license was issued with the 35 year term. The license did not include the subordination clause and the Department was unaware of this omission.

It is the practice of the Department to issue licenses using language directly from the letter sent with the terms and restrictions. Any terms or restrictions which are ultimately agreed upon but are different from those in the letter are changed. As such, the letter is the "draft" of

the license. Because the subordination clause was inadvertently omitted from the letter, it was not a point of contention with the licensee after he read it. The omission was not brought to the Department's attention and the license was issued using that language found in the letter (with the change from 30 to 35 years being made).

When the license was issued, it was departmental policy at that time to include subordination clauses in power permits and licenses. At that time, there had only been a few times when a subordination clause was not included by the Department in a permit and license. Whenever this was done, it was done so by "reasoned choice." Because of this policy, and the placement of the subordination clause in the permit, it was assumed by the Department that the subordination clause was also placed in the letter and license. In fact, the person who wrote the permit intended the clause to be in the letter and license and, due to an inadvertent error on his part, left it out. In fact, when a term in a permit is not stated in the letter, the Department will inform the potential licensee of this change. This was not done here with the subordination clause because there was no intended change in that clause. It was the Department's intention that it be in both the letter and the license. As stated above, it is rare, if ever, that the Department does not place subordination clauses in the power permits and licenses it issues.

It is clear that the Department intended to include the subordination clause and thought that it had. Where it can be shown that an agency intends to act in a certain manner, believes it has so acted, and due to a inadvertent clerical error, fails to act as intended, the courts will allow the agency to amend its action. Floride Power and Light Company v. FERC, 617 F.2d 809 (1980). This issue of intent can also be found in American Trucking, supra., since a reservation was intended to be placed in the certificate but was later omitted.

It is well settled that the error that is in question must be inadvertent and ministerial. The power to correct may not, however, be used as a "guise for changing previous decisions because the wisdom of those decisions appear doubtful in the light of changing policies." Chlorine Institute v. OSHA, 613 F.2d 120, 123 (1980), quoted from American Trucking supra. As stated earlier, the Department had a policy when the license in question was issued of placing subordination clauses in the power permits and licenses it issued. The placement of the subordination clause in the permit in question was not a newly adopted policy and its placement in the license would also not have been new or surprising. (What was surprising was the fact that the clause was omitted from the license.) Here, by clerical mistake, the license issued to the licensee did not contain the intended clause, and the Departments subsequent action now is not the execution of a newly adopted policy

but merely the correction of an inadvertence. As the saying goes, to err is both human and inevitable, Howard Sober, Inc. v. I.C.C., 628 F.2d 36, 42 (1980) and as long as agency officers, judges and the like are human, mistakes will occasionally, inevitably occur. Brooks v. Industrial Commission, 539 P.2d 199, 202 (1975). That the error occurred is regrettable; that the Department realized it before any damage was done is laudable. The intended clause was inadvertently omitted. The Department should be able to correct this.

Dave Barber —

INTER-DEPARTMENT MEMO — 1

DATE 6/12/84

FROM

Dave Tutthill

TO

Wet
Glen → Norm (per)

SUBJECT

47-7676

The attached letter was written the day the license was approved, so these comments were not included in the licensing procedure.

Because this may be the start of a precedent-setting ruling regarding the term nature of water rights, I suggest that our legal staff review the issue prior to a response by Norm.

SIGNATURE

Dave

HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

PAUL B. ENNIS
(1916-1982)

ROBERT I. TROXELL
JESS B. HAWLEY, JR.
JACK HAWLEY, P.A.
THOMAS A. MILLER
M. NEAL NEWHOUSE
CRAIG L. MEADOWS
JOSEPH D. McCOLLUM, JR.
WAYNE B. SLAUGHTER, JR.
GARY D. BABBITT, P.A.
R. CRAIG STORTI
MERLYN W. CLARK
RICHARD F. GOODSON, P.A.
CARL W. HARDER
PHILLIP M. BARBER
DONALD E. KNICKREHM
EDWIN V. APEL, JR.
EUGENE A. RITTI
KAREN L. LANSING
RICHARD G. SMITH
JOHN F. KURTZ, JR.
LINDA L. HOLDEMAN
BRENT F. LLOYD
JOHN McGOWN, JR.
ALBERT P. BARKER
JOHN T. HAWLEY, JR.
DON A. OLOWINSKI
J. CHARLES HEPPWORTH
NICHOLAS G. MILLER
RONALD E. BUSH

June 7, 1984

ONE CAPITAL CENTER
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

RECEIVED
JUN 8 1984

HAND CARRY

Department of Water Resources

Department of Water Resources
State Office
450 W. State Street
Boise, Idaho 83702

Attention: Mr. Jim Johnson
Water Distribution Supervisor

(or David R. Tuthill, Jr.) *per*

Re: Permit No. 47-7676

Gentlemen:

I write as attorney for Twin Falls Bank & Trust Company regarding the attached letter from the Department to the Bank dated May 25, 1984. I also received a copy of Mr. Straubhar's attached letter to you of June 5th.

Under "Conditions" to be inserted in the license to be issued is the following note: "*The diversion and use of water under this license is subject to review by the Director thirty (30) years from the date of issuance. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised."

The permit did not contain such a condition. I would appreciate being advised of the legal authority relied upon by the Department in attaching that condition to the license.

MICROFILMED

HAWLEY TROXELL ENNIS & HAWLEY

I would appreciate hearing from you at your earliest convenience. Thank you for your usual consideration.

Yours truly,


THOMAS A. MILLER

TAM:jw
Enc.

cc David J. Barber, Esq. (HAND CARRY)
Asst. Attorney General
Dept. of Water Resources

Twin Falls Bank & Trust Co.
P. O. Box 7
Twin Falls, Idaho 83301
Attn: C. Alan Horner, V. P.

Mr. Bruce Mecham
Globe Realty, Inc.
P. O. Box 1787
Twin Falls, Idaho 83301

John J. Straubhar
J-U-B Engineers, Inc.
250 S. Beechwood Ave.
Boise, Idaho 83709

MICROFILMED

HAWLEY TROXELL ENNIS & HAWLEY
ATTORNEYS AND COUNSELORS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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June 7, 1984

ONE CAPITAL CENTER
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

RECEIVED
JUN 8 1984

HAND CARRY

Department of Water Resources

Department of Water Resources
State Office
450 W. State Street
Boise, Idaho 83702

Attention: Mr. Jim Johnson
Water Distribution Supervisor

(or David R. Tuthill, Jr.)

Re: Permit No. 47-7676

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The permit did not contain such a condition. I would appreciate being advised of the legal authority relied upon by the Department in attaching that condition to the license.

MICROFILMED

HAWLEY TROXELL ENNIS & HAWLEY

I would appreciate hearing from you at your earliest convenience. Thank you for your usual consideration.

Yours truly,



THOMAS A. MILLER

TAM:jw
Enc.

cc David J. Barber, Esq. (HAND CARRY)
Asst. Attorney General
Dept. of Water Resources

Twin Falls Bank & Trust Co.
P. O. Box 7
Twin Falls, Idaho 83301
Attn: C. Alan Horner, V. P.

Mr. Bruce Mecham
Globe Realty, Inc.
P. O. Box 1787
Twin Falls, Idaho 83301

John J. Straubhar
J-U-B Engineers, Inc.
250 S. Beechwood Ave.
Boise, Idaho 83709

MICROFILMED



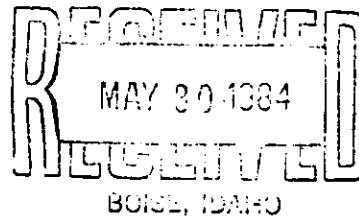
State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Geologist

A. KENNETH DUNN
Director
May 25, 1984

J-U-B Engineers

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



RE: Permit No. 47-7676

Twin Falls Bank & Trust Co.
Box 7
Twin Falls, ID 83301

Department of Water Resources

Gentlemen:

A representative of this Department has made an examination of the works covered by your Permit No. 47-7676, and has found the following:

Amount of water that can be recognized as beneficially used under
Idaho law: 175 cfs Source: Rock Creek trib to Snake River

The maximum quantity diverted shall not exceed n/a acre feet
per year.

Point(s) of diversion: NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 25, Twp 9S, Rge 16E

Beneficial Use: Power within SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, Twp 9S, Rge 16E

Priority date established: October 30, 1980

Conditions (if any): Use of water under this license is subject to control
by the watermaster of State Water District No. 47-0, Rock Creek.

*See below.

If you do not concur with these findings, please contact us within 10 days, otherwise a water license will be issued as set forth above.

Sincerely,

David R. Tathell

for JIM JOHNSON
Water Distribution Supervisor

JJ:sc

cc: JUB Engineers
Cogeneration, Inc.

MICROFILMED

*The diversion and use of water under this license is subject to review by the Director thirty (30) years from the date of issuance. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.



J-U-B ENGINEERS, INC.

800 Falls Avenue • Twin Falls, Idaho 83301 • Telephone (208) 733-2414

RECEIVED
JUN 7 1984

June 5, 1984

Department of Water Resources

Per telecon on June 6, '84
a copy of this letter
was received by our
Southern Regional office on
that date.
D. Tushill

Mr. Jim Johnson
Water Distribution Supervisor
Department of Water Resources
Statehouse
Boise, Idaho 83720

Reference: Rock Creek Hydroelectric Project
Discharge Measurements

Dear Mr. Johnson:

As per your request, we have enclosed a copy of our field notes and a certification that the measurements were conducted under the direction of a registered professional engineer.

Our office uses an OTT current meter, Type 10.002. Velocity is calculated according to the following formulas:

$$\text{For } n < 0.52, \quad V = 1.6226n + 0.046$$

$$\text{For } n \geq 0.52, \quad V = 1.6990n + 0.007$$

where n = revolutions/second and v = ft/sec.

Our test procedure consists of taking a series of readings at 0.2 and 0.8 of the depth below the surface. According to the Bureau of Reclamation's Water Measurement Manual, pp. 126, the average velocity can be obtained by using the arithmetic average of velocity readings taken at the above depth. Then, the discharge between adjacent readings is found by using the mean of the adjacent velocities and multiplying this by the area between the adjacent readings (velocity at the wall is equal to zero). The total discharge is the sum of the discharges between adjacent readings.

The enclosed copy of our results was calculated in this manner.

If you have any questions, please call.

Sincerely,

J-U-B ENGINEERS, Inc.

D.W. Block

D.W. Block, P.E.
Regional Manager

MICROFILMED

DWB/et
Enc.

cc: Loren Holmes
Jack Straubhar

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D. C. 20426
EQUAL OPPORTUNITY EMPLOYER

POSTAGE AND FEES PAID
FEDERAL ENERGY REGULATORY COMMISSION
FERC-351
FIRST CLASS MAIL



State of Idaho P-6450
Dept. of Water Resources
State House
Boise, Idaho 83720

MICROFILMED

(d) Article 4. This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) Article 5. This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application by any qualified license applicant and revoke this exemption, if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the date on which this exemption was granted.

Attachment
E-2 Form

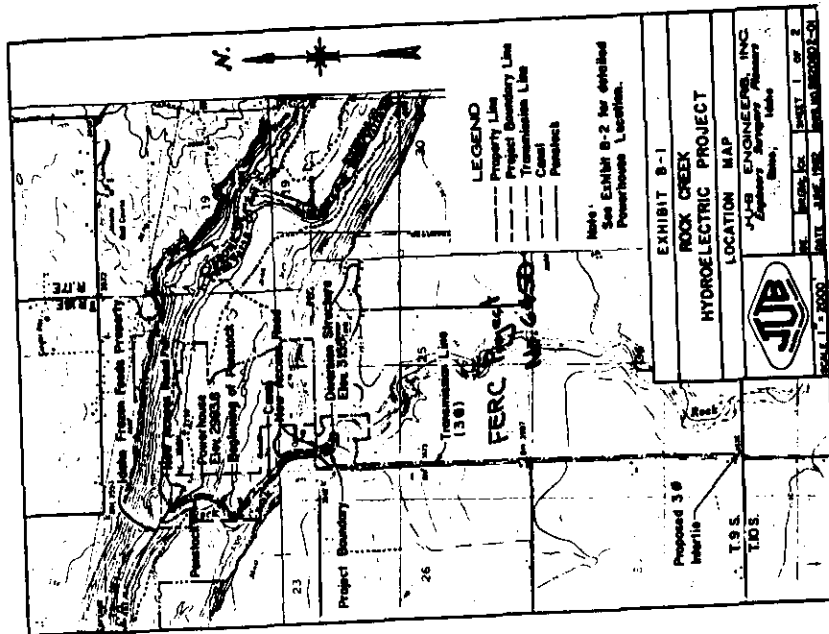
§ 4.106 Standard terms and conditions of exemption from licensing.

Any exemption from licensing granted under this subpart for a small hydroelectric power project is subject to the following standard terms and conditions:

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

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

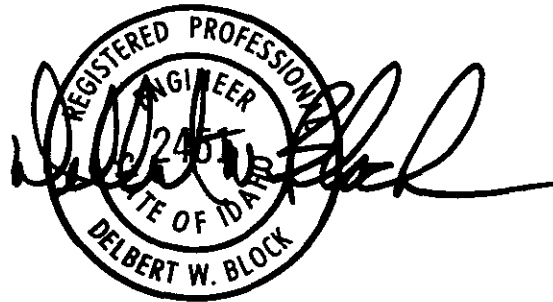
(c) Article 3. The Commission may accept a license application by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the date on which this exemption was granted. If an exemption is revoked, the Commission will not accept a subsequent application for exemption within two years of the revocation.



MICROFILMED

CERTIFICATE OF ENGINEER

I, D.W. Block, do hereby certify that I am a registered professional engineer, licensed by the State of Idaho, and that the flow measurements made for the Rock Creek Hydroelectric Project were conducted according to standard procedures of J-U-B ENGINEERS, Inc., under my direct supervision.



D.W. Block, P.E.

License No. *2451 IDAHO*

MICROFILMED

RECEIVED
JUN 7 1984

Department of Water Resources



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 7, 1984

RE: Permit No. 47-7676

Twin Falls Bank & Trust Co.
Box 7
Twin Falls, ID 83301

Gentlemen:

Enclosed herewith is a copy of the Water Right License issued on the above referenced Permit.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure

cc: Thomas A. Miller
Bruce Mecham, Shorrock Hydro
John Straubhar, JUB

MICROFILMED



SHOROCK HYDRO, INC.

June 5, 1984

RECEIVED
JUN 6 1984

Mr. Jim Johnson
Water Distribution Supervisor
Department of Water Resources
State of Idaho
450 West State Street
Boise, Idaho 83720

Department of Water Resources

Dear Mr. Johnson:

Re: Permit No. 47-7676

The Twin Falls Bank & Trust Company of Twin Falls, Idaho is designated assignee for Water Permit No. 47-7676. They received a notice from the Idaho Department of Water Resources dated May 25, 1984, which explains the examination of our works and the conditions under which the water license will be issued. I am attaching a copy for your reference.

We called Norm Young and Dave Tuthill of the IDWR and they informed us that the Watermaster for State Water District No. 47-0 Rock Creek is Mr. Ed King of Hansen, Idaho; his telephone number is 423-5769. We will call Mr. King to obtain the time and place of their annual meeting and meetings so we can be properly represented.

OK
WOT
It was our understanding that water licenses were issued in perpetuity and were suprised to see a 30 year review period established. There is also an indication that said license could be revoked. I called David R. Tuthill and he said that these are the revised administration of existing statutes that we are working under. If these are the present interpretations and we must operate under them, we would request that the review period be extended to 35 years, which is the period of our power sales agreement. This would make the review period of our water license and power sales agreement coincide.

If you require more input or background, give me a call and I will be glad to meet personally with you or the Board.

Sincerely,

SHOROCK HYDRO, Inc.

John J. Straubhar, P.E.
John J. Straubhar, P.E.
President

JJS:mz

cc: Norm Young
Dave Tuthill
Bruce Mecham
Twin Falls Bank & Trust

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

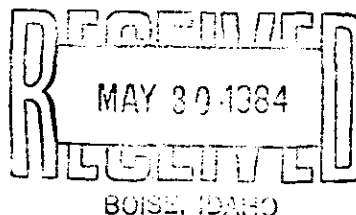
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

May 25, 1984

J-U-B Engineers



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

RE: Permit No. 47-7676

Twin Falls Bank & Trust Co.
Box 7
Twin Falls, ID 83301

Gentlemen:

A representative of this Department has made an examination of the works covered by your Permit No. 47-7676, and has found the following:

Amount of water that can be recognized as beneficially used under
Idaho law: 175 cfs Source: Rock Creek trib to Snake River

The maximum quantity diverted shall not exceed n/a acre feet
per year.

Point(s) of diversion: NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 25, Twp 9S, Rge 16E

Beneficial Use: Power within SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, Twp 9S, Rge 16E

Priority date established: October 30, 1980

Conditions (if any): Use of water under this license is subject to control
by the watermaster of State Water District No. 47-0, Rock Creek.

*See below.

If you do not concur with these findings, please contact us within 10 days, otherwise a water license will be issued as set forth above.

Sincerely,

David R. Tuttle
for JIM JOHNSON
Water Distribution Supervisor

JJ:sc

cc: JUB Engineers
Cogeneration, Inc.

*The diversion and use of water under this license is subject to review by the Director thirty (30) years from the date of issuance. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

MICROFILMED

CONVERSATION MEMORANDUM

DATE June 1, 1984FILE 47-7676NAME OF PARTY Bruce MechemEMPLOYEE Dave TuthillRE: Cogeneration Inc.

Bruce Mechem, a prior principal in Cogeneration Inc., called to say that Cogeneration has transferred all interest in the Rock Creek Hydro plant to Shorock Hydro, Inc.

Plz send copies of future correspondence related to this permit, not to Cogeneration, but rather to:

Shorock Hydro, Inc

P.O. Box 1787

Twin Falls, Id 83301

Dr

Also, Jack Straubhar of SUB Engineers called to ask that the term of the ~~pe~~ license be extended from 30 years to 35 years, and this change was granted by Norm Young on June 4, 1984.

Dr

MICROFILMED



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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

May 25, 1984

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

RE: Permit No. 47-7676

Twin Falls Bank & Trust Co.
Box 7
Twin Falls, ID 83301

Gentlemen:

A representative of this Department has made an examination of the works covered by your Permit No. 47-7676, and has found the following:

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by the watermaster of State Water District No. 47-0, Rock Creek.

*See below.

If you do not concur with these findings, please contact us within 10 days, otherwise a water license will be issued as set forth above.

Sincerely,

David R. Tatchell
for JIM JOHNSON
Water Distribution Supervisor

JJ:sc

cc: JUB Engineers
Cogeneration, Inc.

MICROFILMED
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ACTION REQUIRED

FROM: Loren Holmes 5/4/84

TO: Kat Walker

The Permit holder is in an extreme rush for this license. Nobody was available in this office to check the exam, so have it checked there & call if there are questions.

I have photos which aren't developed yet. I will forward them for the file when I get them.

Copies of the License should also be sent to:

^{Strauphar}
John ~~Strauphar~~
J.V.B. Engineers
250 S. Beechwood Ave
Boise ID 83709

Bruce Mechem
% Cogeneration Inc
P.O. Box 1787
Twin Falls, ID 83301



Thanks.

HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ROBERT I. TROXELL
JESS B. HAWLEY, JR.
JACK HAWLEY, P. A.
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JOHN T. HAWLEY, JR.
DON A. OLOWINSKI
J. CHARLES HEPWORTH
NICHOLAS G. MILLER
RONALD E. BUSH

May 29, 1984

PAUL B. ENNIS
(1916-1982)

ONE CAPITAL CENTER
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

RECEIVED
MAY 29 1984

HAND DELIVERED

Department of Water Resources
Delivered by hand

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

Attention: Kay Walker

Re: Water Permit No. 47-7676 -
Rock Creek Hydro Project

Dear Ms. Walker:

I would appreciate receiving a copy of the
license on Permit No. 47-7676 as soon as it is available.

If the license has not been issued yet, could
you call me or my secretary as soon as it is issued so
that we may pick up a copy?

Thank you for your consideration.

Yours truly,


Thomas A. Miller

TAM:b

MICROFILMED

PROJECT Rock Creek

JOB NO. _____

SHEET _____

DESIGNED KALAR/KALARDATE 4/33/84ITEM @ BRIDGE

CHECKED _____

DATE _____

(SECTION 1)

DISTANCE	DEPTH	REV C. 2	V, fps	REV C. 8	V, fps	TIME	ANGLE
0	5.9	0	0	0	0	50s	0
6" 1.5		95	3.24	95	3.24		
2'6" 2.5		101	3.44	105	3.57		
4'6" 4.5		100	3.41	100	3.41		
6'6" 6.5		101	3.44	93	3.17		
8'6" 8.5		93	3.17	82	2.79		
10'4" 10.33		63	2.15	71	2.42		
10'10" 10.83		0	0	0	0		

$$Q = 193.76 \text{ cfs}$$

A little sediment near the edges

BRIDGE IS APPROX. 40 FT FROM A BEND

DEBRIS GETTING THROUGH SCREEN AT TRIP

all four turbines running

MICROFILMED**RECEIVED**

JUN 8 1984

Department of Water Resources

PROJECT Rock Ca

JOB NO. _____

SHEET _____

DESIGNED Kelley/KelleyDATE 4/23/94ITEM HALEWAY DOWN APPROACH
(SECTION 2)

CHECKED _____

DATE _____

DISTANCE	DEPTH ^{sediment}	4.8 FT		1.2 FT		Time	ANGLE
		Rev @ .2	V, f/s	Rev @ .2	V, f/s		
0	6' 0" 5.9	0		0		50s	0
1		50	1.71	55	1.88		
3		55	1.88	57	1.94		
5		72	2.45	56	1.91		
7		79	2.69	60	2.05		
9		80	2.73	63	2.15		
11		79	2.69	68	2.32		
13		78	2.66	75	2.56		
14.5		75	2.56	70	2.39		
15.5		0	0	0	0		

Q = 195.52 cfs

0.1 to .2 inches of sediment on
BOTTOM

SUBTRACT (OK)

MICROFILMED

PROJECT BECK CR

JOB NO. _____

SHEET _____

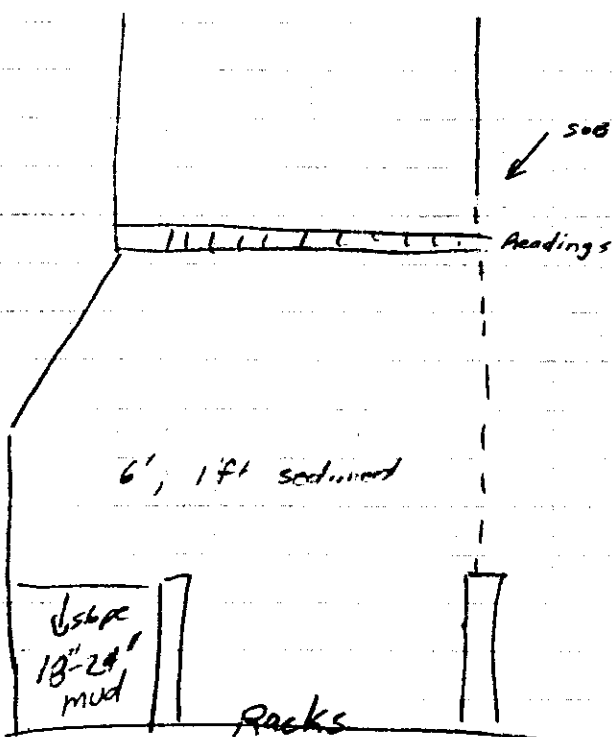
DESIGNED KOLAR/KOLARDATE 4/22/84ITEM AT ANGLE PT AHEAD OF RACKS

DATE _____

(SECTION 3)

DISTANCE	DEPTH	RGV, Z	V, fps	RGV, Z	V, fps	TIME	ANGLE
0	6	0	0	0	0	50 s	0
1	6	67	2.28	53	1.81		
3	6	67	2.29	52	1.77		
5	6	70	2.39	62	2.11		
7	5.8	73	2.49	60	2.05		
9	5.8	79	2.69	53	1.81		
11	5.65.7	79	2.69	48	1.64		
13	5.6	73	2.49	57	1.94		
14.5	5.6	65	2.22	58	1.98		
15.5	5.6	0	0	0	0		

$$Q = 183.21 \text{ cfs}$$



$$WIND = 301 \Rightarrow V = 10.23 \text{ fps} \\ = 7 \text{ mph}$$

RECEIVED

JUN 7 1984

MICROFILMED

Department of Water Resources

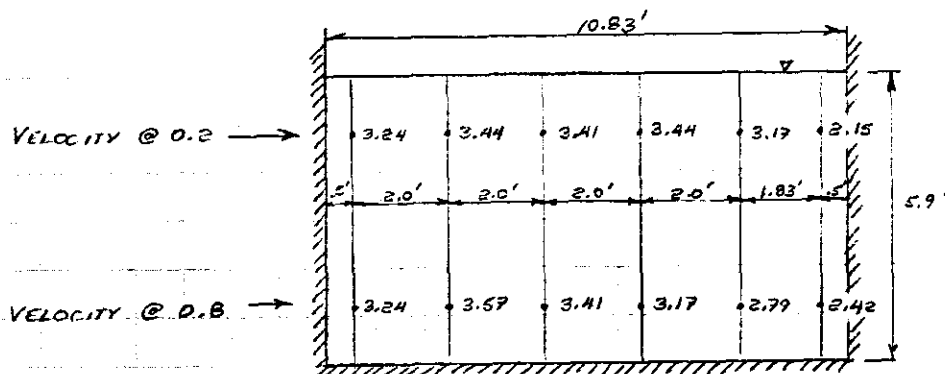
PROJECT ROCK CREEK

JOB NO. _____

SHEET 1/1DESIGNED RLKDATE 4/23/84ITEM VELOCITY PROFILES - ALL TURBINE CHECKED _____
RUNNING @ 175 cfs

DATE _____

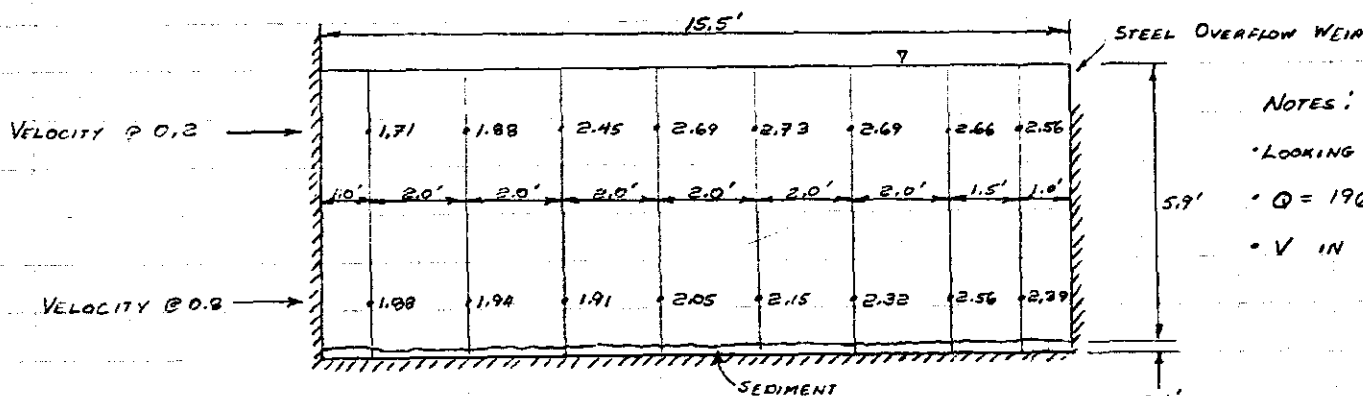
① UPSTREAM FROM BRIDGE



NOTES:

- LOOKING UPSTREAM
- VERY LITTLE SEDIMENT
- $Q = 194$ cfs
- V IN FPS
- APPROX. 40' DOWNST.
- FROM 30° BEND

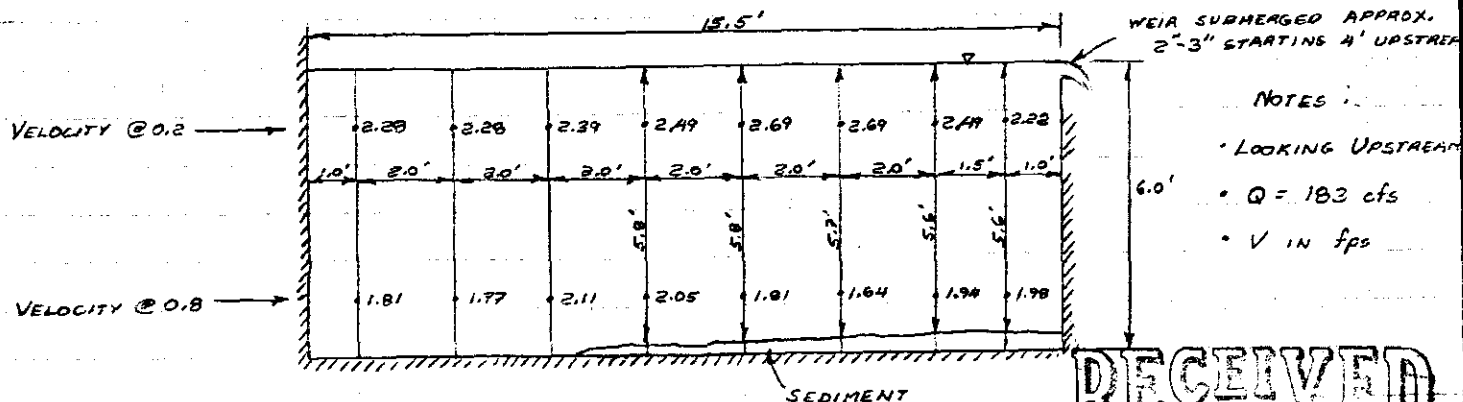
② HALFWAY DOWN APPROACH TO TRASH RACKS



NOTES:

- LOOKING UPSTREAM
- $Q = 196$ cfs
- V IN FPS

③ AT FIRST ANGLE POINT BEFORE TRASH RACKS



NOTES:

- LOOKING UPSTREAM
- $Q = 183$ cfs
- V IN FPS

RECEIVED

JUN 7 1984

MICROFILMED

CONVERSATION MEMORANDUM

DATE June 1, 1984

FILE 47-7676

NAME OF PARTY Bruce Mecham

EMPLOYEE Dave Tutill

RE: Cogeneration Inc.

Bruce Mecham, a prior principal in Cogeneration Inc., called to say that Cogeneration has transferred all interest in the Rock Creek Hydro plant to Shorock Hydro, Inc.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dr

Also, Jack Straubhar of SUB Engineers called to ask that the term of the ~~pe~~ license be extended from 30 years to 35 years, and this change was granted by Norm Young on June 4, 1984.

Dr

MICROFILMED

May 25, 1984

RE: Permit No. 47-7676

JUB Engineers
Attn: John ~~Strubault~~ Straubhar
250 S. Beechwood Ave., Suite III
Boise, ID 83709

Dear Mr. ~~Strubault~~ Straubhar

The Department is presently reviewing water right No. 47-7676 for issuance of a license. We find that JUB Engineers made water measurements of the diversion to the hydroelectric facility on April 23, 1984 and a copy of these measurements were attached to the field examination prepared by Loren Holmes of this Department. Since these measurements are going to be used as evidence of the extent of development of water under this right, we request that you provide a certified document showing that these measurements are true and correct.

In the meantime, we will continue the license processing of this right.

If you have any questions, please let me know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

MICROFILMED

CONVERSATION MEMORANDUM

DATE 5-23-84

FILE 47-7676

NAME OF PARTY ED KING WATERMASTER FOR 47-0

EMPLOYEE Jim J.

RE: Per request by Dave T. I
contacted Mr. King in reference to
the need for a measuring device on
the diversion under this right.

Mr. King informed me that
this project was located approx 20 mi
downstream from the last point
of diversion regulated by him.

He did not see a need to travel
this distance if there was no reason
to regulate the diversion.

MICROFILMED

State of Idaho
DEPARTMENT OF WATER
WATER RIGHT BENEFICIAL USE

47-7676
TWIN FALLS BANK & TRUST CO.
P.O. SEC 25 TWP 09S RNG 16E
IRRIGATION? N

RECEIVED

MAY 10 1984

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:			
☐ Telephone call made (List Telephone No. used)			
☒ Appointment scheduled for: (Date, time, location)	5/2/84 9:00 AM	JUB DWR OFFICE EXAM.	J.U.B. Engrs called & requested

EXAMINATION

Date 5/2/84 Accompanied by Randy Kohler, JUB Engrs. Total Q measured 175 cfs ✓
Source Rock Creek Tributary to Snake River Supp. annubar measurement sheet used?
If source is surface water, estimate total flow of source 300 cfs
Methods of measurement Plant Design & installed Flow Sensor Meets permit requirements? Yes

Measurement calculations: Spillage over spillway weir = .2 ft on 25 ft of Weir crest.
Plant at full load. Measurement by J.U.B. at Weir Section =
183 cfs ✓ see copy attached
Plant Q = 183 - (spill over weir)
Spill = (3.33)(25)(.2) = 7.45 (cfs) ✓
183 - 7.45 = 175.55 cfs
Allow 175 cfs design capacity
V = 175 cfs for 365 days = 126696 AFA

WELL/DIV. NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEVICE	REMARKS
1	750 KW	Westinghouse	H2S-82-11	Northridge	NO # 950 RPM/220KW			
2	"	"	15-82-11	"	"			
3	470 KW	"	15-82-10	"	NO # 1850 RPM/470KW			
4	"	"	15-82-10	"	"			

System Description Diversions structure in Rock Creek with Power operated
Trash screen; Approx. 1/2 mile concrete canal to Penstock; Approx. 1/4
mile buried steel Penstock; 4 generating units in closed
Powerhouse. Design Capacity is 175 cfs at 165 ft max head.
Plant has Automatic Controls.

*Code with map on reverse side. Disregard code if only one.

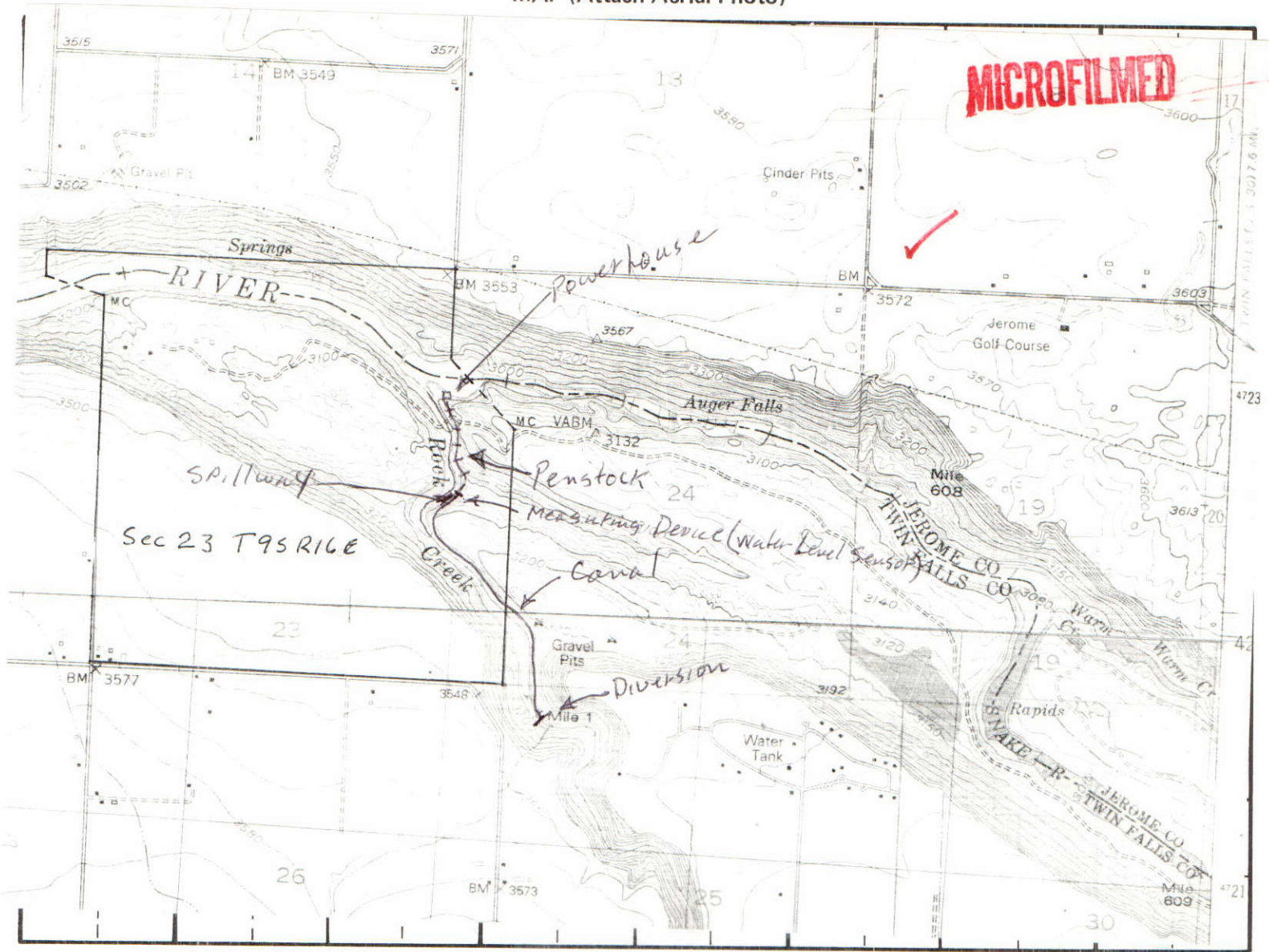
RECOMMENDED AMOUNTS

USE	Irrigation requirement = Q (cfs)	V (afa)	AFA/Acre FROM TO
Power ✓	175 ✓	~~126696~~ N/A	1/1 ✓ 12/31 ✓
Total	175.0	N/A	

Remarks Water level sensors above Trash rack & in Penstock inlet
Transmit water level data to Plant controls. Units are auto-
switched on & off depending on water supply. Spillway weir
just above Penstock inlet is stepped so that only part of
the weir spills at lower flows. Plant was at full load
& Weir was spilling .2 ft over 25 ft of crest.
Plant status is monitored by an Apple IIe computer in the
Twin Falls office

MICROFILMED

MAP (Attach Aerial Photo)



SCHEMATIC DIAGRAM OF SYSTEM

(Include distance from pump to measuring device, if applicable.)

See Attached Plans & Notes.

Point(s) of diversion: NW 1/4 NW 1/4 Sec 25 T9S R16E

Place(s) of Use ✓

TWP.	RGE.	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9S	16E	23				X Lot 12													

Recommended Amendments:

- ☐ Change P.D. as reflected above
 ☐ Add P.D. as reflected above
 ☒ None
- ☐ Change P.U. as reflected above
 ☐ Add P.U. as reflected above
 ☐ Other

Examiner's Signature Loren O. Halmer
 Date 5/9/84

Checked by _____
 Date _____

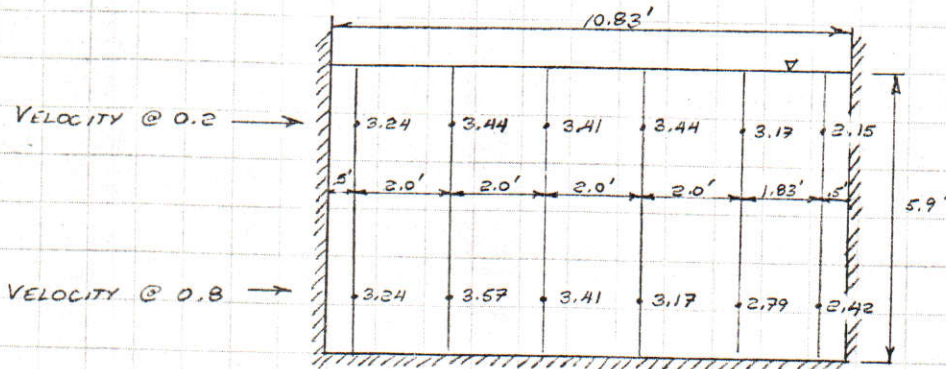
Approved by Kay Walker
 Date 5/14/84

PROJECT ROCK CREEKJOB NO. SHEET 1/1DESIGNED RLKDATE 4/23/84ITEM VELOCITY PROFILES - ALL TURBINE CHECKED DATE

RUNNING @ 175 cfs

SECTION

① UPSTREAM FROM BRIDGE

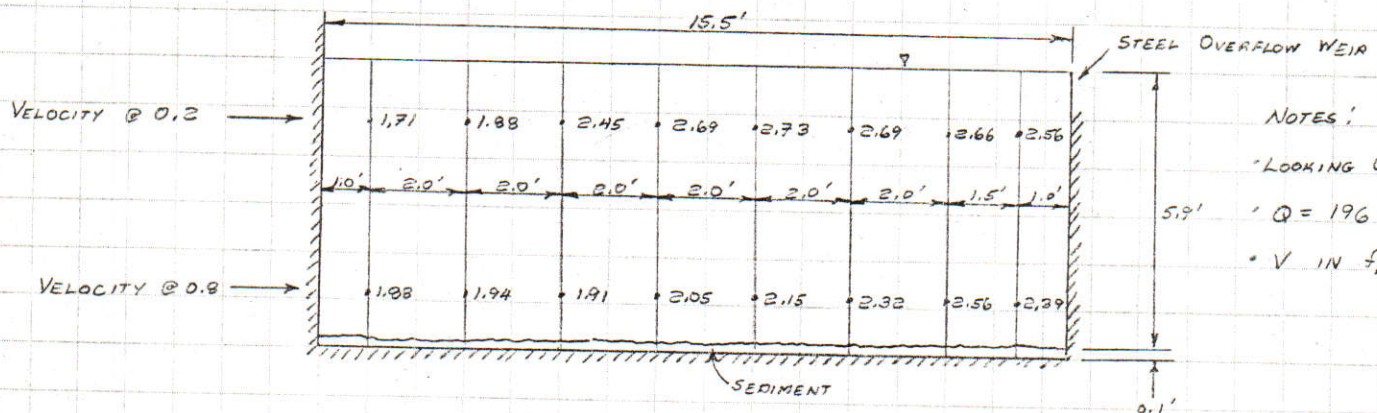


NOTES:

- LOOKING UPSTREAM
- VERY LITTLE SEDIMENT
- $Q = 174 \text{ cfs}$
- V IN FPS
- APPROX. 40' DOWNST. FROM 30° BEND

SECTION

② HALFWAY DOWN APPROACH TO TRASH RACKS

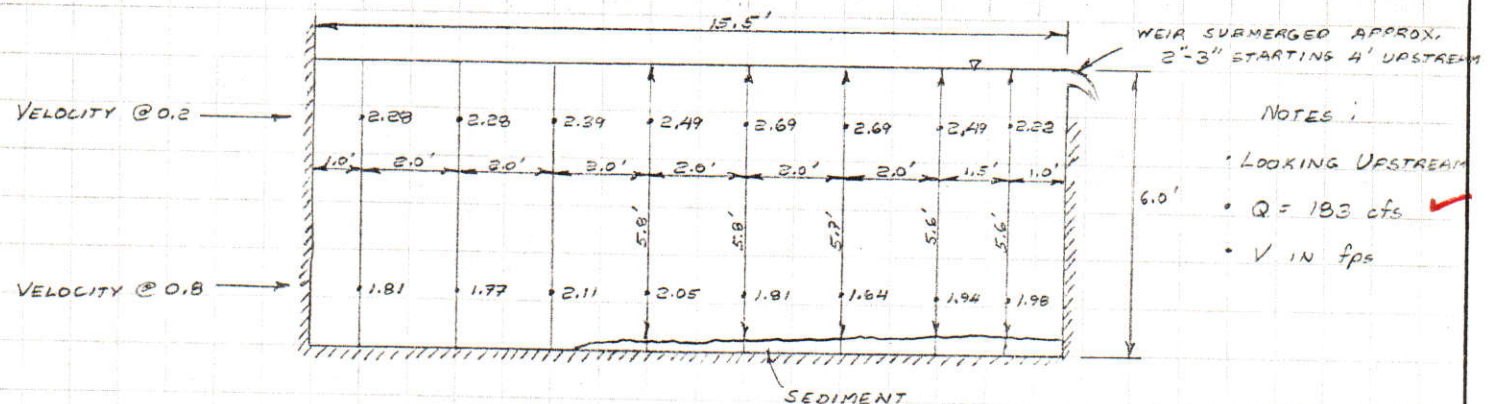


NOTES:

- LOOKING UPSTREAM
- $Q = 196 \text{ cfs}$
- V IN FPS

SECTION

③ AT FIRST ANGLE POINT BEFORE TRASH RACKS



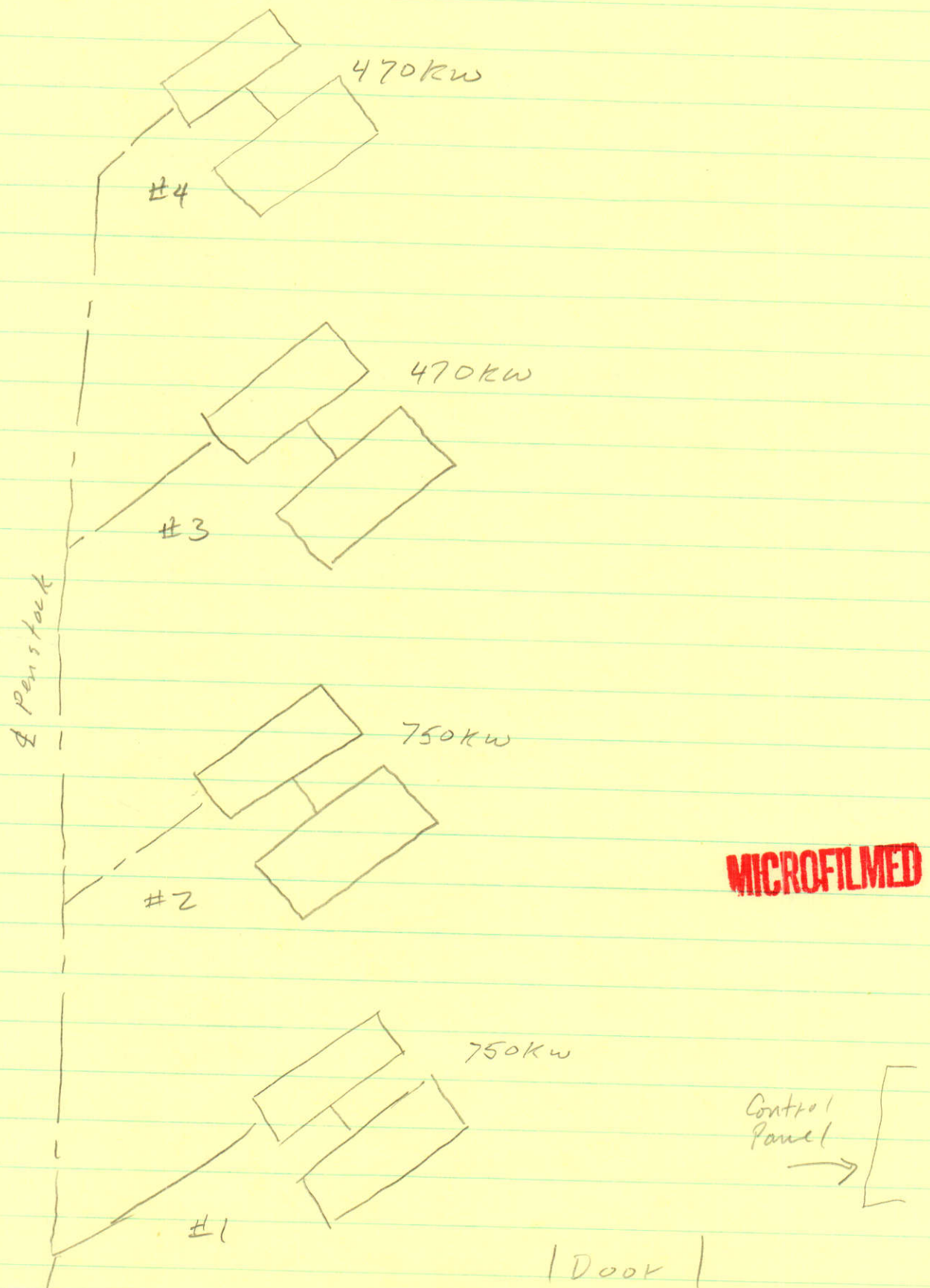
NOTES:

- LOOKING UPSTREAM
- $Q = 183 \text{ cfs}$ ✓
- V IN FPS

MICROFILMED

47-7676

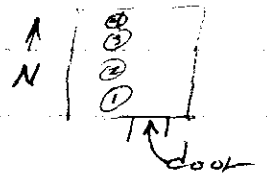
Schematic of Powerhouse



5/2/84 47-7676

Power Plant data from tape

#1 Westinghouse (Nearest door)



HP 1094 / 816 kW

10 Pole 3 Ph 60 c/c 2300 Volts

712 / 726 RPM

Style 82 F 52214

Serial # H2S-82-11

#1 Turbine - Watthington - NO Nameplate

Rated 950 RPM @ NO Load 750 kW

#2 Identical style to Gen #1

Serial # 1S-82-11

#2 Turbine identical to #1

*3 & 4 Generators:

HP - 684 / 510 kW

8 Pole 3 Ph 60 c/c 2300 V.

886 / 910 RPM

Style 82 F 52215

#3 Serial # 1S-82-10

#4 " 1S-82-10

MICROFILMED

3 & 4 Turbines - Watthington NO Nameplate

1850 RPM

470 kW

WED MAY 10 6:52:49 AM

PLANT STATUS DISPLAY

=====

Generator #1: SPEED : 906 R.P.M.
 CURRENT : 52 Amos
 POWER : 203 K.W.
 VIBRATION : 0 G's

Generator #3: SPEED : 724 R.P.M.
 CURRENT : 148 Amos
 POWER : 556 K.W.
 VIBRATION : 0 G's

Generator #2: SPEED : 907 R.P.M.
 CURRENT : 103 Amos
 POWER : 336 K.W.
 VIBRATION : .51 G's

Generator #4: SPEED : 724 R.P.M.
 CURRENT : 148 Amos
 POWER : 572 K.W.
 VIBRATION : .58 G's

Bus voltage : 2392 Volts
 Total plant power : 1659 K.W.
 Machines fault table : 0
 Plant fault table : 0

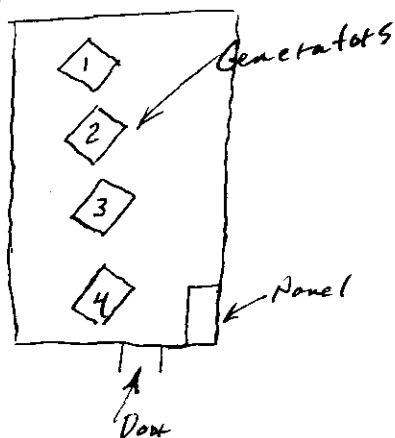
CUMULATIVE ENERGY

=====

The current day of operation is 237.

DAY - DATE	ENERGY
== - ==	=====
TUE - MAY 9	8393633
MON - MAY 8	8347690
SUN - MAY 7	8308220
SAT - MAY 6	8269284
FRI - MAY 5	8230286
THU - MAY 4	8194663
WED - MAY 3	8160151
TUE - MAY 2	8121062
MON - MAY 1	8082167
SUN - APR 30	8047822
SAT - APR 29	8016821
FRI - APR 28	7986868
THU - APR 27	7966997
WED - APR 26	7926261
TUE - APR 25	7885066

Powerhouse Layout.



Note:

Numbering of units
 is reverse of numbering
 used when nameplate
 data from units
 was recorded.

LH

PREVIOUS DAY VIBRATION AVERAGE

=====

Generator #1:	0	G's
Generator #2:	.51	G's
Generator #3:	0	G's
Generator #4:	.55	G's

CURRENT TOTAL ENERGY PRODUCTION

=====

PLANT	:	8406337 K.W.H.
Generator #1:		398028 K.W.H.
Generator #2:		1309311 K.W.H.
Generator #3:		2464722 K.W.H.
Generator #4:		316602 K.W.H.

MICROFILMED

PAGE 2
WED MAY 10 6:52:49 AM

ROCK CREEK POWER PLANT

CURRENT FAULT TABLE

=====

Generator #1:

NO FAULT

RECEIVED
MAY 11 1991

Generator #2:

NO FAULT

Generator #3:

NO FAULT

Generator #4:

NO FAULT

Plant:

NO FAULT

WED MAY 10 6:52:49 AM

FAULT HISTORY

FAULT TABLE: 1

TIME: 3:36 PM

DAY OF OPERATION: 236

CUMULATIVE PRODUCTION: 8377543

Generator #1:

NO FAULT

Generator #2:

NO FAULT

Generator #3:

NO FAULT

Generator #4:

NO FAULT

Plant:

NO FAULT

FAULT TABLE: 2

TIME: 3:35 PM

DAY OF OPERATION: 236

CUMULATIVE PRODUCTION: 8377502

Generator #1:

NO FAULT

Generator #2:

NO FAULT

Generator #3:

NO FAULT

Generator #4:

NO FAULT

Plant:

NO FAULT

MICROFILMED

PAGE 4
WED MAY 10 6:52:49 AM

ROCK CREEK POWER PLANT

FAULT TABLE HISTORY

FAULT TABLE: 3
CUMULATIVE PRODUCTION: 8377501

TIME: 3:35 PM

DAY OF OPERATION: 236

Generator #1:

NO FAULT

Generator #2:

NO FAULT

Generator #3:

NO FAULT

Generator #4:

NO FAULT

Plant:

NO FAULT

FAULT TABLE: 4
CUMULATIVE PRODUCTION: 8377452

TIME: 3:33 PM

DAY OF OPERATION: 236

Generator #1:

NO FAULT

Generator #2:

NO FAULT

Generator #3:

NO FAULT

Generator #4:

NO FAULT

Plant:

NO FAULT



PROJECT Rock Creek Hydro JOB NO. 9Thington SHEET _____
 NAME PLATE DESIGNED Edson DATE 12-14-83
 ITEM Turbine size & numbers CHECKED _____ DATE _____

#1 = 14 LNT-24 ser # 82-2002426-1
 23 CFS - @ 170' 284 KW 912 RPM
 82426-001

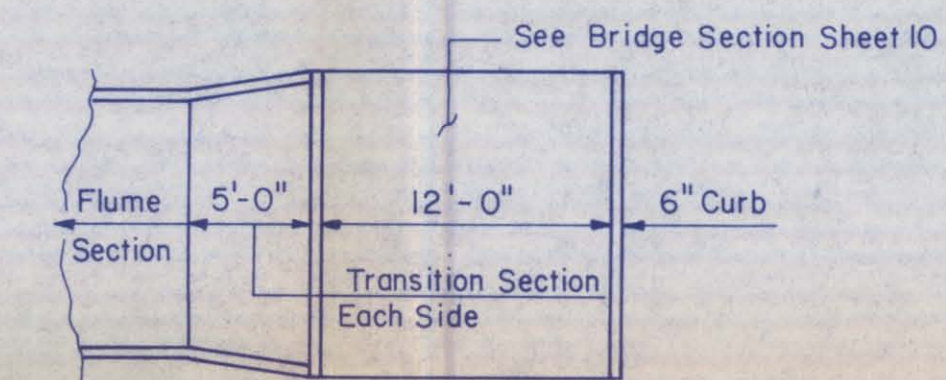
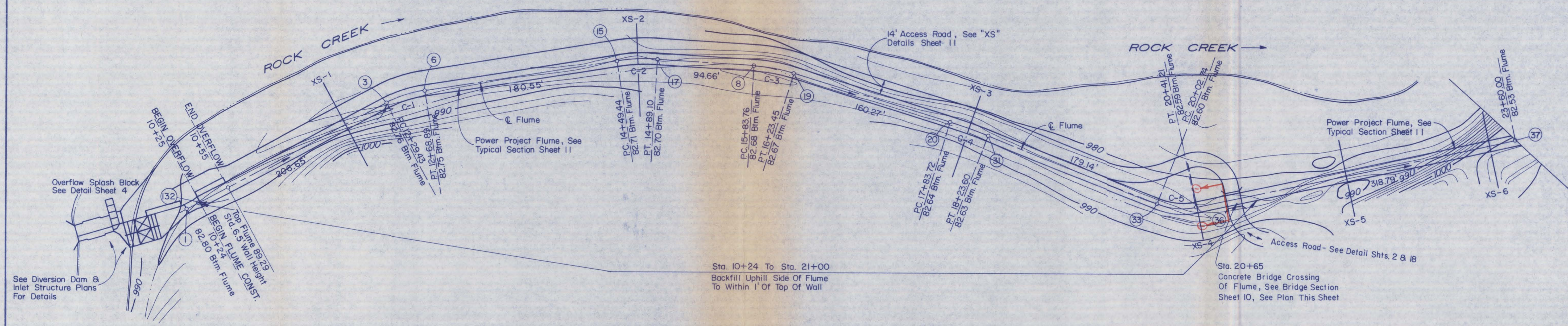
#2 = 16 LNCT 23 ser # 822002425-1
 36 CFS - @ 170' 450 KW 910 RPM
 82425-001

#3 = 20 LNCT 28 ser # 822002423-1
 58 CFS @ 170' 716 KW @ 726 RPM
 82423-001

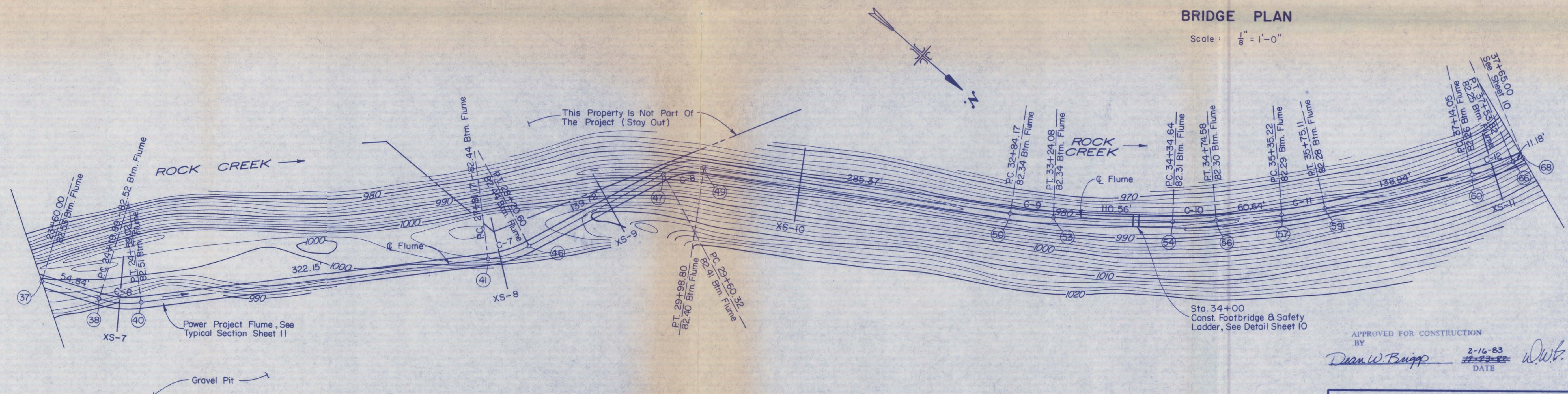
#4 = 20 LNCT 28 ser # 822002424-1
 58 CFS @ 170' 716 KW @ 726 RPM
 82424-001

MAX. CFS = 175
 MAX. KW = 2166

MICROFILMED



BRIDGE PLAN
Scale: 1" = 1'-0"



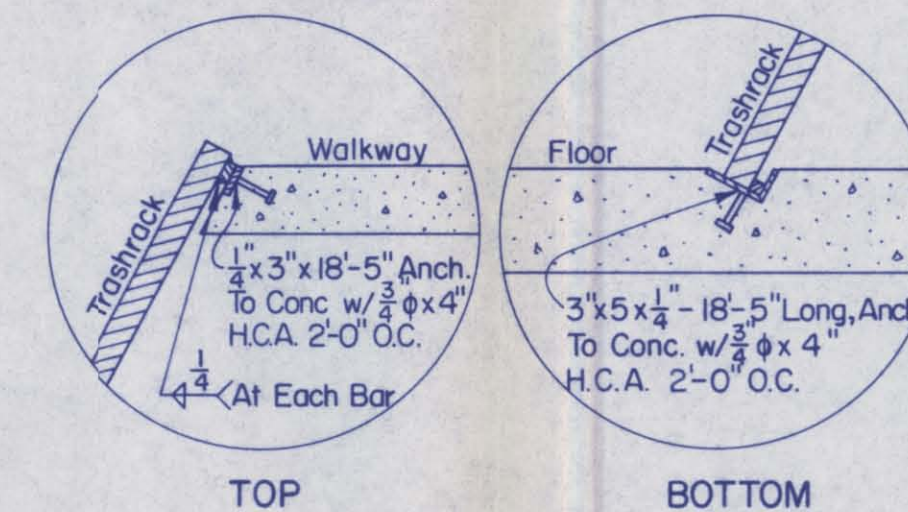
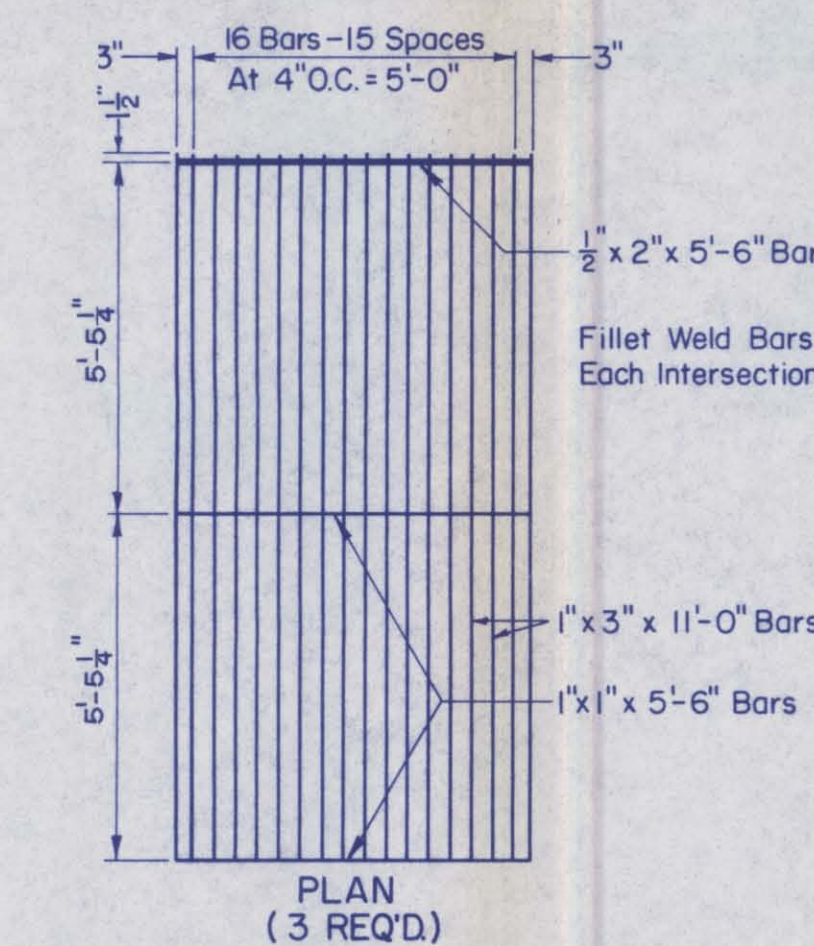
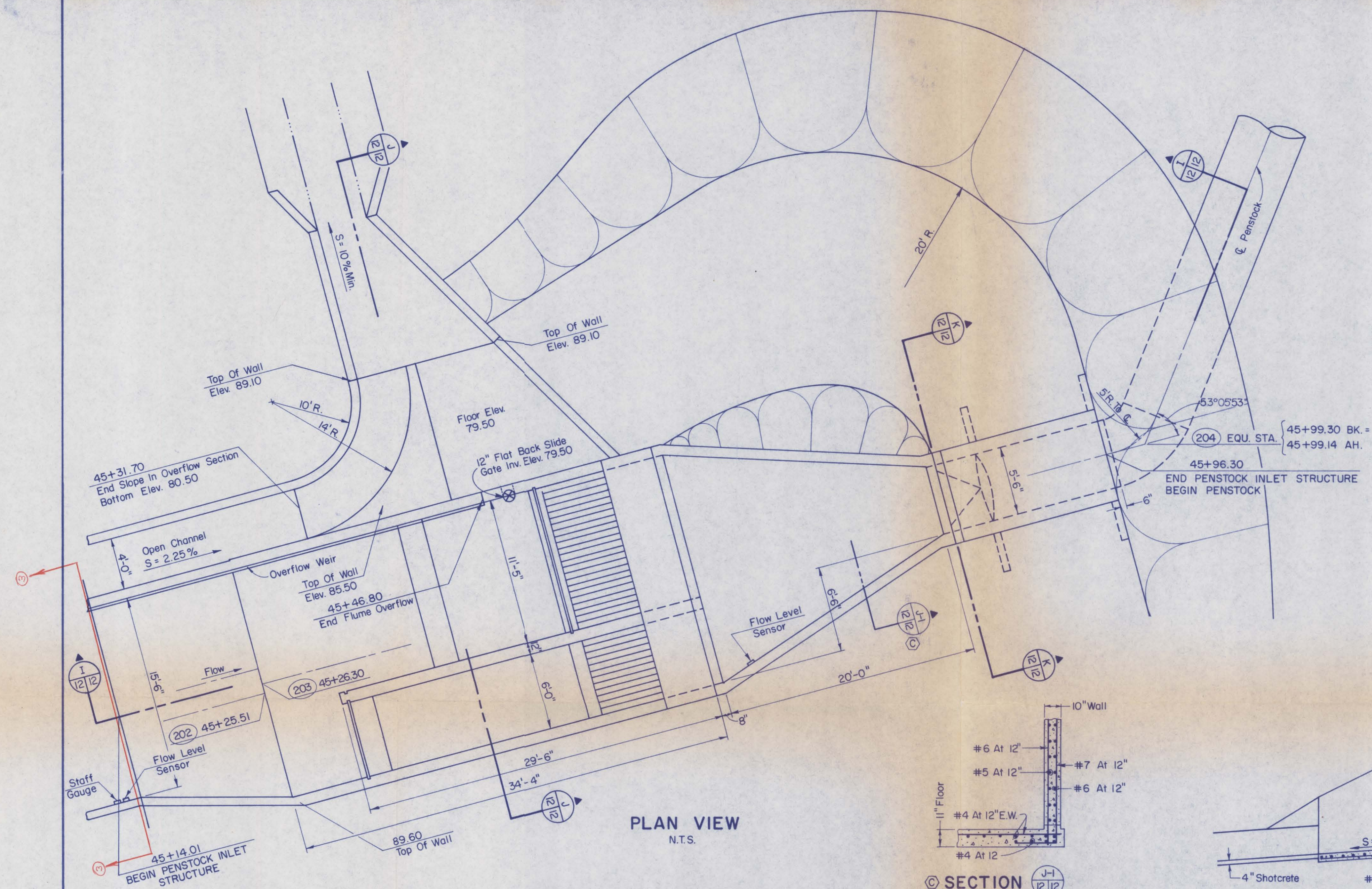
APPROVED FOR CONSTRUCTION
BY Dean W. Bugg DATE 2-16-83

REUSE OF DRAWINGS
These drawings, or any portion thereof, shall not be used on any Project or extensions of this Project except by agreement in writing with J-U-B ENGINEERS, Inc.

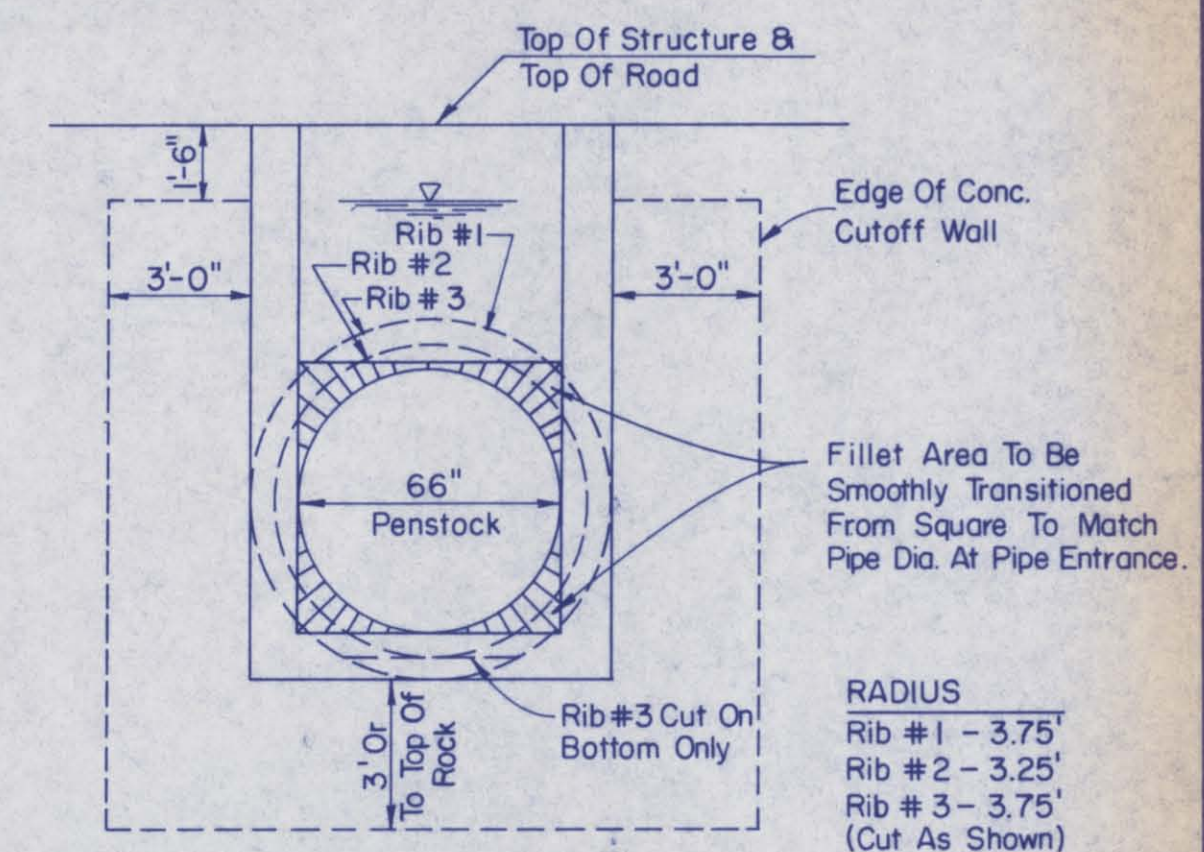


ROCK CREEK HYDROELECTRIC PROJECT	
FLUME PLAN	
J-U-B ENGINEERS, INC. Engineers Surveyors Planners Twin Falls, Idaho	
DES. <u>Dean W. Bugg</u> DR. <u>R.L.B.</u> CK. <u>Dean W. Bugg</u> SHEET 9 OF 20	DATE OCTOBER, 1982 DWG. NO. T821001-09

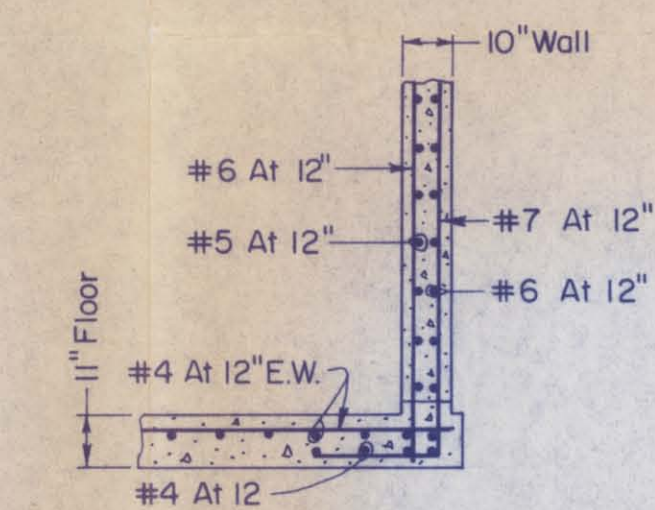
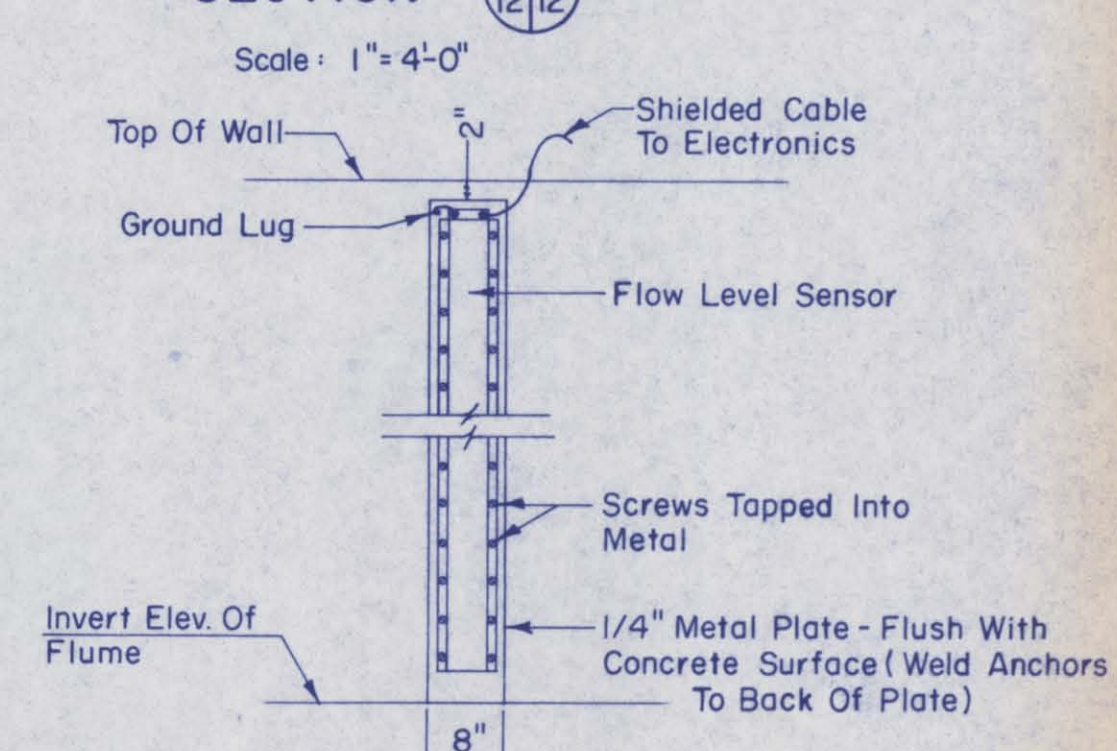
SCALE 1" = 50'



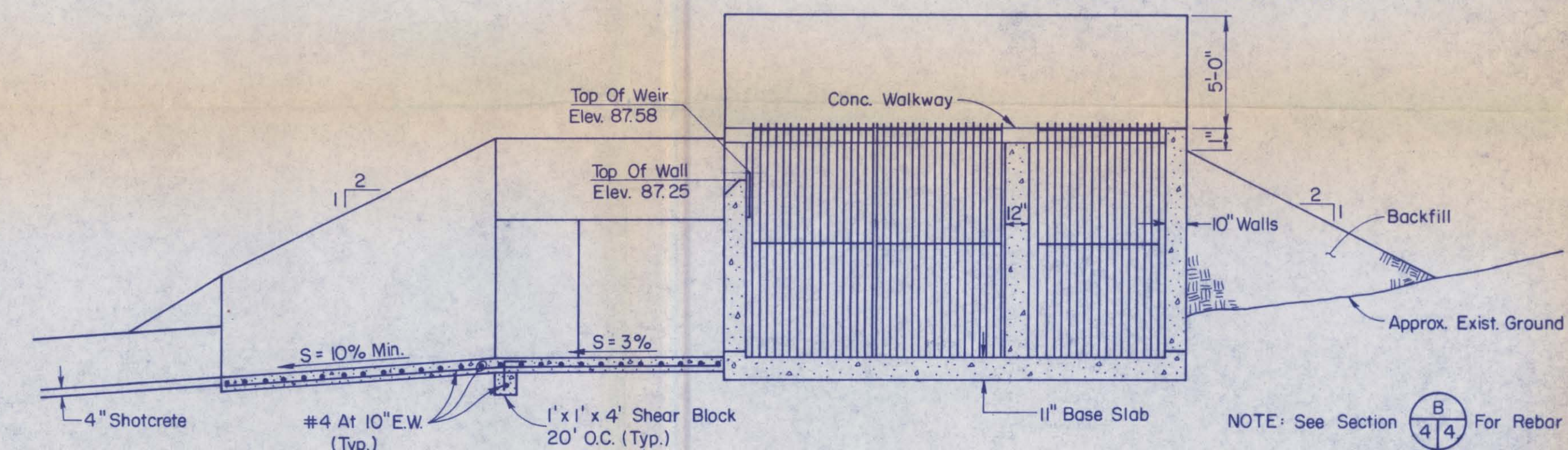
TRASH RACK DETAILS
N.T.S.



SECTION



SECTION
N.T.S.



SECTION 
N.T.S.

REUSE OF DRAWINGS

These drawings, or any portion thereof, shall not be used on any Project or extensions of this Project except by agreement in writing with J-U-B ENGINEERS, Inc.

(C) Added Rebar Details 3/30/83 K.K.
(B) Lowered Penstock & Inlet Str. / Added Flow Level Sensor Det. 3/8/83 - C.D.
(A) Revised Conc. Above Start Of Penstock 2/24/83 By: K.K.

ROCK CREEK HYDROELECTRIC PROJECT

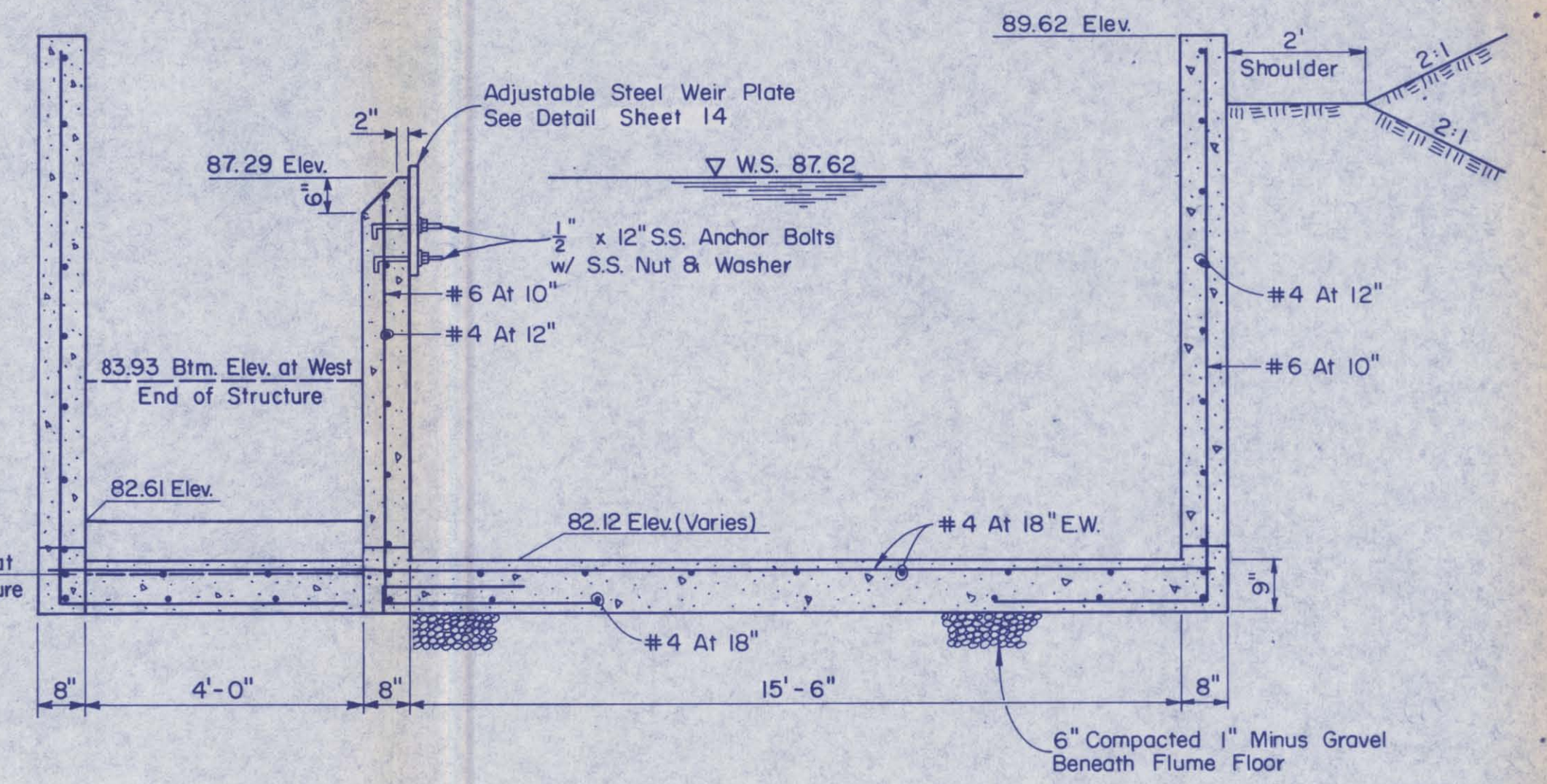
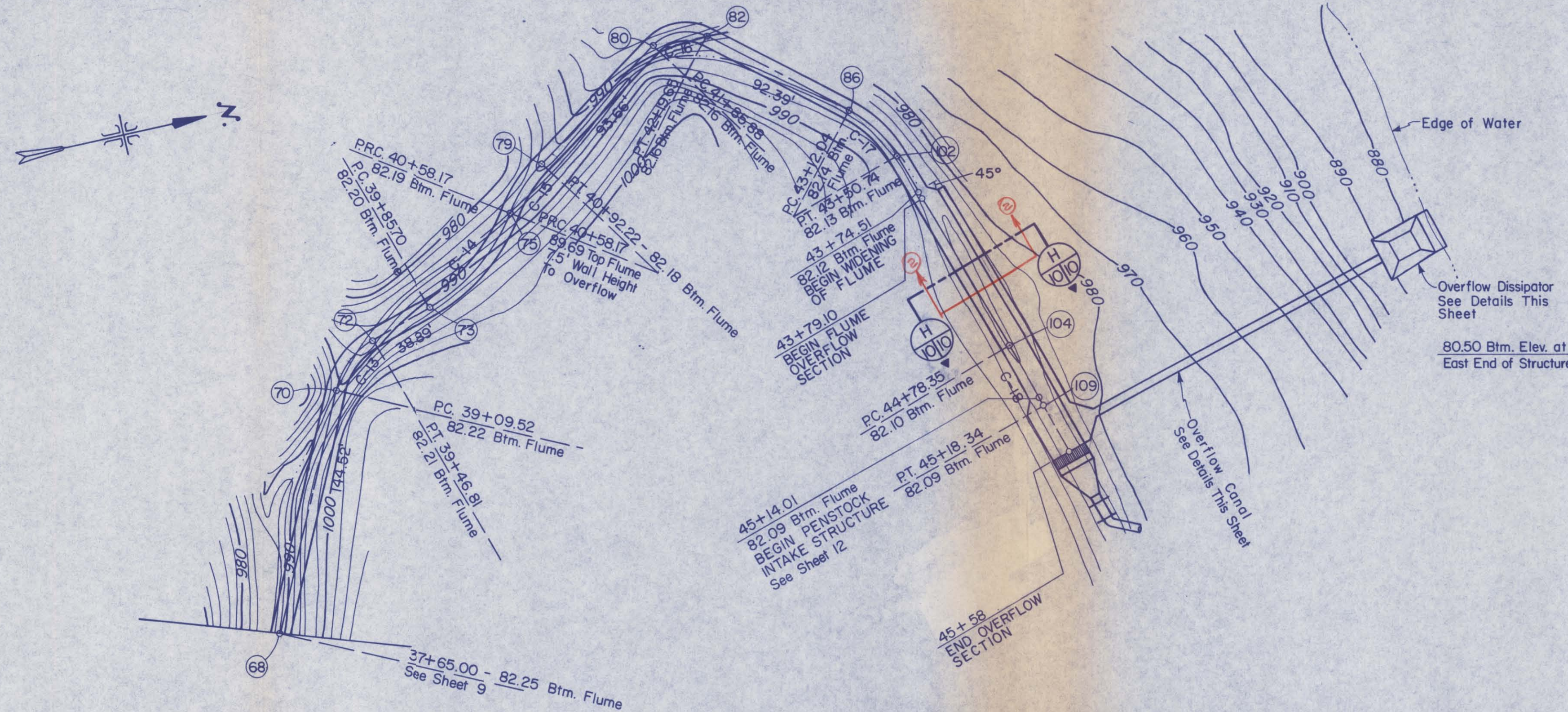
PENSTOCK INTAKE STRUCTURE

J-U-B ENGINEERS, INC.
Engineers Surveyors Planners
Twin Falls, Idaho

DES <i>[Signature]</i>	DR. K.K.	CK <i>[Signature]</i>	SHEET 12 OF 20
------------------------	----------	-----------------------	----------------

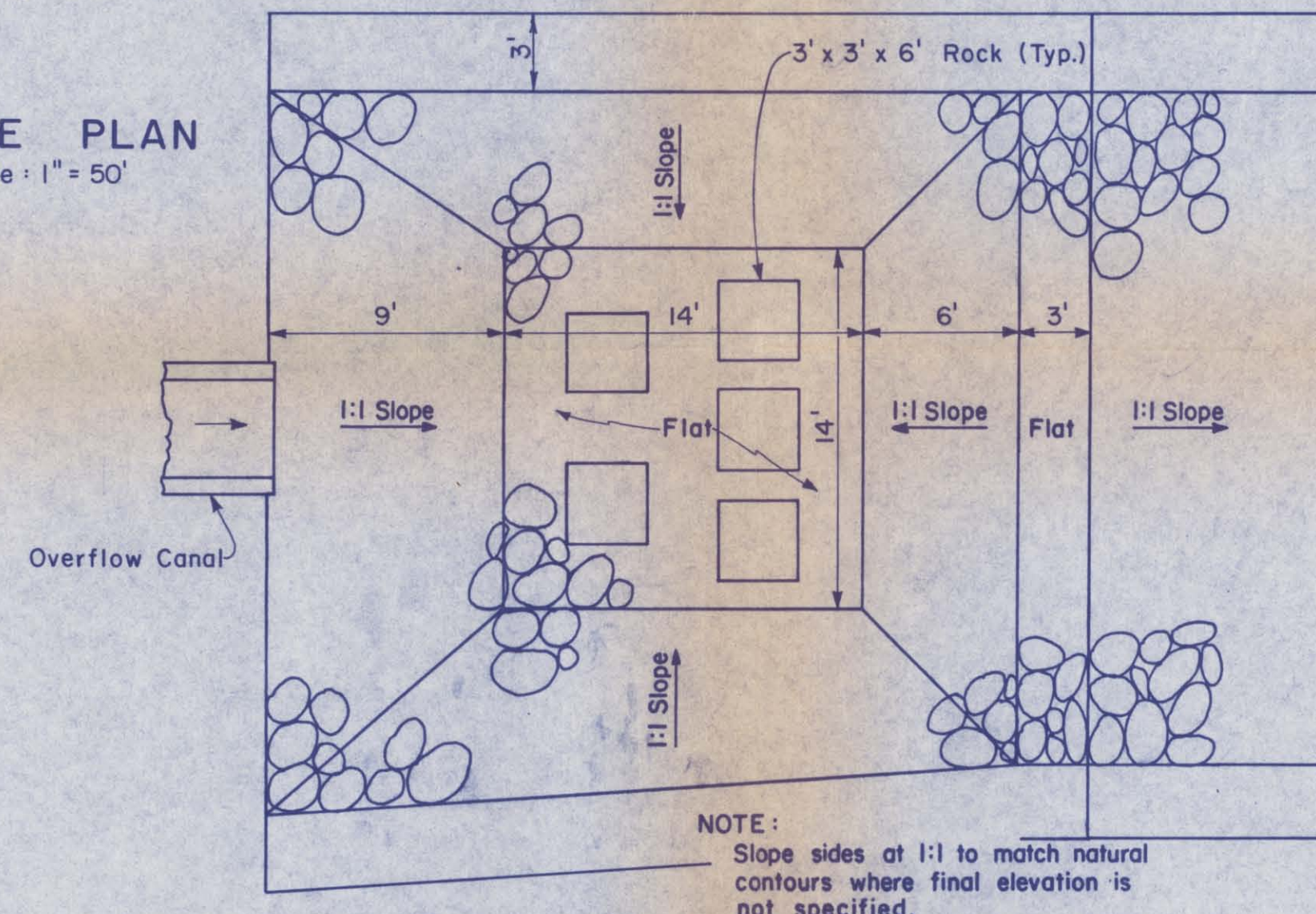
SCALE	AS SHOWN	DATE	FEBRUARY, 1983	DWG. NO.	T821001-12-1
-------	----------	------	----------------	----------	--------------



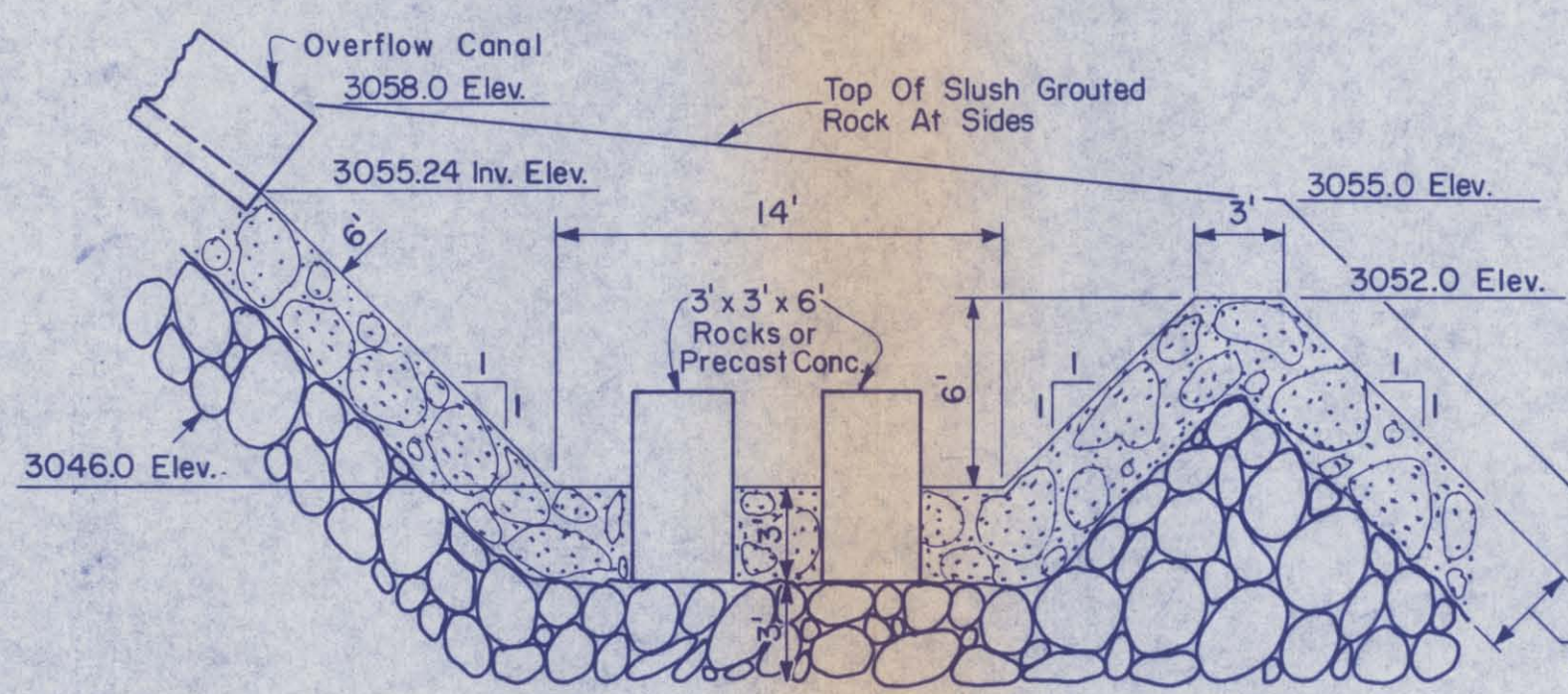


FLUME OVERFLOW SECTION
N.T.S.

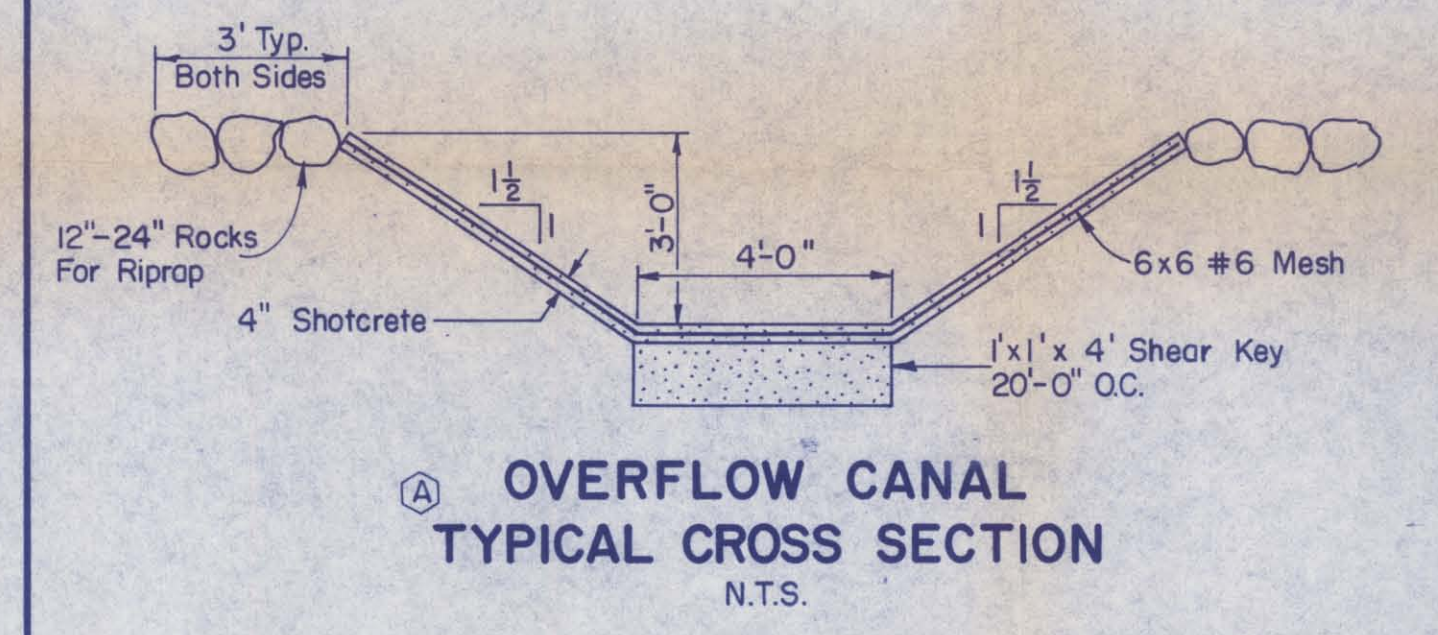
FLUME PLAN
Scale: 1" = 50'



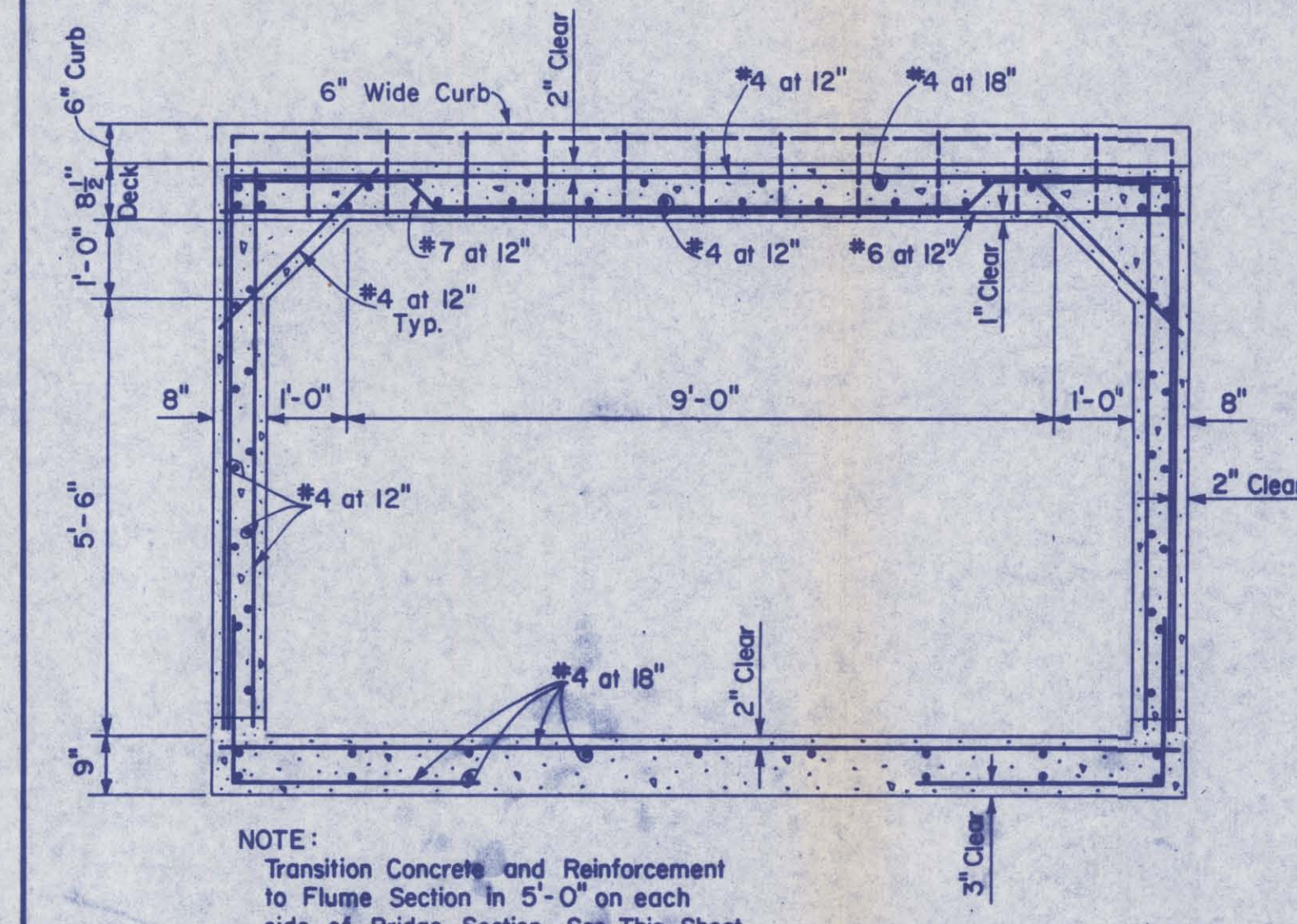
ENERGY DISSIPATOR PLAN
NO SCALE



ENERGY DISSIPATOR ELEVATION
NO SCALE



**OVERFLOW CANAL
TYPICAL CROSS SECTION**
N.T.S.



NOTE:
Transition Concrete and Reinforcement
to Flume Section in 5'-0" on each
side of Bridge Section, See This Sheet

BRIDGE SECTION
Scale: 1" = 1'-0"

REUSE OF DRAWINGS
These drawings, or any portion thereof, shall
not be used on any Project or extensions of
this Project except by agreement in writing
with J-U-B ENGINEERS, Inc.

NO.	DESCRIPTION	DATE	BY
(A)	FLUME PLAN, SECTION H, OVERFLOW CANAL	12/21/82	
(B)	ENERGY DISSIPATOR PLAN & ENERGY DISSIPATOR ELEV.		
(C)			
(D)			
(E)			

APPROVED FOR CONSTRUCTION
BY
Dean W. Briggs 2-16-83
DATE

**ROCK CREEK
HYDROELECTRIC PROJECT**

FLUME PLAN &
OVERFLOW DETAILS

J-U-B ENGINEERS, INC.
Engineers Surveyors Planners
Twin Falls, Idaho

DESIGNED BY *Dean W. Briggs* DR. K.K. CK. *Dean W. Briggs* SHEET 10 OF 20
DATE OCTOBER, 1982 DWS. NO. T821001-10-1

Overlap Review 47-7676

per permit - none

per microfische 5/14/84:

p/d - 47-7771, Rock Ck.

- 47-7795, power - L.A. 2 Coulee

p/u - 02-7343 app. - no overlap
→ no p/u overlaps

47-7795 - protested app., no overlap

47-7771 - see copy attached; permit,
no proof submitted yet; no
overlap review necessary.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Charles D. Howard Phone 1-208-734-4888

Post office address 1139 Falls Ave. East Twin Falls, Idaho 83301

2. Source of water supply Rock Creek which is a tributary of Snake River

3. Location of point of diversion is SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 25 Township 9S

Range 16E B.M. Twin Falls County, additional points of diversion if any: SW⁴ of NW⁴, NW⁴ of NW⁴, Section 25

4. Water will be used for the following purposes:

Amount 200 cfs for Generate Power purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 1.0 cfs for Industrial purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 1.0 cfs for Fire Protection 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)

5. Total quantity to be appropriated:

a. 202 cubic feet per second and/or b. acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Diversion, to penstock, power
PLANT
Plant) Transmission line

b. Height of storage dam None feet, active reservoir capacity None acre-feet; total reservoir capacity None acre-feet, materials used in storage dam: NA

Period of year when water will be diverted to storage No Storage to inclusive.
(Month/Day) (Month/Day)

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

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

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 25 Township 9S
Range 16E B.M.

(2) Amount of power to be generated: 2200 horsepower under 110 feet of head.

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

(4) Name of municipality to be served Power sold to Idaho Power Co., or number of families to be supplied with domestic water NA

(5) If water is to be used for other purposes describe: Fire Protection, (1 cfs)
Industrial (1 cfs) Temporary Engine Cooling

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

NA

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated None

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

9. a. Who owns the property at the point of diversion ANNABELLE SHARP, SW ¼ NW ¼, - SEC 25
b. Who owns the land to be irrigated or place of use HOWER, DONALD / SAM STADLEY SENI
NE ¼ ROSALEE DINGWALL AND
B. CAMERON
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing will negotiate a lease or purchase

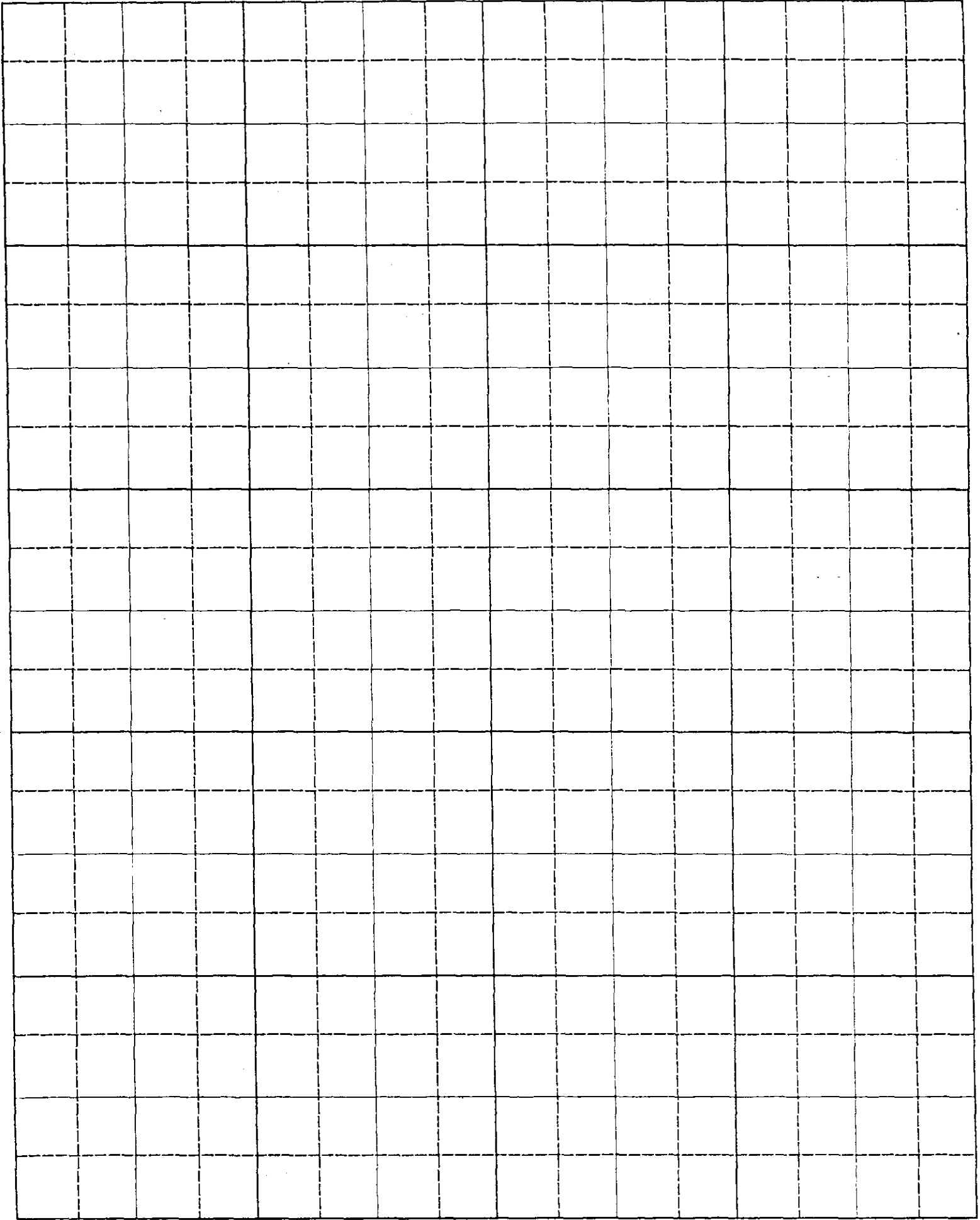
10. Remarks Applicant will apply for a exemption to the Federal Energy
Regulatory Commission. Applicant will apply to State of Idaho
Clearinghouse for review. Minimum stream flows for fisheries will be
maintained.
Point of diversion may be changed as noted in Item #3.

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11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number. See Attached figures # 1, 2, and 3



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.

Charles D. Howard 11/16/84
(Applicant)

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Proposed Priority 11/16/1981

Received by TGB Date 11-16-81 Time 11:30 Am
Preliminary check by JP Fee \$ 1735⁰⁰ # 20655
Receipted by TGB Date 11-16-81
Publication prepared by manya Date 11/25/81
Published in Times News
Publication dates 12/3 + 12/10/81
Publication approved manya Date 12/1/81
Protests filed by: None

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by ADm

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. 47-7771, 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 September 1, 1987.
- 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: An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.

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.

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

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.

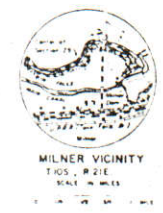
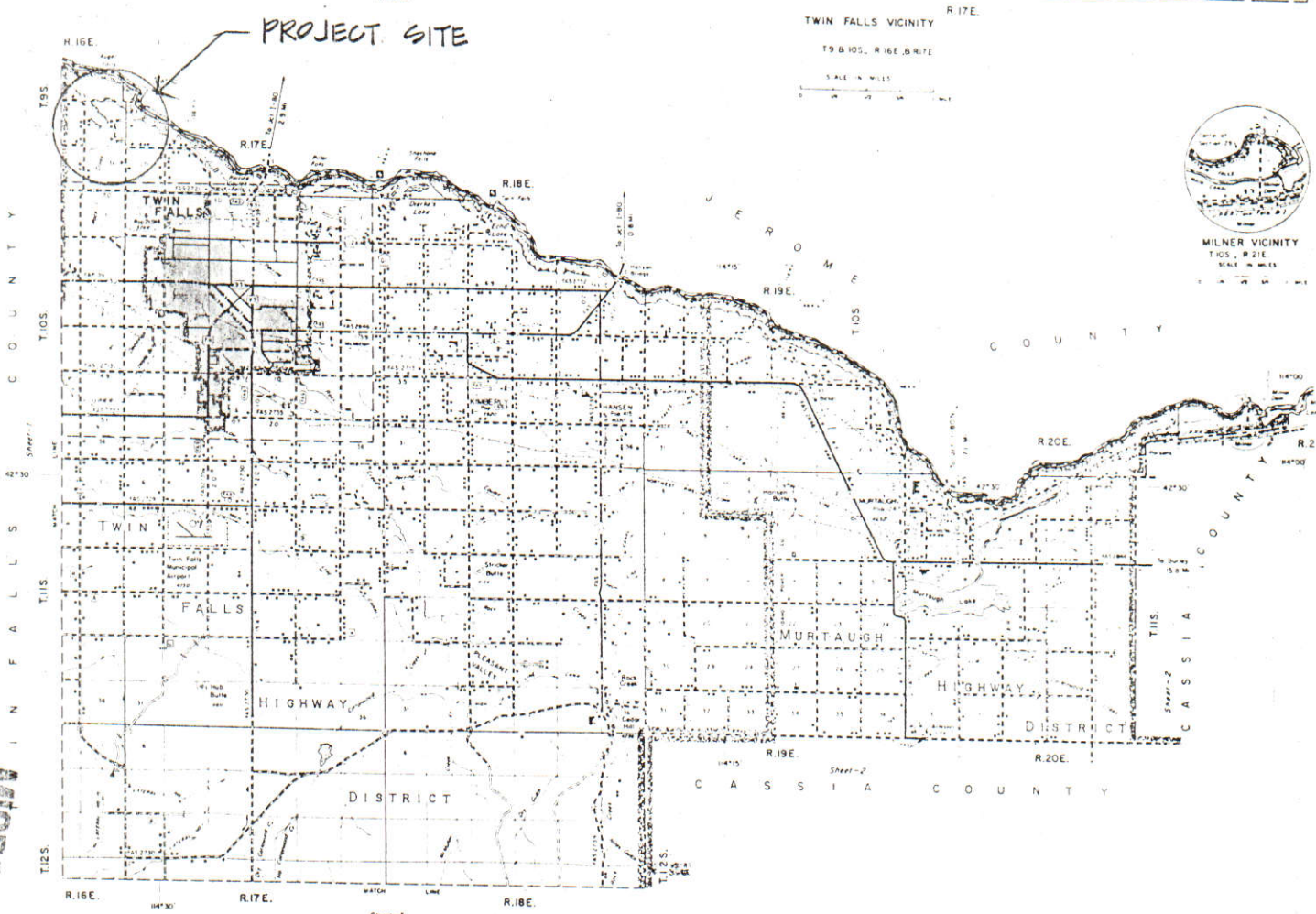
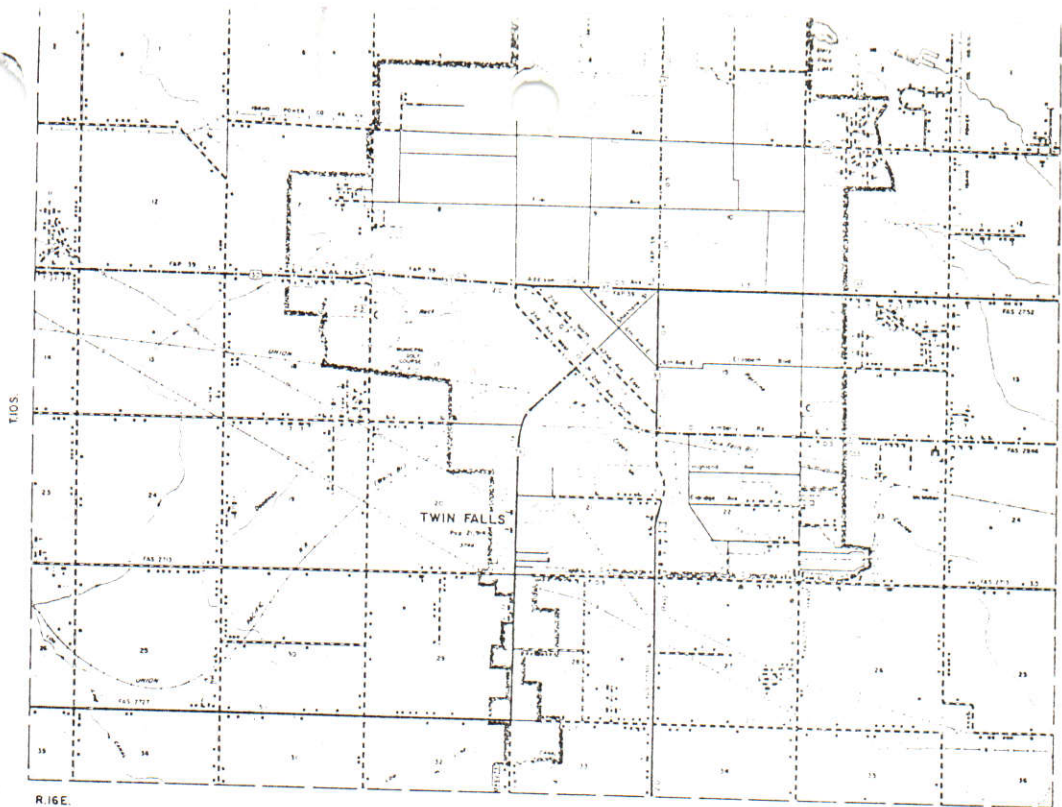
Witness my hand this 15th day of September, 1982.

J. Glen Saxton
Chief, Operations Bureau

MICROFILMED

DTC

MICROFILMED



GENERAL HIGHWAY MAP
 TWIN FALLS COUNTY
 IDAHO

GENERAL HIGHWAY MAP
 TWIN FALLS COUNTY
 IDAHO

SCALE
 0 1 2 3 4 5 MILES
 0 1 2 3 4 5 KILOMETERS
 FIELD DATA COLLECTED JULY, 1976

REVISIONS	
STATE HIGHWAY SYSTEM	
FEDERAL AID SYSTEM	
LOCAL MAINTENANCE SYSTEM	
CITY AND TOWN BOUNDARY	See PLATT
SCALE	

POLYCONIC PROJECTION



TWIN FALLS COUNTY

PROJECT LOCATION

FIGURE 1

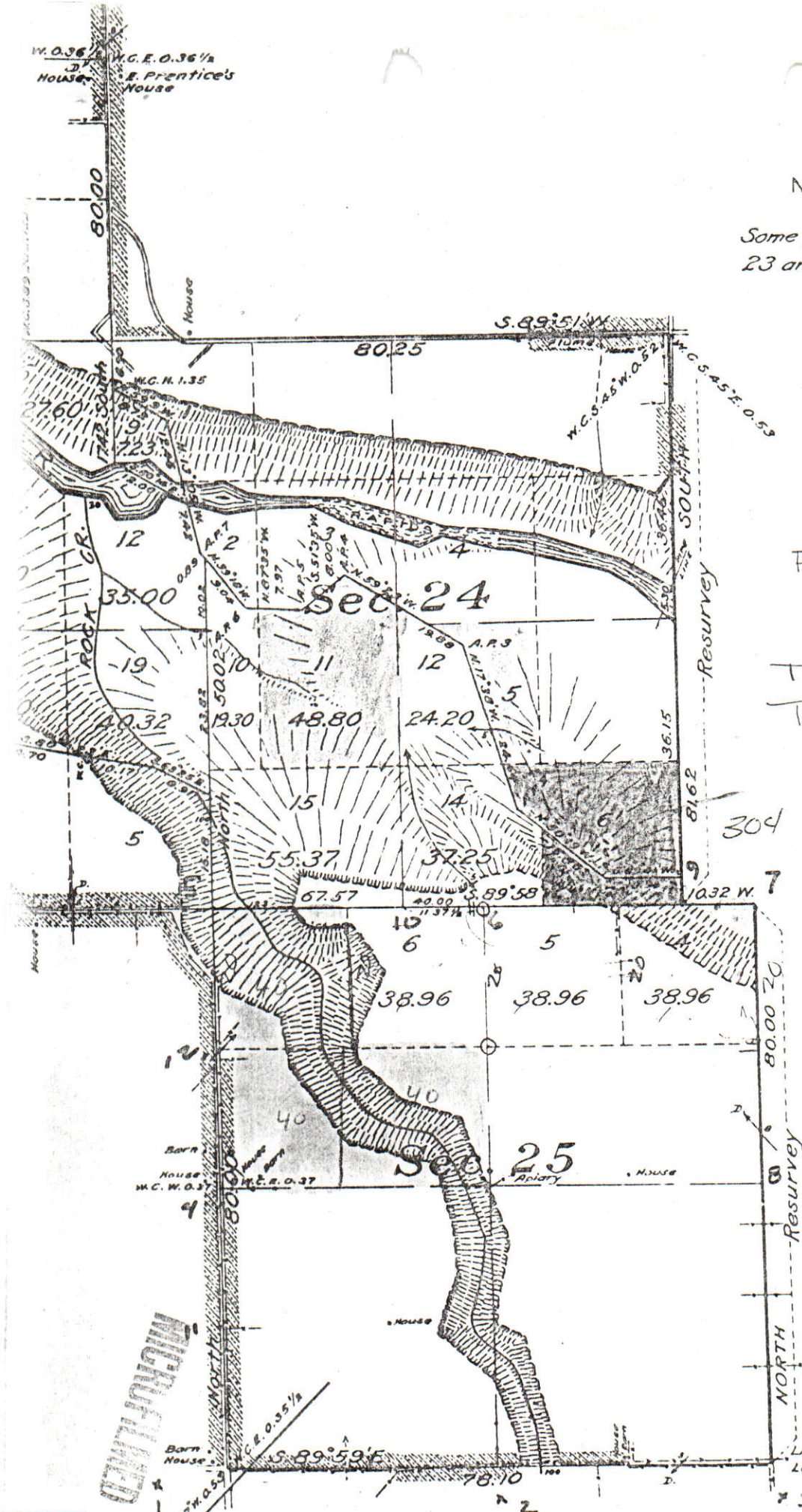
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Some placer mining has been done in sec 23 and 24.

PROJECT LANDS
(SHADED)

T95, R16E, B1M
TWIN FALLS, COUNTY IDA.

FIGURE 2



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The above map of Dependent Resurvey of Sections 14, 15, 22, 23, 24, and Township No. 9 South, Range No. 16 East of the Boise Meridian, Idaho, is strictly conformable with the original survey thereof on file in this office, which have been examined.



this plat was made for the purpose of
lying between the old erroneous meander
River, and in all cases except where new

May 1, 1984

RE: Permit No. 47-7676

Cogeneration, Inc.
250 S. Beechwood Ave.
Boise, ID 83709

Gentlemen:

We are in receipt of the Assignment of Permit No. 47-7676 to Shorock Hydro, Inc. dated April 19, 1984. However, we cannot accept this assignment since you are no longer the owner of this permit.

On April 1, 1983, our Department received an assignment of this permit transferring all right, title and interest to Twin Falls Bank and Trust Company. Since they are the current permit holders, they are the only party who can assign the permit to another party.

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

Sincerely,

KAY WALKER
Technical Records Specialist

KW:sc

Enclosure

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Southern Region

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

MARCH 22, 1981

TWIN FALLS BANK & TRUST CO.
BOX 7
TWIN FALLS ID 83301

RE: Permit No. 47-7676

Dear Permit Holder:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this department.

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 734-3578 or in person at our office at 1041 Blue Lakes Blvd. N. Twin Falls, Idaho.

Sincerely,
s/Mary A. Newby
Secretary

MICROFILMED

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 47-7676.

Name(s) of Permit Holder: Co Generation Inc.
Assigned: Twin Falls Bank + Trust Co.
Post Office Address: PO Box 7

Tel. No. 734-8683
733-2626
733-1722

Source of Water: Rock Creek

Extent of Use: ☐ Domestic (number of households)
☐ Stockwater (number and type of stock)
☐ Irrigation (acres)
☒ Other Hydro Electric

Measuring Device: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No
Access Port: Required? ☐ Yes ☒ No Installed? ☐ Yes ☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

12/4/83
Date

C. Alan Warner VP
Steve C. [Signature]
Signature of Permit Holder

Twin Falls () k & Trust Co

P. O. Box 7

Twin Falls, ID 83303-0007

MICROFILMED



RECEIVED

DEC 7 1983

Department of Water Resources
IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

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

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

138225

TWIN FALLS BANK AND TRUST CO.
P.O. BOX 7
TWIN FALLS, ID 83301

PROOF DUE NOTICE

NOVEMBER 30, 1983

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 47-7676 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE FEBRUARY 01, 1984. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD 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, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD 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



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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

April 8, 1983

**Twin Falls Bank & Trust Co.
102 Main Avenue South
P.O. Box 7
Twin Falls, ID 83301**

RE: Water Right Permit No. 47-7676

Dear Sirs,

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

Enclosed for your records is a copy of the permit. Be sure to note the special conditions of approval on the fourth page that identify requirements necessary for developing the permit into a licensed water right.

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

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:jg

Enclosure

**cc: Hawley Troxell Ennis & Hawley
P.O. Box 1617
Boise, ID 83701**

ROBERT I. TROXELL
JESS B. HAWLEY, JR.
JOHN T. HAWLEY, P.A.
THOMAS A. MILLER
M. NEAL NEWHOUSE
CRAIG L. MEADOWS
JOSEPH D. McCOLLUM, JR.
WAYNE B. SLAUGHTER, JR.
GARY D. BABBITT, P.A.
P. CRAIG STORTI
MERLYN W. CLARK
RICHARD F. GOODSON, P.A.
CARL W. HARDER
PHILLIP M. BARBER
DONALD E. KNICKREHM
EDWIN V. APEL, JR.
KAREN L. LANSING
EUGENE A. RITTI
RICHARD G. SMITH
JOHN F. KURTZ, JR.
P. MARK THOMPSON
LINDA L. HOLDEMAN
BRENT F. LLOYD
JOHN McGOWN, JR.
ALBERT P. BARKER
JOHN T. HAWLEY, JR.
DON A. OLOWINSKI

HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

April 1, 1983

RECEIVED

PAUL B. ENNIS
(1916-1982)

APR 1 1983

ONE CAPITAL CENTER
POST OFFICE BOX 1617
BOISE, IDAHO 83701

TELEPHONE
(208) 344-6000

HAND DELIVERY

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

Re: Water Permit No. 47-7676 - Cogeneration,
Inc., et al. Assignment to Twin Falls
Bank & Trust Company

Gentlemen:

Enclosed herewith in connection with the above-referenced
permit are the following:

1. Original and one copy of Assignment of Water
Permit No. 47-7676.
2. Original and one copy of Affidavit re Collateral
Assignment of Water Permit No. 47-7676 for Power
Purposes, signed by Ivan D. Skinner on behalf of
Twin Falls Bank & Trust Company.

Please file the original Assignment and the original
Affidavit, and then please file stamp the copies of both and
return them to us for our file and the bank's file.

If you have any questions whatsoever, please call me
immediately.

In any event, please have someone call me to confirm
that the assignment of the permit to the bank and the proof of
the bank's qualifications are approved. The bank proposes to

Left message with
Mr Miller's Secy in
this regard.
DZT 4/7/83

This assignment has been reviewed
and approved by:
Dave Tutthill
Glen Saxton
Darcy Frownfelter, all on 4/7/83

HAWLEY TROXELL ENNIS & HAWLEY

Department of Water Resources

Page 2

April 1, 1983

make a first disbursement under the loan on Monday. In addition, we would appreciate having a letter or other written confirmation of such approval. If you would call us when that is ready, we would be happy to pick it up to expedite the matter.

Thank you for your usual consideration.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Tom Miller', written over the typed name.

THOMAS A. MILLER

TAM:jw

Enc.



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-2190

February 8, 1983

Walla Walla District
Corps of Engineers
Bldg. 602, City-County Airport
Walla Walla, WA 99362

RE: 071-OYC-4-002090

Gentlemen:

The State of Idaho has reviewed the above referenced public notice and has no objections to the Corps issuing a permit.

The Department of Water Resources has approved water right No. 47-7676 as amended. Recommendations of the Department of Lands have been considered and the Department of Fish and Game has no objection provided conditions stipulated in the FERC project exemption are met.

To ensure protection of water quality, The Department of Health and Welfare requests the following conditions be included in the Department of Army permit on the project:

Construction not be allowed in the stream during the months of October, November and December, and

No wet cement be allowed to enter the water during construction.

If the construction is completed in accordance with the above conditions and described work plan, Health and Welfare certifies under Section 401 that the construction will comply with applicable requirements of Sections 301, 302, 303, 306 and 307 of PL 92-500 and will not violate Idaho Water Quality Standards and Wastewater Treatment Requirements.

Yours truly,


DAVID B. SHAW
Western Region Supervisor

DBS:nn

cc: IDWR-S.O., F&G, Lands, H&W

August 31, 1982

RE: Permit No. 47-7676

Cogeneration, Inc.
250 So. Beechwood Ave.
Boise, ID 83709

Gentlemen:

Enclosed is a copy of ~~your~~ approved application for amendment submitted for the above referenced permit. Be sure to note the conditions of approval on the second page.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure

NOTICE OF AMENDMENT TO A WATER PERMIT

NO. 47-7676

Notice is hereby given that Cogeneration, Inc. is the holder
of approved permit No. 47-7676 authorizing the diversion of 200
cubic feet per second of water from Rock Creek tributary in the
NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T9S, R16E, B.M.,
County of Twin Falls, to be used for power generation
~~XXXXXXXXXXXXXXXXXXXXXXX~~ within SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, T9S, R16E, B.M.

The permit holder has applied to the Department of Water Resources for an Amendment
to the permit, to change the Point of diversion and place of use as follows:

Point(s) of Diversion: NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 25, T9S, R16E, B.M., Twin Falls County

Place of Use: Lt12 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 23, T9S, R16E

Any protest against approval of the amending of Permit No. 47-7676
as set forth above must be filed with the Idaho Department of Water Resources
1041 Blue Lakes Blvd. North, Twin Falls, Idaho, 83301, on or before
July 6, 1982.

A. KENNETH DUNN
Director

Published in the Times News

on June 17 AND June 24, 1982.

027.7 IN 11:35
legal to start Thursday,
6/17

**NOTICE OF
AMENDMENT TO
A WATER PERMIT
NO. 47-7676**

Notice is hereby given
that Cogeneration, Inc.
is the holder of approved
permit No. 47-7676
authorizing the diversion
of 200 cubic feet per
second of water from
Rock Creek tributary of
Snake River in the
NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T9S,
R16E, B.M., County of
Twin Falls, to be used for
power generation within
SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, T9S,
R16E, B.M.

The permit holder has
applied to the Depart-
ment of Water Re-
sources for an
Amendment to the
permit, to change to
Point of diversion and
place of use as follows:
Point(s) of Diversion:
NW $\frac{1}{4}$ NW, Sec. 25, T9S,
R16E, B.M., Twin Falls
County
Place of Use: LT12
(SE $\frac{1}{4}$ NE), Sec. 23, T9S,
R16E

Any protest against
approval of the amend-
ing of Permit No. 47-7676
as set forth above must
be filed with the Idaho
Department of Water
Resources 1041 Blue
Lakes Blvd. North, Twin
Falls, Idaho, 83301, on or
before July 6, 1982.

A. KENNETH DUNN
Director

PUBLISH: Thursday,
June 17, and 24, 1982.

legal for Thursday, 6/17

*re
macy
6/14/82*

June 10, 1982

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

Re: Notice of Amendment to a Water Permit No. 47-7676

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Mary A. Hill
Sr. Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

Bill submitted: _____



Edwards, Howard & Martens, Inc.

ENGINEERS / PLANNERS / SURVEYORS

1139 Falls Ave. E., Suite B
Twin Falls, Idaho 83301
Phone 734-4888

IN THE FIELDS OF:

PLANNING
SURVEYING
HIGHWAYS
WATER
SEWAGE
STRUCTURAL
SUBDIVISIONS
AIRPORTS
BRIDGES

July 6, 1982

Mr. Kenneth Dunn
Idaho Department of Water Resources
1041 Blue Lakes Boulevard North
Twin Falls, Idaho 83301

RE: Amended Permit Request
No. 47-7676 by Cogeneration
Inc.

Dear Sir:

The above requested amended application encroaches on an application by Charles D. Howard, No. 47-7771. In accordance with a recent agreement between Charles D. Howard and Cogeneration Inc., I am requesting that Cogeneration's amended permit request be granted in accordance with the attached exhibits B-1 and B-3.

Respectfully yours,

EDWARDS * HOWARD * MARTENS, INC.


Charles D. Howard, P.E./L.S.

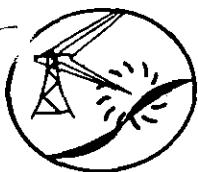
CDH/bn
cc: file

encl.

RECEIVED

JUL 6 1982

Department of Water Resources
Southern District Office



Cogeneration, Inc.

June 29, 1982

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

Dear Mr. Plumb:

Re: Docket #6450-000
Application for Exemption from Licensing
Cogeneration, Inc., Applicant
REVISED INFORMATION

Enclosed herewith is revised information concerning the above-referenced Application for Exemption from Licensing.

In accordance with agreements between Cogeneration, Inc., and Mr. Charles D. Howard, Preliminary Permit Applicant No. 6015-000, we are submitting these revised project boundaries as depicted in Exhibit B-1 (Project Location Map).

Also enclosed is an Exhibit B-3, which is a detailed depiction of our proposed diversion location.

Please include these revised project boundaries as part of our original Application for Exemption from Licensing, Docket #6450-000.

If you have any questions concerning these changes, please do not hesitate to contact me.

Sincerely,

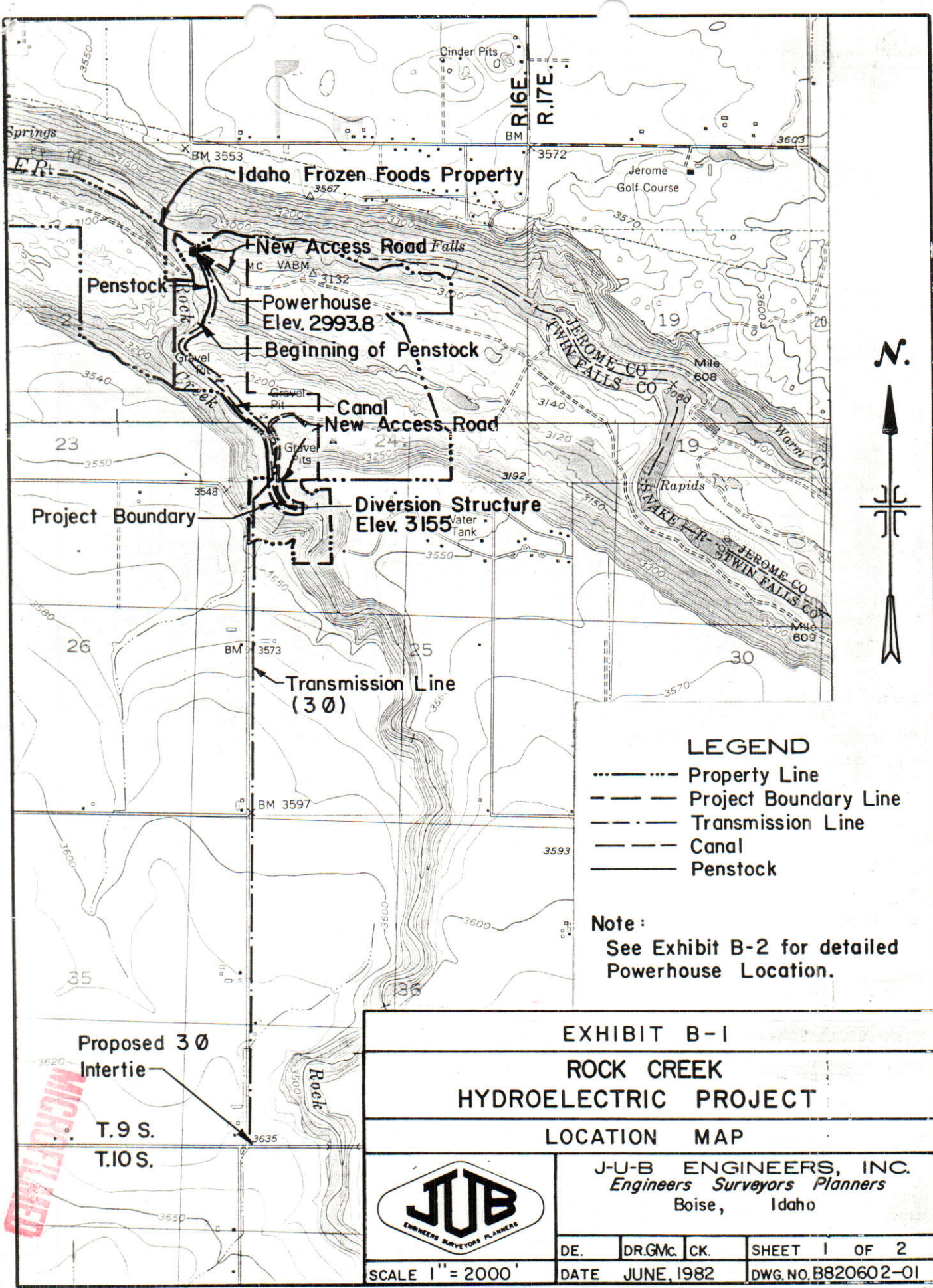
COGENERATION, Inc.

John J. Straubhar, P.E.
John J. Straubhar, P.E.
President

JJS:ss

Enclosures

cc: A. DiSanto, Office of General Counsel
Mr. Charles D. Howard
Marc Auth, J-U-B ENGINEERS, Inc.



LEGEND

- Property Line
- - - Project Boundary Line
- Transmission Line
- Canal
- Penstock

Note:
See Exhibit B-2 for detailed
Powerhouse Location.

EXHIBIT B-1			
ROCK CREEK			
HYDROELECTRIC PROJECT			
LOCATION MAP			
		J-U-B ENGINEERS, INC. <i>Engineers Surveyors Planners</i> Boise, Idaho	
DE.	DR.GMc.	CK.	SHEET 1 OF 2
DATE JUNE, 1982		DWG. NO. B820602-01	

NOT REPRODUCED

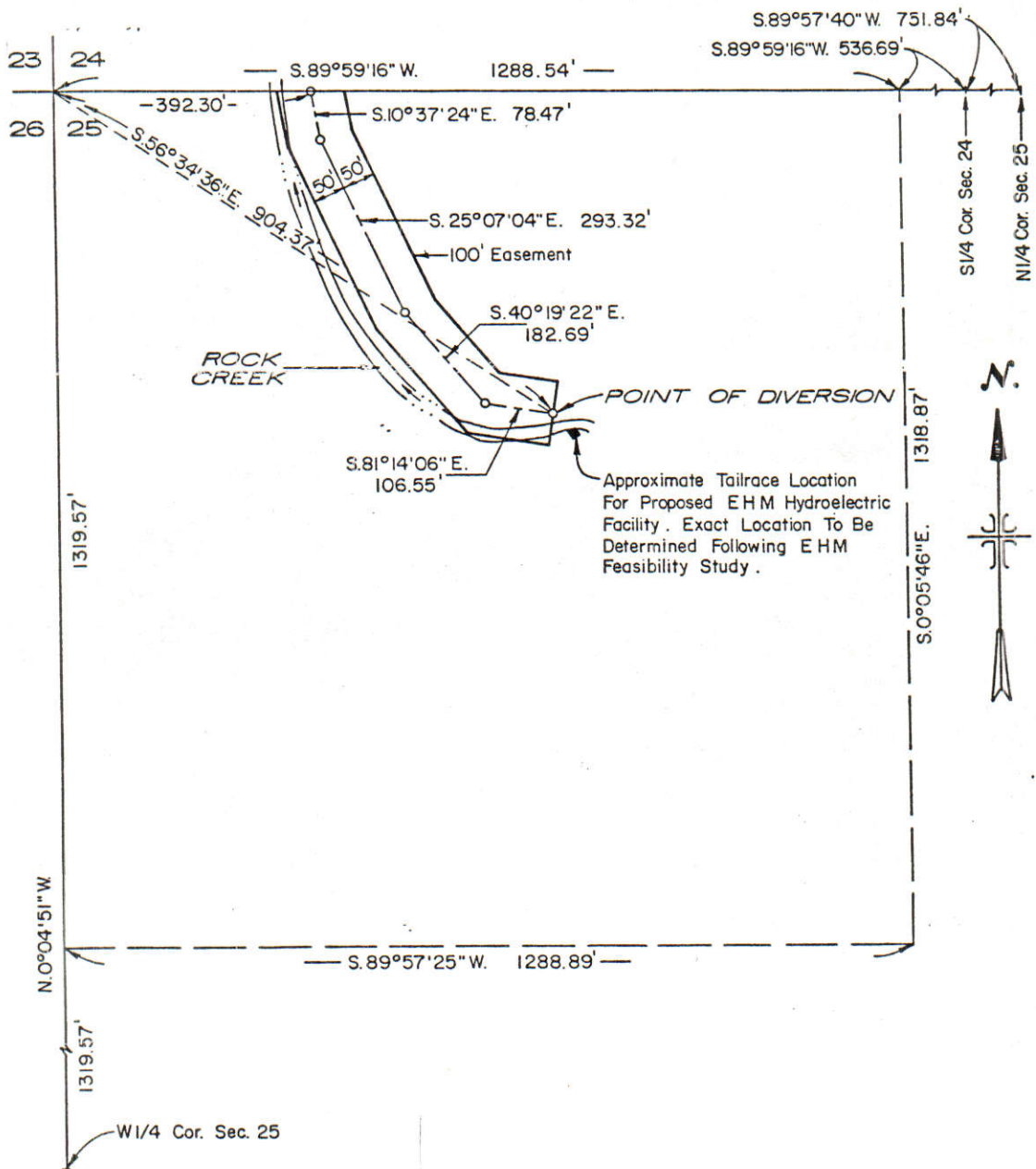


EXHIBIT B-3

ROCK CREEK HYDROELECTRIC PROJECT

DIVERSION LOCATION DETAIL



J-U-B ENGINEERS, INC.
Engineers Surveyors Planners
Boise, Idaho

DE.	DR.	CK.	SHEET	OF
DATE JUNE, 1982			DWG NO. B820602-03	

SCALE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Secretary

A. KENNETH DUNN

Director

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

January 26, 1982

RE: Applications for Permit Nos. 37-7863, 37-7911 and 47-7676

Cogeneration, Inc.
250 South Beechwood
Boise, ID 83709

Dear Sirs:

Enclosed are copies of approved Permits Nos. 37-7863, 37-7911 and 47-7676. We direct your attention to the conditions of approval on the fourth page. The Department would also like to point out that Departmental staff have not conducted flow-duration studies of the sources in the area of your proposed developments. This analysis, when considered together with prior existing water rights however, must be an integral part of the feasibility consideration in your detailed engineering review of the project.

The permits have been issued without regard for minimum streamflow considerations, since the Idaho Water Resource Board has not submitted minimum streamflow applications pursuant to Chapter 15, Title 42, Idaho Code in the reach of your proposed projects.

We have enclosed a form entitled "Making Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop these permits into licenses.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw
Enclosures

UNRECORDED

JAN 15 1982

Department of Water Resources

January 15, 1982

Dept. of Water Resources
State House
Boise, Idaho

ATTN: L. Glen Saxton

SUBJECT: Explanation of transfer of water permit application
#37-7863, #37-7911 (Wood River) and #47-7676 (Rock Creek)
from Bruce C. Mecham to Cogeneration Inc.

Dear Mr. Saxton:

At the time Cogeneration Inc. received authorization from the land owners to file on water passing through their property, there were no officers of Cogeneration Inc. available. Time being of the essence and due to my being one of the original stock holders in Cogeneration Inc. as well as being a member of the executive committee, I agreed to personally make application and at a later and more convenient time, make the transfer from myself to Cogeneration Inc.

I can assure you that I did not do this for a personal profit. I have only been reimbursed by Cogeneration Inc. for the actual amount of the filing fee as was agreed upon at the time of application. If there are any further questions or if I can be of any further assistance, please let me know.

Sincerely,



Bruce C. Mecham

P.S. To further varify that I am one of the original stockholders of Cogeneration Inc., please find enclosed a copy of the organisational minutes.

Enc: 1

MICROFILMED

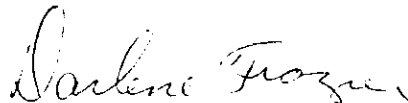
January 18, 1982

Mr. Jack J. Straubhar, President
Cogeneration, Inc.
250 S. Beechwood Avenue
Boise, Idaho 83709

Dear Mr. Straubhar:

This letter is intended to provide further clarification of our lease agreement dated November 19, 1981. The existing power canal is entirely on our property and will be used for the subject power project. It is not, and has never been part of a irrigation canal system. Therefore, with this letter we further clarify the Lease Agreement in giving Cogeneration, Inc. permission to utilize the existing power canal for conveying water for power generation.

Sincerely,

A handwritten signature in cursive script, reading "Darlene Frazier".

Darlene Frazier

MICROFILMED

JAN 22 1982

MINUTES OF
THE ORGANIZATION MEETING
OF
COGENERATION, INC.

Department of Water Resources

The organization meeting of shareholders was held at Twin Falls, Idaho on August 6, 1980, at _____ o'clock __.M.

The following were present:

John J. Straubhar
James W. Barber, Jr.
Delbert W. Block
R. James Coleman
Bruce C. Mecham
Michael D. Preston
Jack Witherspoon

being all the shareholders of the corporation.

John J. Straubhar was appointed chairman of the meeting and Delbert W. Block was appointed secretary.

The secretary then presented and read to the meeting the waiver of notice of the meeting, subscribed by all the persons named in the certificate of incorporation, and it was ordered that it be appended to the minutes of the meeting.

The secretary then presented and read to the meeting a copy of the certificate of incorporation and reported that on _____, 1980, the original thereof was filed in the office of the Idaho Secretary of State. The copy of the certificate of incorporation was ordered to be filed in the Corporate Minute Book.

The chairman then stated that nominations were in order for election of directors of the corporation to hold office until the first annual meeting of stockholders and until their successors shall be elected and shall qualify.

The following persons were nominated:

John J. Straubhar
James W. Barber, Jr.
Delbert W. Block
R. James Coleman
Bruce C. Mecham

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No further nominations being made nominations were closed and a vote was taken.

After the vote had been counted, the chairman declared that the foregoing named nominees were elected directors of the corporation.

The chairman then stated that the newly elected directors would assume their responsibilities immediately and that this meeting would be considered as the first meeting of directors to organize the corporation and to transact such business as should properly come before the meeting.

The secretary then presented a proposed form of by-laws prepared by John A. Rosholt, counsel to the corporation. The proposed by-laws were read to the meeting, considered and upon motion duly made, seconded and carried, were adopted as and for the by-laws of the corporation and ordered appended to the minutes of the meeting.

The chairman of the meeting then called for the election of officers of the corporation. The following persons were nominated to the office preceding their name:

President	John J. Straubhar
Vice-President	James W. Barber, Jr.
Secretary/Treasurer	Delbert W. Block

No further nominations being made the nominations were closed and the directors proceeded to vote on the nominees. The chairman announced that the foregoing nominees were elected to the offices set before their respective names.

The secretary submitted to the meeting a seal proposed for use as the corporate seal, a specimen stock certificate proposed for use as the corporate certificate for stock, the corporate record book, and the stock transfer ledger. Upon motion duly made, seconded and carried, it was

RESOLVED, that the seal now presented at this meeting, an impression of which is directed to be made in the minutes of this meeting, be and the same hereby is adopted as the seal of the corporation, and further

RECEIVED

RESOLVED, that the specimen stock certificate presented to this meeting be and hereby is adopted as the form of certificate of stock to be issued to represent shares in the corporation, and further

RESOLVED, that the corporate record book, including the stock transfer ledger, be and hereby is adopted as the record book and stock transfer ledger of the corporation.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the treasurer of the corporation be and hereby is authorized to pay all charges and expenses incident to or arising out of the organization of the corporation and to reimburse any person who has made any disbursement therefor.

Upon motion, duly made, seconded and carried, it was

RESOLVED, that an office of the corporation be established and maintained at 2405 Spring Mountain Drive, in the City of Boise, State of Idaho, and that meetings of the board of directors from time to time may be held either at the principal office or at such other place as the board of directors shall from time to time order.

Upon motion, duly made, seconded and carried, it was

RESOLVED, that for the purpose of authorizing the corporation to do business in any state, territory or dependency of the United States or any foreign country in which it is necessary or expedient for this corporation to transact business, the proper officers of this corporation are hereby authorized to appoint and substitute all necessary agents or attorneys for service of process, to designate and change the location of all necessary statutory offices and, under the corporate seal, to make and file all necessary certificates, reports, powers of attorney and other instruments as may be required by the laws of such state, territory, dependency or country to authorize the corporation to transact business therein.

The chairman then stated that it was desirable to designate a depository for the funds of the corporation. Thereupon, on motion duly made, seconded and unanimously adopted, it was

RESOLVED, that the treasurer be and hereby is authorized to open a bank account in behalf of the corporation with the Idaho First National Bank, Blue Lakes Branch, located

RECORDED

at 748 Blue Lakes Blvd. North, Twin Falls, Idaho, and a resolution for that purpose on the printed form of said bank was adopted and was ordered appended to the minutes of this meeting.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the fiscal year of the corporation shall begin on the 1st day of January in each year.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the board of directors be and hereby is authorized to issue the unsubscribed capital stock of the corporation at such times and in such amounts as it shall determine, and to accept in payment thereof, cash, labor done, personal property, real property or leases thereof, or such other property as the board may deem necessary for the business of the corporation.

The chairman presented to the meeting a form of plan to offer shares of common stock for sale so that any loss sustained by a stockholder on the sale or exchange of stock of the corporation may qualify for ordinary loss deduction treatment on the stockholders' personal income tax return. Upon motion duly made, seconded and carried, it was

RESOLVED, that the board of directors hereby approve and adopt the plan to offer common stock for sale as set forth below, and it is further

RESOLVED, that the proper officers of the corporation are authorized and directed to sell and issue common stock in the total amount not to exceed \$400,000 in accordance with said plan.

PLAN TO OFFER COMMON STOCK FOR SALE
PURSUANT TO IRC SEC. 1244

The corporation is a "small business corporation" as defined in IRC Sec. 1244(c)(2) and there is not now outstanding any prior offering of the corporation to sell or issue any of its common stock. The corporation shall sell and issue shares of its common stock in the total amount of not more than \$400,000 in a manner such that in the hands of qualified stockholders such shares shall receive the benefits of IRC Sec. 1244, as amended.

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The officers of the corporation shall sell and issue as many shares of common stock and at such prices, payable in cash or other property (other than stock and securities) as from time to time they deem to be in the best interests of the corporation, subject to the following:

- (1) In no event shall the total amount of cash and the value of property received for the common stock exceed \$400,000.
- (2) The offer to sell and issue common stock shall remain in full force and effect until said shares are sold, or until the corporation shall make a subsequent offering of common stock or securities convertible into common, or for a period of two years from the date of adoption of this plan by the board of directors, whichever occurs first.

This plan shall be interpreted and construed in such manner, and the officers of the corporation will take such further steps as will enable this plan to qualify under Section 1244 of the Internal Revenue Code of 1954, as amended, and as will enable the shares of common stock issued hereunder to qualify as "Section 1244 stock," as defined in said section.

RESOLVED, that the corporation proceed to carry on the business for which it was incorporated, and further

RESOLVED, that the signing of these minutes shall constitute full ratification thereof and waiver of notice of the meeting by the signatories.

There being no further business before the meeting, on motion duly made, seconded and carried, the meeting was adjourned.

DATED: August 6, 1980.

John J. Straubhan
Chairman
William W. Block
Secretary

UNRECORDED

January 12, 1982

Cogeneration Inc.
280 S. Beechwood
Boise, ID 83709

Gentlemen:

Re: Application for Permit Nos. 37-7863, 37-7911 and 47-7676
Bruce C. Mecham

This office has reviewed in detail the above-referenced applications for permit. Legal review indicates that in order to comply with the safeguards of Section 42-207, Idaho Code, Mr. Mecham, the applicant, shall file with the department a copy of the deed, bill of sale, mortgage or other document of transfer to Cogeneration, Inc. This is in addition to the assignment of application form which Mr. Mecham has executed and filed with the department.

While Section 42-207, last amended in 1947, refers to permits, the meaning of a department permit issued prior to 1967 was of a lesser significance than permits issued after 1967.

The department files do contain the necessary affidavit in compliance with Section 42-206 showing that Cogeneration, Inc. is a corporation qualified to do business in the State of Idaho.

Please also clarify whether the existing canals to be used on the Shoshone Project are or ever have been used for irrigation.

Your prompt response will allow the department to further process the applications.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

cc: Marc A. Auth, JUB

December 29, 1981

RE: Application for Permit No. 47-7676

Cogeneration, Inc.
250 South Beechwood Ave.
Boise, ID 83709

Dear Sirs:

Enclosed is a copy of approved application for permit 47-7676. We direct your attention to the conditions of approval on the fourth page. The Department would also like to call to your attention that Department staff have not conducted flow-duration studies of the source in the area of your proposed development. This analysis when considered together with prior existing water rights, however, must be an integral part of the feasibility consideration in your detailed engineering review of the project.

The permit has been issued without regard for minimum streamflow considerations, since the Idaho Water Resource Board has not submitted minimum streamflow applications pursuant to Chapter 15, Title 42, Idaho Code in the reach of your proposed project.

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,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw
Enclosures

RECEIVED

NOV 12 1981

Department of Water Resources

May 6, 1981

Mr. Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
625 North Capitol Street, N.E.
Washington, DC 20426

Re: Rock Creek Hydro Project
No. 4165-000. Notice of
Application for Small
Hydroelectric Power Project
under 5mW Capacity.
Cogeneration, Inc.

Dear Mr. Plumb:

We have reviewed the referenced application and submit the following terms and conditions for the purposes set forth in Section 408 of the Energy Security Act of 1980.

1. Every reasonable care to be taken to minimize water quality degradation during construction and to prevent long-term erosion.
2. Instantaneous minimum flows in Rock Creek between the project intake structure and discharge back into Rock Creek be maintained as shown below:

<u>Months</u>	<u>cfs</u>
October and November	41
December and January	31
February and March	41
April through September	62

3. The diversion inlet facility be screened to prevent entrance of fish into the penstock and turbines. Screen design and specifications to be subject to approval by the Idaho Department of Fish and Game (IDFG).
4. Transmission lines, if above ground, to be designed and constructed to prevent mortalities to raptors. Design for preventing raptor mortalities to be subject to approval by the IDFG.
5. If, after construction, the applicant should at any time in the future abandon the site, the stream diversion point will be restored to pre-project condition.

UNRECORDED

Mr. Kenneth F. Plumb
May 6, 1961
Page 2

Fish screen and transmission line design criteria are
available to applicant from the IDFG.

Sincerely,

COPY Original Signed
Robert L. Salter
for Jerry M. Conley
Director

cc: USFWS (Duchler)
Region 4
Nat. Fisheries

JMC:MRR:jt

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INTER-DEPARTMENT MEMO — 1

FROM Robyn Carlson

DATE 12/28/81

TO File 47-7676

SUBJECT Overlap

In a research of overlapping files I found file 02-7343. File 02-7343 is a different source & a different P/D

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM Dave Tutthill

DATE 11/23/81

TO 47-7676

SUBJECT Effect of Power Diversion on other water rights.

On this date I spoke with Mr. Edwin A. King, 423. 5769,
watermaster of the Rock Creek water district, regarding
the above referenced topic. He sees no way that the
app will injure any existing rights as the diversion is
downstream from the irr. rights.

DET

SIGNATURE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

January 13, 1980

State Clearinghouse
Div. of Budget, Policy Planning
and Coordination
700 W. State, 2nd Floor
Boise, ID 83720

Dear Sir:

RE: Rock Creek Hydrogeneration Project by Cogeneration Inc.
(State Application Identifier 01205322)

The description by Barber Engineering provided with the application states that no migratory fish are found in Rock Creek. This is not true. Rainbow trout migrate out of the Snake River and up Rock Creek to spawn. The small rainbow after hatching, spend some time in Rock Creek and then migrate back to the Snake River.

The description also states that a 15-20 cfs stream maintenance flow will be provided. Only the State of Idaho has the legal authority to assign instream flows in Idaho Streams. This instream flow can be a condition of the water right from the Idaho Department of Water Resources or obtained through the instream flow legislation passed in 1980 (Idaho Code, Chapter 15, Section 42-1501).

Sincerely,

JAMES E. WINNER
Aquatic Biologist

JEW:cjs

RECEIVED

SUBMIT
1 ORIGINAL & 5 COPIES
OF REVIEW MATERIAL
TO CLEARINGHOUSE

STATE OF IDAHO
FACS and A-95 PROJECT NOTIFICATION
and
REVIEW SYSTEM NOTICE

For Office Use Only

STATE APPLICATION IDENTIFIER
01205322

Please Read Instructions On Back First.

01	APPLICATION PROJECT TITLE Rock Creek Hydrogeneration Project		A-95 PROJECT Yes ☐ No ☒		FEDERAL AGENCY PROJECT NUMBER		
02	APPLICANT AGENCY Cogeneration Inc.		DIVISION				
03	APPLICANT ADDRESS (Street) 250 S. Beechwood Avenue		CITY Boise		ZIP CODE 83709		
04	CONTACT PERSON Marc Auth - Barber Engineering		AREA CODE Boise 208		PHONE 376-8480		EXT.
05	PROJECT DESCRIPTION - NATURE, PURPOSE, IMPACT, NEED AND BENEFICIARIES (see attached sheets) Request comments from affected state agencies prior to						
06	Federal Energy Regulatory Commission license exemption application.						
07							
08							
09							
10							
11	PROJECT LOCATION CITY		PROJECT LOCATION COUNTY Twin Falls		PROJECT PERIOD From 1/81 To 1/82		
12	IMPACT AREA (Municipality(s), County(s), Region(s), Statewide, etc. to be affected) Twin Falls, Twin Falls County						
13	TYPE OF ACTION						
	NEW GRANT ☐	CONTINUATION GRANT ☐	SUPPLEMENT GRANT ☐	INCREASE DOLLARS ☐	DECREASE DOLLARS ☐	IF APPLICATION IS FOR FEDERAL FUNDS RECEIVED FROM/THROUGH A STATE AGENCY:	
	Will Funds Ever Be Subgranted Or Contracted Out? If Yes, To Whom? Yes ☐ No ☐					State Agency Original SAI No.	
14	FUNDING						
	FEDERAL FUNDS		(C) STATE MATCH		(D) LOCAL MATCH		(E) OTHER FUNDS
	(A) GRANT	(B) OTHER	CASH	IN KIND	CASH	IN KIND	TOTAL FUNDS
	\$	\$	\$	\$	\$	\$	\$
15	TYPE OF OTHER FEDERAL FUNDS (B) No Federal or State fund involved in this project.				TYPE OF OTHER NON-FEDERAL FUNDS (E)		
16	State & Local Matching Requirement for First Three Years						What Will the Maximum % Ever to Be State Funded?
	STATE-1	LOCAL-1	STATE-2	LOCAL-2	STATE-3	LOCAL-3	% From To
	%	%	%	%	%	%	%
17	FEDERAL PROGRAM TITLE						FEDERAL CATALOG NO.
18	FEDERAL AGENCY NAME				FEDERAL SUB-AGENCY		
19	IS PROJECT PHYSICAL DEVELOPMENT? YES ☒ NO ☐		INDICATE THE TITLES OF THE COMPREHENSIVE PLANS WHICH ARE APPLICABLE:			ESTIMATED DATE APPLICANT EXPECTS TO FILE FORMAL APPLICATION: Month Day Year	
20	IS PROJECT NEAR WATERWAY? IF YES: ☐ LAKE ☐ RIVER ☐ STREAM ☐ OTHER						
21	GIVE A JUDGEMENT AS TO THE NATURE AND EXTENT OF THE ENVIRONMENTAL EFFECT ANTICIPATED. INCLUDE ANY ADVERSE EFFECTS THAT CANNOT BE AVOIDED AND ANY ALTERNATIVES TO THE CHOSEN COURSE OF ACTION.						
22	AUTHORIZED SIGNATURE <i>[Signature]</i>				TITLE Project Coordinator		DATE 19 Dec 80



BARBER ENGINEERING

a division of J-U-B ENGINEERS, Inc.

TELEPHONE (208) 376-8480, (208) 376-7330 - 250 SOUTH BEECHWOOD AVE. - SUITE 111 - BOISE, IDAHO 83709

ROCK CREEK HYDRO GENERATION PROJECT

The project proposed by Cogeneration, Inc., on Rock Creek involves installing a hydro power generating plant on the creek near the streams confluence with the Snake River. The proposal is to install three or four turbine generators in a powerhouse located near a dirt road which crosses Rock Creek with the stream diversion located approximately 1,500 feet upstream (see attached photo and map). Water diverted at this point would be between 150 and 175 cfs with a peak power production of as much as 1.4 megawatts. Final determination of the maximum water diverted will be dependent upon on minimum stream flow determination by the Idaho Department of Fish and Game. No significant environmental effects are foreseen as there are no migratory fish in the stream and a stream maintenance flow of about 15 to 20 cfs through the effected portion of the stream is planned at all times. The amount of water diverted from the stream would be automatically controlled to ensure this minimum flow. Inlet water to the turbine will be screened to prevent ingestion of fish through the turbine. The turbines which the project will use cause no change in water quality and are of the same construction and type as many pumps used in or around fish hatcheries.

An assessment performed by J-U-B ENGINEERS, Inc., for Cogeneration, Inc., has shown the project to be technically and economically feasible and environmentally sound. The project is of particular significance because it develops a renewable resource which will replace energy which in the future will be generated by coal or other less environmentally acceptable means.

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ELECTRICAL ENGINEERING
INDUSTRIAL

COMMERCIAL

RESIDENTIAL

INSTRUCTIONS FOR COMPLETION OF THE NOTICE OF INTENT FORM

Please type or print all entries. Give all details called for below and submit the completed form to the State Clearinghouse, Division of Budget & Policy Planning, 700 W. State, Boise, Idaho 83720. Failure to complete all questions may result in delaying the assignment of a State Application Identifier number. If additional space for completion of answers is required, please attach a memorandum keyed to the appropriate question number.

State Clearinghouse
Division of Budget, Policy Planning & Coordination
700 West State St., 2nd Floor West

BOISE, IDAHO 83720

Line 01: PHONE: (208) 384-3351

STATE APPLICATION IDENTIFIER. Leave blank. The State Clearinghouse will assign a number.

Line 01:

FEDERAL AGENCY PROJECT NUMBER. Project number assigned by funding agency to the project.

Line 01:

A-95 PROJECT. Indicate whether or not the project is under A-95 jurisdiction.

Line 01:

PROJECT TITLE. A brief descriptive name of the project. Use location of the project in title when feasible.

Line 02:

APPLICANT AGENCY. The state agency, county, city, town or other unit of government authorized and making application for federal aid.

Line 03:

APPLICANT ADDRESS. Street, city and zip code.

Line 04:

CONTACT PERSON. The representative of the applicant who may be contacted if further information is necessary, and his telephone number.

Lines 05 - 10:

PROJECT DESCRIPTION. A brief narrative description of the nature, purpose, impact, need and beneficiaries of the project. Be as concise and specific as possible indicating the intended use of the grant.

Line 11:

PROJECT LOCATION. City: Name of the city in which the project is located. If project is statewide, indicate.

Line 11:

PROJECT LOCATION. County: Name of the county in which the project is located.

Line 11:

PROJECT PERIOD. Starting and ending date of the project.

Line 12:

IMPACT AREA. List impact area(s) to be affected by the project.

Line 13:

TYPE OF ACTION.

A. NEW GRANT - An action considered by the funding agent to be an award of a new grant.

B. CONTINUATION GRANT - An action that constitutes a continuation action within a multi-year grant.

C. SUPPLEMENTAL GRANT - An action that increases the federal contribution in certain cases where the eligible applicant cannot supply the required matching share of the basic federal program.

D. INCREASE DURATION - An extension of the period of time the grant is available.

E. DECREASE DURATION - A reduction in the period of time the grant is available.

F. WILL FUNDS FROM THIS GRANT EVER BE SUBGRANTED OR CONTRACTED OUT? IF YES, TO WHOM? List the agencies who would receive the funds. If possible give totals.

G. IF APPLICATION IS FOR FEDERAL FUNDS RECEIVED FROM/THROUGH A STATE AGENCY: Please indicate from which State Agency and the original SAI No. assigned (obtain this number from the funding State Agency.)

Line 14:

FUNDING.

A. GRANT - The dollar amount of the basic federal grant applied for.

B. OTHER - The dollar amount if the application is for a federal loan, or when the application requests grant funds from a second federal agency. (Explain which it is on Line 15.)

C. STATE -

1. CASH - The dollar amount of the state contribution.

2. INKIND - The dollar amount of soft match contribution.

D. LOCAL -

1. CASH - Dollar amount of other local government hard match contributions.

2. INKIND - Dollar amount of local government soft match contribution.

E. OTHER FUNDS - Enter the dollar amount of private, nonprofit, or other non-governmental contributions.

Line 15:

TYPE OF OTHER FEDERAL FUNDS (B). Explain what the other federal funds are. (Only if dollar amount appears in Line 8.)

Line 15:

TYPE OF OTHER NON-FEDERAL FUNDS (E). Explain what other non-federal funds are. (Only if dollar amount appears in Line 8.)

Line 16:

STATE & LOCAL MATCHING FOR FIRST THREE YEARS. State the percent of state and local matching amounts for each grant year. (Grant years may not coincide with a fiscal year. Use 12 month periods beginning with the anticipated starting date of the project year.)

Line 16:

WHAT WILL THE MAXIMUM % EVER TO BE STATE FUNDED? Indicate the maximum percentage ever to be state funded (match, etc.) and give the dates when this condition would begin and end.

Line 17:

FEDERAL PROGRAM TITLE & FEDERAL CATALOG NUMBER. Enter program title and catalog number as listed in the CMB Catalog of Federal Domestic Assistance.

Line 18:

FEDERAL AGENCY NAME AND FEDERAL SUB-AGENCY. Enter the administering federal agency and sub-agency as listed in the CMB Catalog, i.e. Department of Agriculture, FHA.

Line 18:

IS THE PROJECT PHYSICAL DEVELOPMENT? Does the project involve physical construction? If so, a draft EIS (Environmental Impact Statement) is required.

Line 19:

INDICATE THE TITLES OF THE COMPREHENSIVE PLANS WHICH ARE APPLICABLE. List the titles of applicable state, regional, or local comprehensive plans.

Line 19:

ESTIMATED DATE APPLICANT EXPECTS TO FILE FORMAL APPLICATION. Date application is to be submitted to funding agency.

Line 20:

IS THE PROJECT NEAR WATERWAY? IF YES, indicate if it is near a lake, river, stream, or other.

Line 21:

GIVE A JUDGEMENT AS TO THE NATURE AND EXTENT OF THE ENVIRONMENTAL EFFECTS ANTICIPATED. INCLUDE ANY ADVERSE EFFECTS THAT CANNOT BE AVOIDED AND ANY ALTERNATIVES TO THE CHOSEN COURSE OF ACTION. This must be in the form of a draft environmental impact statement or negative declaration.

Line 22:

SIGNATURE OF AUTHORIZED INDIVIDUAL COMPLETING REQUEST, DATE COMPLETED, AND TITLE OF SAID OFFICIAL.

REFILMED

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: ADM

APPLICATION NUMBER: MECHAM, Bruce C.

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☒ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: Mary Jundell
Date: 11/17/80
Comments: @ this time of year there appeared to be over 200 CFS. AVAILABLE water Res. DATA Book shows AVE. Cap @ 272 CFS. There are no other users shown Applicant proposed place of use.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

HP = (.1135)(200)(110) = 2497 $\Rightarrow$ Ten. Start Reg'd

✓ 205
✓ All of Residence

SEND COPIES TO:

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

Copies sent by: _____

Date: _____

Mary Jundell 11/6/80

PROCESSING:

- ☐ Yes ☒ No
☐ Yes ☒ No

Platted by: ADM

Map No. BB22

Other rights on same place of use. Not listed on P/U

- ☒ Yes ☐ No*

In form for advertising.

Final date for protests: 12/15/80 ✓

- ☐ Yes ☒ No

Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 14/1/80 ✓
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.

☒ Recommendation & initial, recorded on application.

☒ Yes ☒ No Measuring device required.

☐ Yes ☒ No Access port required.

☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____

10/30/80 Date of priority recommended.

Special conditions of approval or cover letter. OBA, 17

* THIS PERMIT DOES NOT CONSTITUTE IDAHO PUBLIC UTILITIES COMMISSION
OR FEDERAL ENERGY REGULATORY COMMISSION APPROVAL THAT MAY BE REQUIRED.

By: Loren O. Feltner Date: 11/2/81

STATE OFFICE REVIEW:

SW/L02 01, OBA, 17 & special cond

- ☐ See attached sheet for more information.

By: Rosen Date: 11/9/81

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Please acknowledge assignment w/ Approval letter
OK to approve Jan 11/12/81



J-U-B ENGINEERS, Inc.

INDUSTRIAL DIVISION

250 South Beechwood Avenue, Suite III

Boise, Idaho 83709

Telephone (208) 376-7330

October 21, 1981

Letter No. 25096

Mr. David Tuthill
State of Idaho
Dept. of Water Resources
450 West State Street
Boise, Idaho 83720

RECEIVED

OCT 22 1981

Department of Water Resources
Boise District Office

Dear Mr. Tuthill:

Re: Water Application Permit No. 47-7676

Per request by Mr. J. W. Barber, Vice President of Cogeneration, Inc., please find enclosed a copy of the FERC order granting exemption from licensing the Rock Creek Hydroelectric Project.

Hopefully, with the submittal of this information further processing on the water rights application will proceed.

If you have any further questions, please contact me.

Sincerely,

J-U-B ENGINEERS, Inc.
Industrial Division

Marc A. Auth
Project Coordinator

MAA:dm
Enclosure

RECEIVED

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Cogeneration, Inc.) Project No. 4165-000

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS
(Issued June 30, 1981)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 SUBPART K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U. S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

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

- 1/ Cogeneration, Inc., Project No. 4165, filed on February 10, 1981.
- 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).
- 3/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. §375.308 (1980), as amended by Fed. Reg. 14119 (1981).

DC-A-59

- 2 -

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

It is ordered that:

(A) The Rock Creek Hydro Project No. 4165 as described and designated in Cogeneration, Inc.'s application filed on February 10, 1981, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in section 4.106 of the Commission's regulations, 18 C.F.R. §4.106 45 Fed. Reg. 76115 (November 18, 1980).

(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d) (1979), as amended, 44 Fed. Reg. 46449 (1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically ordered by the Commission.

(S E A L)

William W. Lindsay
William W. Lindsay
Director, Office of Electric
Power Regulation

UNRECORDED

ROCK CREEK
HYDROGENERATION PROJECT
TWINS FALLS COUNTY, IDAHO
1981

APPLICATION
FOR
FEDERAL ENERGY LICENSE
EXEMPTION

MICROFILMED



BARBER ENGINEERING

a division of J-U-B ENGINEERS, Inc.

Office Phone: (208) 376-8480
376-7330

250 So. Beechwood Ave., Suite III
Boise, Idaho 83709

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

APPLICATION FOR EXEMPTION OF
SMALL HYDROELECTRIC POWER PROJECT
FROM LICENSING

(1) Cogeneration, Inc. applies to the Federal Energy
Regulatory Commission for an exemption for Rock Creek Hydro Project
a small hydroelectric power project that is proposed to have an installed
capacity of 5 megawatts or less, from licensing under the Federal Power Act.

(2) The location of the project is:

[State or territory] Idaho

[County] Twin Falls

[Township or nearby town] R. 16E., T.9S., Section 23

[Stream or body of water] Rock Creek

(3) The exact name and business address of each applicant are:

Cogeneration, Inc.

250 South Beechwood

Boise, Idaho 83709

(4) The exact name and business address of each person authorized to act
as agent for the applicant in this application are:

Barber Engineering

250 South Beechwood, Suite III

Boise, Idaho 83709

(5) Cogeneration, Inc., is incorporated under the laws of the State of
Idaho.

RECEIVED

EXHIBIT A

RECEIVED

EXHIBIT A .

The hydro site to be developed is located on Rock Creek near its confluence with the Snake River. It is proposed that a natural water feature located on this reach be utilized to generate power without the need for a dam or man-made impoundment.

Legal Description: R.16E., T.9S., Section 23. Lat. 42°38', Long. 114°32'

Exhibits B & G included herein show the general layout of the project.

Table 1 below gives the necessary statistics.

TABLE 1

Dam - None

Inlet Structure - to be constructed

Height - 5 ft.

Width - 5 ft.

Construction - Concrete

Impoundment - none

Intake - 3110 M.S.L.

Storage - none

Penstock - none (to be constructed)

Length - 1500 ft.

Dimension - 48 in. diameter

Powerplant

Rating - 3 units @ 394 kW each

Manufacture - to be determined pending bids

Operating Head - 108 ft.

Hydraulic Capacity - 150 cfs total

Plant Factor - .83

Annual Output (Est.) - 8,594,085 kWh

Customer - power output is proposed for sale to the Idaho Power Co. under rates established by Idaho Public Utilities Commission pursuant to the Public Utilities Regulatory Policy Act.

Transmission - 1247V, 3Ø, 3/4 mi. from powerhouse to nearest 3Ø tie-in.

Flow Duration - see flow duration curve and data printout, Appendix.

UNCLASSIFIED

DESCRIPTIVE NARRATIVE

ROCK CREEK HYDRO GENERATION PROJECT

The project proposed by Cogeneration, Inc., on Rock Creek involves installing a hydro power generating plant on the creek near its confluence with the Snake River. The proposal is to install three or four turbine generators in a powerhouse located near a dirt road which crosses Rock Creek, with a concrete inlet structure located approximately 1,500 feet upstream. Water routed through the structure at this point would be between 150 and 175 cfs with a peak power production of up to 1.4 megawatts. Final determination of the amount of water to be utilized will be dependent on a minimum stream flow determination made by the Idaho Department of Fish and Game. No significant environmental effects are foreseen, as there are no anadromous fish in the stream, and no fish passage facilities will be necessary because no diversion structure will be present in the channel of the stream. Inlet water to the turbine will be screened to prevent ingestion of fish through the turbine. The turbines which the project will use cause no change in water quality and are of the same construction and type as many pumps used in or around fish hatcheries.

An assessment performed by J-U-B ENGINEERS, Inc., for Cogeneration, Inc., has shown the project to be technically and economically feasible and as well as environmentally sound. The project is of particular significance because it develops a renewable resource which will replace energy generated by coal or other less environmentally acceptable means.

UNCLASSIFIED

EXHIBIT B

MICROFILMED

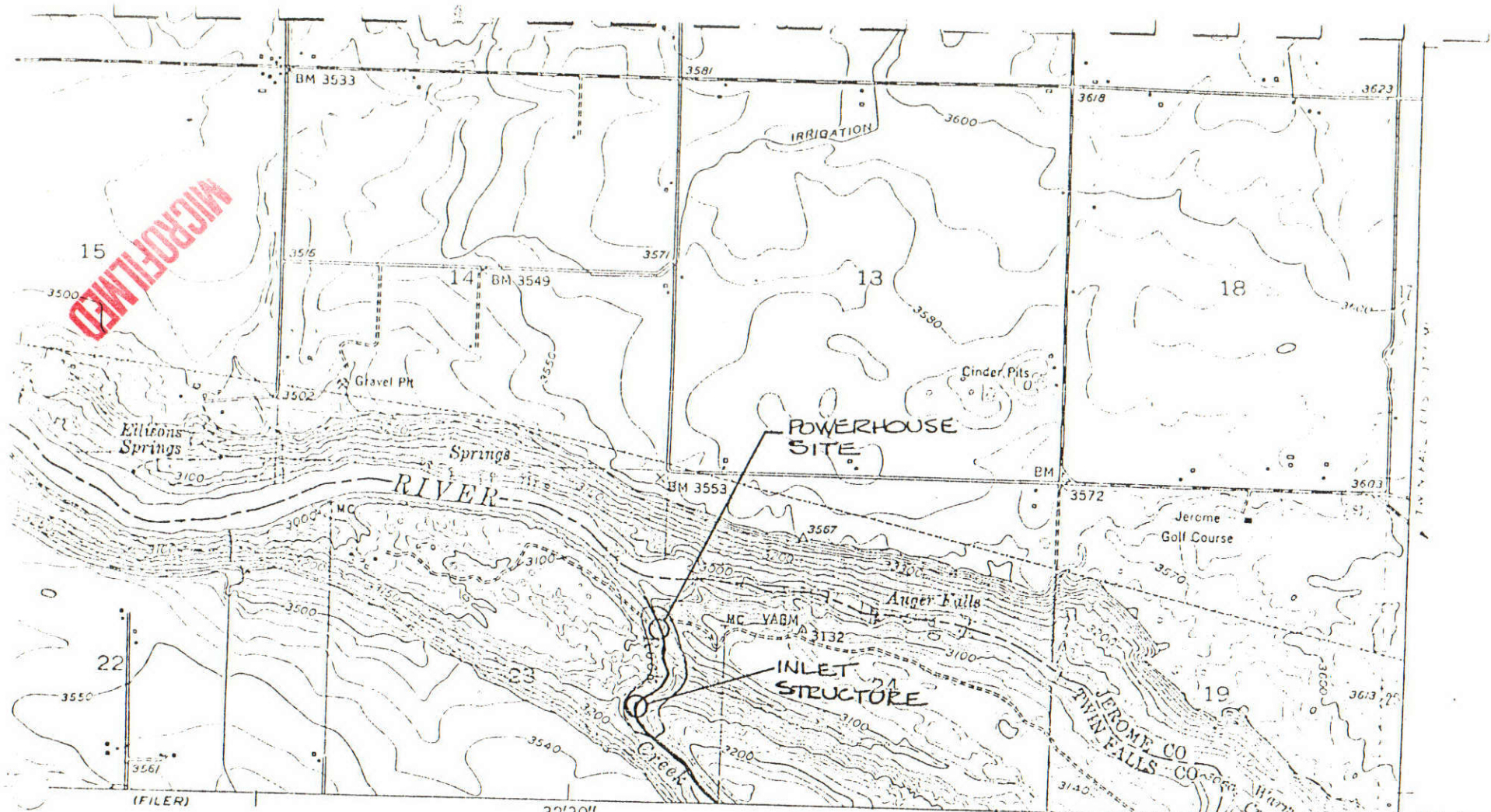
EXHIBIT B .

I. General Location (see attached map)

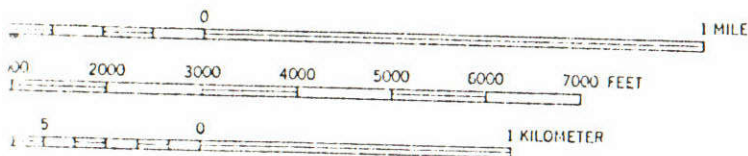
II. Description of Owner or Real Property Interest Holder at Site.

Cogeneration, Inc., in its capacity as developer of small hydro generation sites, has leased (1) land permitting access to the site; (2) land on which the site is to be developed; and (3) land permitting access for transmission. This lease is for a 30 year renewable term, the lessor and property owner being Rosalee Dingwall and Richard Cameron (co-trustees).

UNRECORDED



SCALE 1:24000



CONTOUR INTERVAL 10 FEET
CONTOUR INTERVAL ON RIVER SURFACE 5 FEET
DATUM IS MEAN SEA LEVEL

COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
BUREAU OF LAND MANAGEMENT, FEDERAL CENTER, DENVER, COLORADO OR WASHINGTON 25, D. C.
FOR A LIST OF TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

INTERIOR GEOLOGICAL SURVEY, WASHINGTON, D. C. 1952

ROAD CLASSIFICATION

- Heavy-duty 4 LANE Light duty
- Medium-duty 4 LANE Unimproved dirt
- U. S. Route
- State Route

JEROME, IDAHO
N4237.5-W11430/7.5

1950

60-9

J

EXHIBIT E

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(e)

EXHIBIT E - ENVIRONMENTAL REPORT

ROCK CREEK HYDRO GENERATION PROJECT

1. Description of Environmental Setting.

The proposed project would be located on Rock Creek just upstream from its confluence with the Snake River. A powerhouse would be constructed at the site to house three or four turbine/generators. The proposed project would generate about 1.4 megawatts of electrical power during peak flows.

Rock Creek originates in Cassia County about 30 miles southeast of Twin Falls and flows northwesterly to the Snake River. The stream passes through a variety of land uses including lava scabland, rangeland, cropland and the urban area of Twin Falls. About 3 miles southeast of Twin Falls, Rock Creek enters a well-defined canyon that continues through the City to its confluence with the Snake River. Rock Creek Canyon is designated as a municipal green belt and several parks have been developed within the corporate limits of Twin Falls.

The headwaters of Rock Creek are in a forested area east of the Magic Mountain ski area. Below the forest zone the creek flows in a canyon where juniper and sage vegetation predominate. The stream flows out of the canyon into rolling-to-level irrigated farm land which produces a variety of crops. Natural vegetation consists primarily of sagebrush and other semi-arid species. The immediate project area is characterized by a rock canyon with very little vegetation. Sagebrush is found throughout the area while some riverine vegetation such as small varieties of willow and cattails are found along the stream channel.

The 1978 Stream Evaluation Map prepared by the Idaho Fish and Game Department classifies Rock Creek as a Class III stream. There are a total of four different classes of fishery potential for Idaho streams. The Class III category indicates a substantial fishery resource. The specie and habitat criteria described below apply to Class III streams.

- Possible occurrence of a threatened species.
- Habitat that is occasionally used by a highly valued population of high interest or an essential habitat for maintaining a relatively low-valued population of a species of high interest. Occasionally used habitat implies that reduction of that habitat would not seriously impair the continued existence of the population.

Habitat that is not used or is sporadically or unpredictably used by species of high interest.

RECEIVED

- Moderate potential exists for either restoration of the habitat or reclamation to an equal or higher valued fishery, or total compensation options can be defined.

The Snake River is a major route for migrating waterfowl. The Idaho Fish and Game Department estimates that during an average winter 300,000 - 500,000 ducks and geese migrate through the Snake River Canyon. Major concentrations of waterfowl occur at the Minidoka and Hagerman National Wildlife Refuges which are located about 55 miles east and 30 miles west of the project area respectively. In addition to migrating waterfowl, some ducks and geese nest on islands and other suitable areas in the Snake River.

The rocky walls of the Snake River Canyon provide excellent habitat for a variety of raptors. Eagles, hawks and falcons are common throughout the canyon area and many nest in rocky crevices high on the face of the cliff. In addition to birds of prey, magpies, red-winged blackbirds, robins, crows, pigeons and other small birds are common in the Rock Creek and Snake River Canyons.

Wildlife in the project area include ground squirrels, rock chucks, mice, rabbits and muskrat. The project area does not provide good habitat for deer but they may occasionally visit the area.

The water quality of the Snake River in its upper reaches near the Wyoming border is very high. However, municipal, industrial and agricultural wastes have seriously degraded the quality of the river by the time it reaches the project area. Water quality problems in the Snake include bacterial densities, nutrient loads, turbidity, suspended solids, and elevated summer water temperatures.

The water quality of Rock Creek declines in a manner very similar to the process that occurs along the Snake River. The upper reach of Rock Creek has good water quality but it deteriorates rapidly as it enters the agricultural areas downstream. Industrial, municipal and agricultural wastes all contribute to the poor water quality of the stream. Idaho's Department of Health and Welfare, Division of Environment rates the overall water quality of Rock Creek as poor due to high levels of bacteria, nutrients, turbidity, and suspended sediment.

A Water Quality Index ranging from 0 for no pollution to 100 for severe pollution is utilized by the Division of Environment. Two numbers are included in the index with the first indicating the average annual condition of the stream and the second the average of the high three months of the year. Based upon this system the overall water quality of Rock Creek near Twin Falls was estimated at 83/100 and described as poor.

The volume of runoff in Rock Creek varies considerably during the year. Natural runoff is highest in spring but total flow peaks during the summer when widespread irrigation above the City of Twin Falls puts additional water into the stream. The discharge of Rock Creek at the Snake River averages about 200 c.f.s.

RECEIVED

Rock Creek is presently used primarily for irrigation and drainage. Through the stream receives little direct recreation use, Rock Creek Canyon is a unique natural feature which is being developed as a greenbelt recreation area by the City of Twin Falls. The Rock Creek and Snake River Canyons represent a significant geological area and are generally regarded as having a high aesthetic value.

The Snake River Canyon in the vicinity of the proposed project should be considered as critical habitat for birds of prey. However, there are no known endangered or threatened plant and animal species in the project vicinity. Though the Snake River Canyon is a nationally known scenic area there are no specific historic places in the immediate vicinity of the project site.

2. Expected Environmental Impacts

Potential impacts of the proposed project include fish, water quality and aesthetics. Adverse impacts on the local fishery would be related primarily to the diversion of a major portion of the stream flow from Rock Creek through the turbine generators. Between 150 and 175 c.f.s. of water would be channeled through the penstock to the proposed powerhouse site, about 1,500 feet downstream. A minimum stream flow would be required in Rock Creek to support existing fish populations. The Idaho Fish and Game Department is analyzing the situation to determine this minimum stream flow. The impact on fish should be insignificant if a minimum stream flow is maintained and inlet water is screened to prevent fish ingestion by the turbines.

The water quality of Rock Creek is generally worse than that of the Snake River. An on-going 208 study of irrigated agriculture and a Rural Clean Water Grant will hopefully help initiate programs to improve the water quality of Rock Creek. Operation and maintenance of the proposed facility would not significantly affect the quality of water discharged from Rock Creek on a long-term basis.

Construction of the inlet structure, powerhouse, tailrace and other components of the generation facility could cause some temporary increase in turbidity as a result of grading and excavation. The potential for construction related pollution will be temporary and can be mitigated by establishing proper standards and procedures in the project bid documents. Development should be phased to allow disturbed areas to be stabilized prior to diversion of water from Rock Creek.

It is possible that the proposed project could be perceived as a detriment to the aesthetic quality of the canyons. Many people enjoy the view of the Rock Creek and Snake River Canyons from a number of vantage points. The potential for creating a negative visual impact can be mitigated by selecting natural colors for the powerhouse and related components.

All water diverted through the proposed turbines would be released to the Snake River through the tailrace. Therefore, the project would not affect flows in the Snake River or in Rock Creek above the diversion.

UNRECORDED

3. Letters of Documentation.

The Idaho Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted regarding the potential impacts of the project. Other input by fish and wildlife agencies was solicited through the A95 Review process. Letters containing agency input are attached to this section.

Pursuant to terms and conditions of the State and Federal Fish and Wildlife agencies, transmission lines will be adequately raptor-proofed. Minimum stream flow, as yet to be determined by Idaho Fish & Game, will be maintained for fish propagation. It is not expected that this project will affect fish passage, because no structure will be present in the stream channel.

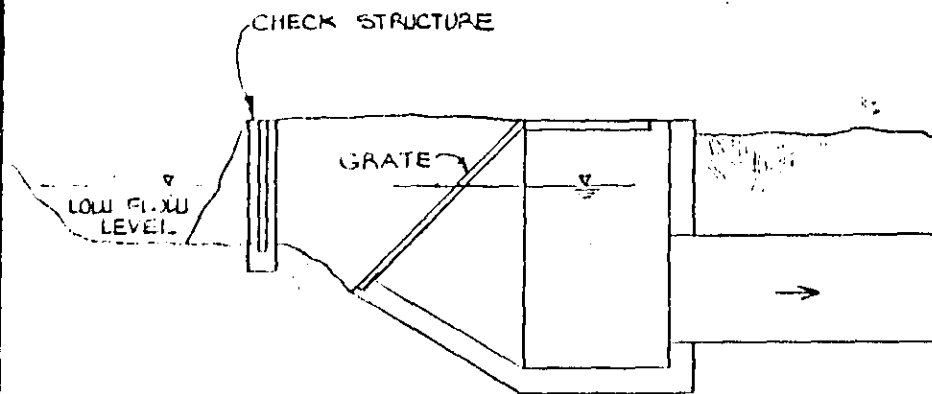
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EXHIBIT G

- Sketch A - Rock Creek Hydro Inlet Structure Plan and Section
- Sketch B - Rock Creek Hydro Powerhouse Plan View
- Sketch C - Rock Creek Powerhouse and Turbine Section

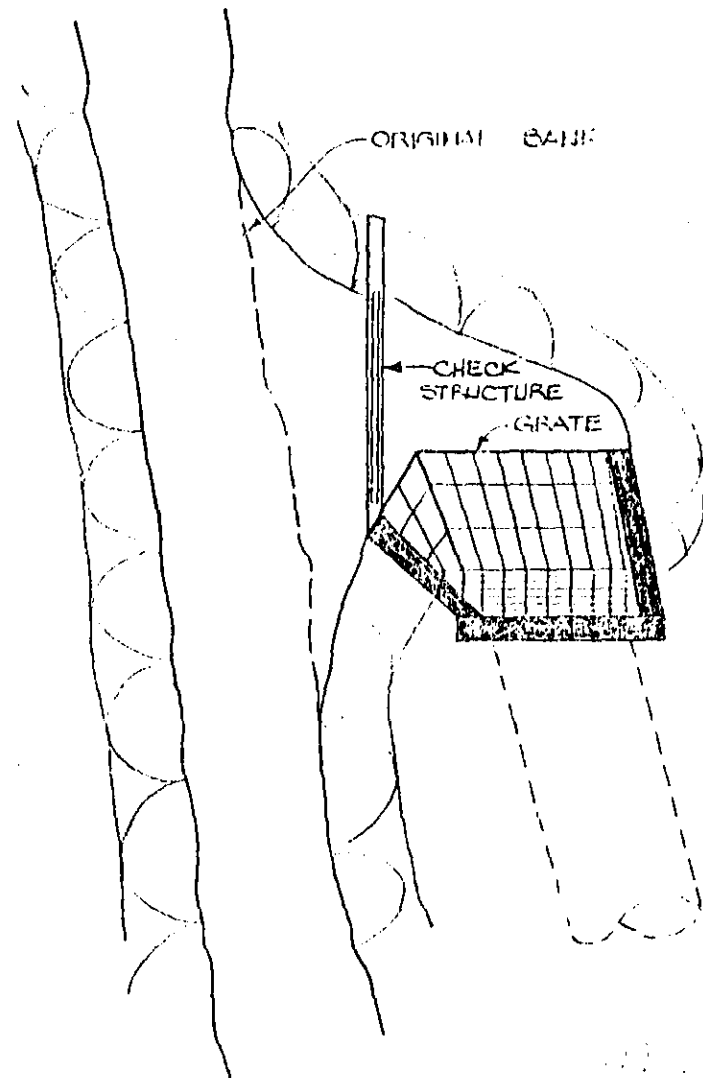
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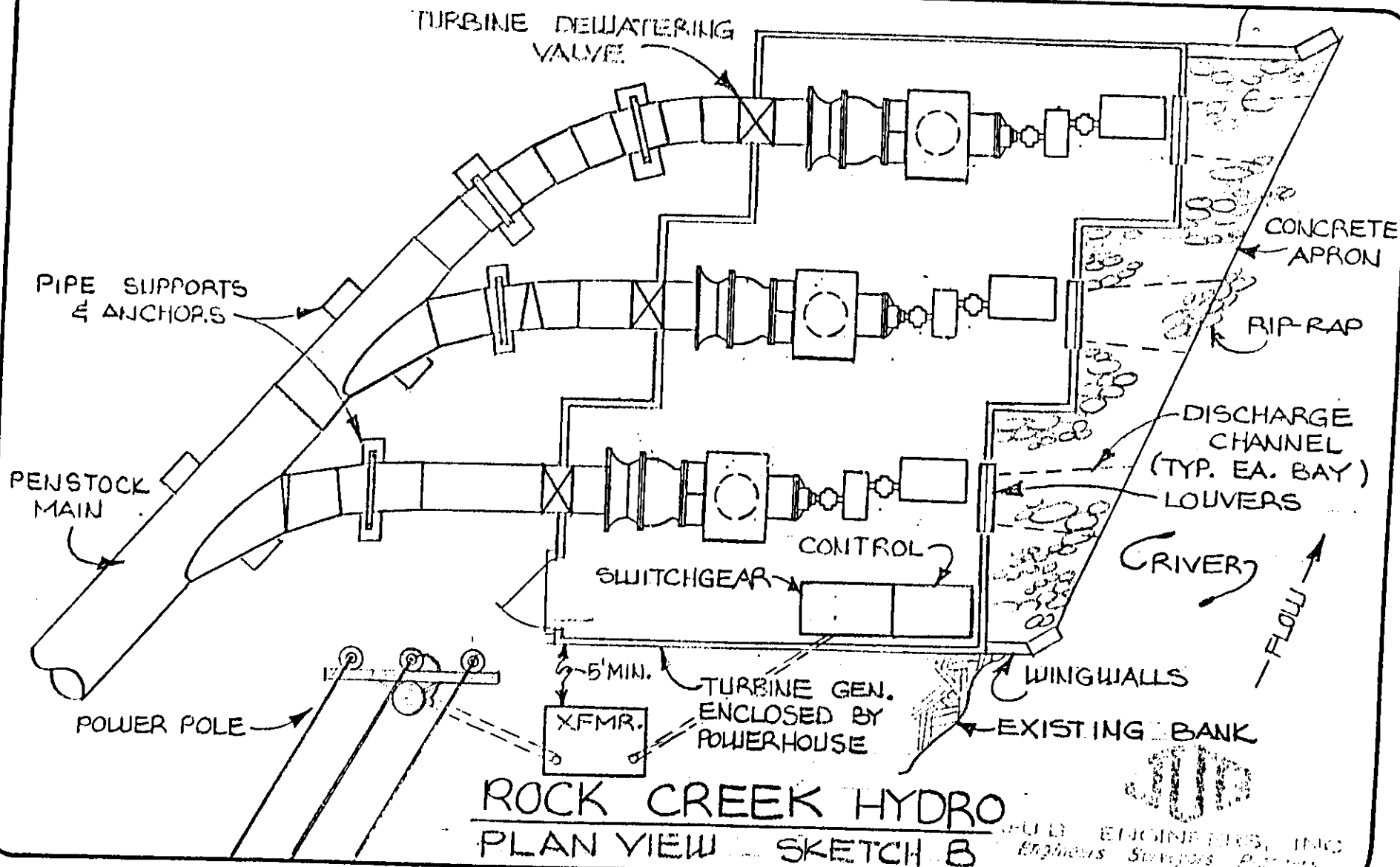


ROCK CREEK HYDRO
DIVERSION STRUCTURE

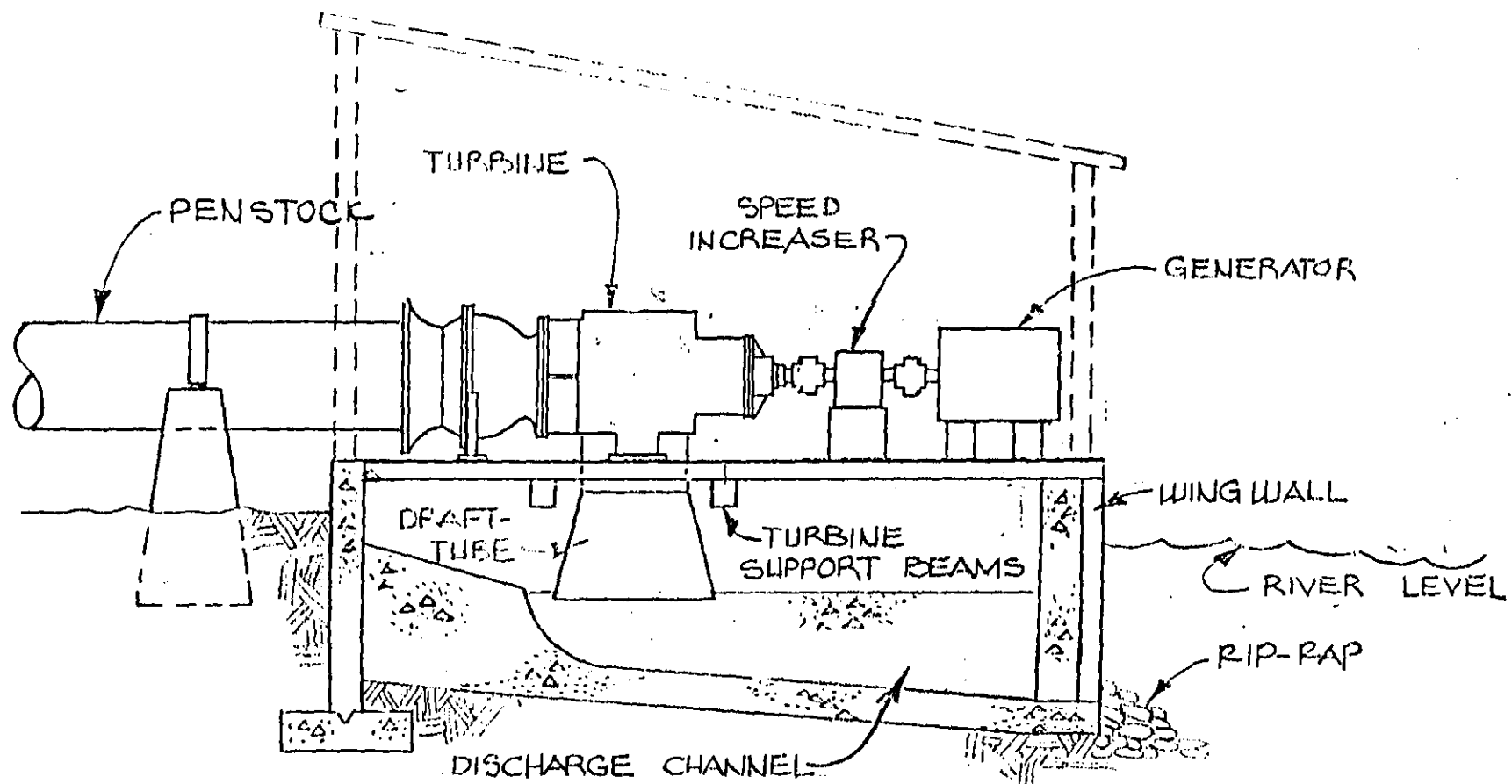
SKETCH A



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TYP. TURBINE ELEVATION

SKETCH C

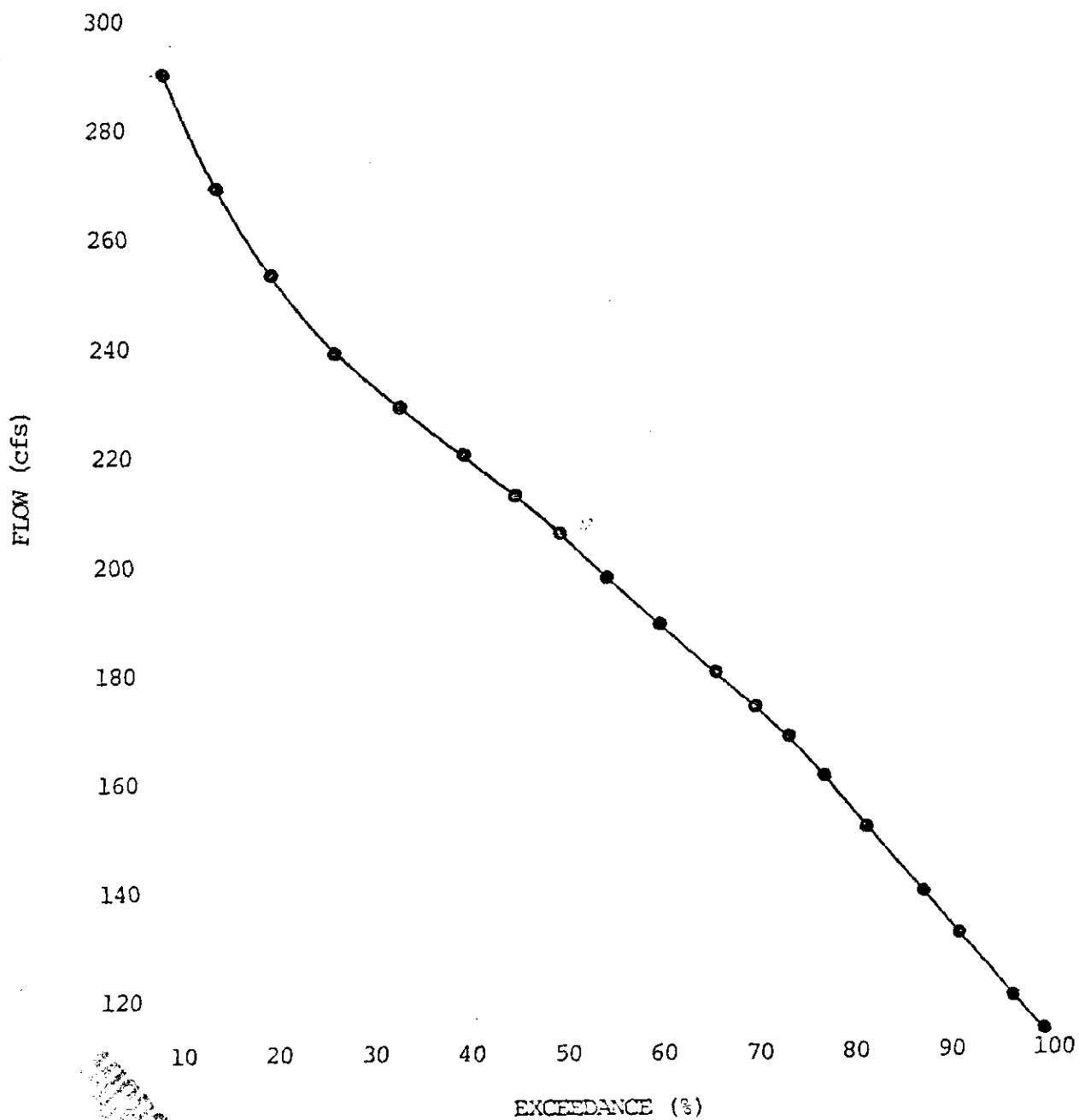
U.S. GOVERNMENT PRINTING OFFICE
1964 O - 344-000

APPENDIX

Flow Duration Curve
Flow Data Printout
Fish & Wildlife Correspondence

100

-FLOW DURATION-
ROCK CREEK NEAR TWIN FALLS, ID.



UNRECORDED

ROCK CREEK NR TWIN FALLS, ID

13093000

FLOW DURATION TABLE FOR STATION 13093000

FLOW	PERCENT = / +	FLOW	PERCENT = / +	FLOW	PERCENT = / +	FLOW	PERCENT = / +	FLOW	PERCENT = / +	FLOW	PERCENT = / +
769.	0.01	762.	0.01	755.	0.01	747.	0.01	740.	0.01	733.	0.02
726.	0.02	719.	0.02	712.	0.02	704.	0.02	697.	0.04	690.	0.07
683.	0.07	676.	0.07	669.	0.07	661.	0.09	654.	0.09	647.	0.14
640.	0.17	633.	0.18	626.	0.18	618.	0.19	611.	0.19	604.	0.21
597.	0.21	590.	0.21	583.	0.21	575.	0.24	568.	0.24	561.	0.26
554.	0.29	547.	0.31	540.	0.33	532.	0.35	525.	0.41	518.	0.41
511.	0.47	504.	0.49	497.	0.55	489.	0.55	482.	0.65	475.	0.65
468.	0.72	461.	0.78	454.	0.78	446.	0.92	439.	0.98	432.	1.14
425.	1.24	418.	1.32	411.	1.45	403.	1.55	396.	1.67	389.	1.91
375.	2.05	375.	2.40	368.	2.85	360.	3.02	353.	3.83	346.	4.08
339.	4.78	332.	5.42	325.	5.79	317.	6.67	310.	7.10	303.	7.76
296.	8.96	289.	10.07	282.	11.72	274.	13.74	267.	15.61	260.	17.97
253.	20.88	246.	24.48	239.	27.95	231.	32.09	224.	35.85	217.	40.15
210.	45.97	203.	50.68	196.	56.53	188.	60.44	181.	64.77	174.	69.08
167.	73.38	160.	77.32	153.	81.07	145.	84.47	138.	88.06	131.	90.62
124.	93.18	117.	95.50	110.	97.33	107.	98.75	95.	99.79	88.	100.00

MAXIMUM THIS PERIOD

769.

MINIMUM THIS PERIOD

88.

PERIOD OF RECORD Jan 1923 - Dec 47

John V. Evans, Governor
Daniel T. Emborg, Administrator



State Capitol Building
Boise, Idaho 83720

DIVISION OF ECONOMIC AND COMMUNITY AFFAIRS

IDAHO STATE CLEARINGHOUSE

PROJECT NOTIFICATION AND REVIEW CLEARANCE

APPLICANT:

Cogeneration, Inc.
250 S. Beechwood Avenue
Boise, Idaho 93709
Attn: Marc Auth

TITLE ROCK CREEK HYDROGENERATION PROJECT

SAI# 01205322

FEDERAL AGENCY _____

FCDA# _____

DATE PROCESSED December 29, 1980

DATE CLEARED January 29, 1981

This project was reviewed by the State Clearinghouse, Areawide Clearinghouse(s) and agencies listed below in accordance with OMB Circular A-95 requirements. Reviewer(s)' comments are attached.

Region IV Development Association
Department of Water Resources *Needs Attention.
Department of Fish and Game *See comments attached.
Office on Energy

State Clearinghouse findings:

 No comment XX Affirmative findings XX Needs attention
 Remarks below/attached Negative findings/needs attention

STATE CLEARINGHOUSE COORDINATOR

Shirley Mahbute

(208) 334-3412

MICROFILMED

IDAHO
A LAND FOR ALL SEASONS



STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

600 SO. WALNUT ST. — P.O. BOX 25
BOISE, IDAHO 83707

January 27, 1981

Ms. Gloria Mabbutt, Coordinator
State Clearinghouse
Statehouse
Boise, ID. 83720

Re: SAI# 01205322 - Rock Creek
hydro project
(FERC application)

Dear Ms. Mabbutt:

The Rock Creek small hydropower proposal submitted by Cogeneration, Inc., has been reviewed by our Department. Based on the description furnished it does not appear that the proposed project will have serious impact on fish and wildlife resources, provided:

1. A minimum flow to be recommended by the Department of Fish and Game is maintained.
2. The diversion facility is screened to prevent entrance of fish with screen design and specifications subject to approval by the Department of Fish and Game.
3. Adequate upstream fish passage facilities subject to Department of Fish and Game approval are provided if further investigation demonstrates a need for such facilities.

No mention of transmission or transformer facilities is made in the project description. Any transmission lines constructed should be designed to prevent electrocution of large raptors. Screen, fish passage and transmission line design criteria are available from the Department of Fish and Game.

Sincerely,

Ramsey L. Salter
+ Jerry M. Conley
Director

cc: Barber Engineering (Auth)
Region 4
Bur. Fisheries
Bur. Engineering

RECEIVED

EQUAL OPPORTUNITY EMPLOYER



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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

January 13, 1981

State Clearinghouse
Div. of Budget, Policy Planning
and Coordination
700 W. State, 2nd Floor
Boise, ID 83720

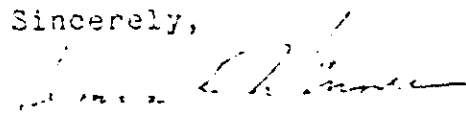
Dear Sir:

RE: Rock Creek Hydrogeneration Project by Cogeneration Inc.
(State Application Identifier 01205322)

The description by Barber Engineering provided with the application states that no migratory fish are found in Rock Creek. This is not true. Rainbow trout migrate out of the Snake River and up Rock Creek to spawn. The small rainbow after hatching, spend some time in Rock Creek and then migrate back to the Snake River.

The description also states that a 15-20 cfs stream maintenance flow will be provided. Only the State of Idaho has the legal authority to assign instream flows in Idaho Streams. This instream flow can be a condition of the water right from the Idaho Department of Water Resources or obtained through the instream flow legislation passed in 1980 (Idaho Code, Chapter 15, Section 42-1501).

Sincerely,


JAMES E. WINNER
Aquatic Biologist

JEW:cjs

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MED



United States Department of the Interior

FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES

4620 Overland Road, Room 209

Boise, Idaho 83705

January 19, 1981

Barber Engineering
250 South Beechwood Avenue
Suite 111
Boise, Idaho 83709

Gentlemen:

This letter acknowledges receipt of your letters (Nos. 24016, 24017, and 24027) requesting early comment on your proposed Shoshone and Rock Creek Hydrogeneration projects. As Mr. Harrington explained to Mr. Ross, all future notifications should be made directly to this office in order to expedite these reviews.

Your company intends to formally apply for a FERC exemption for the above projects. The Fish and Wildlife Service and the Idaho Department of Fish and Game may determine certain conditions and/or terms for inclusion with the application, pursuant to Article 2 of Section 4.105 of the Energy Security Act of 1980.

At this time, we have two concerns which need further clarification:

1. Will the energy transmission facilities design and construction include raptor-proofing to prevent possible electrocution?
2. In regards to the amount of water to remain in the stream, the Idaho Department of Fish and Game will need flow measurements. Are you amenable to getting the specific stream data required in order to reach early agreement on maintenance flows past the diversions?



Save Energy and You Serve America!

Basically, our concerns for probable adverse impacts involve raptors and resident coldwater fishes. At this time, we foresee no problems with endangered species or unique forms of habitat. We will formally respond with particular operating restraints or needs for research or monitoring upon receipt of each of the FERC Notices requesting exemption. If you have any further requests at this time, please feel free to contact Mr. Harrington at 334-1931.

Sincerely yours,

Daniel M. Herrig

Daniel M. Herrig
Acting Field Supervisor

cc: SE, Boise, Idaho

MICROFILMED

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO
ATTN OF: M/S 443

27 JAN 1981

Marc A. Auth
Barber Engineering
250 South Beechwood Avenue, Suite 111
Boise, Idaho 83709

Subject: Shoshone Hydro Generation Project and Rock Creek Hydro Generation Project

Dear Mr. Auth:

Based on the information in your letter of December 20, 1980 and conversations between you and my staff, we will have no objections to the above two projects if all conditions requested by the Idaho Department of Fish and Game and the U.S. Fish and Wildlife Service are met.

Sincerely yours,

Elizabeth Corbyn
Elizabeth Corbyn, Chief
Environmental Evaluation Branch

MICROFILMED

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Citizens NATIONAL BANK

Our whole idea about banking is built around you.

OCT 26 1981

October 22, 1981

Department of Water Resources
Southern District Office

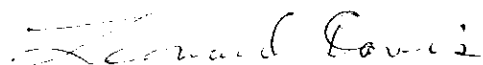
State of Idaho
Department of Water Resources
Southern Regional Office
1041 Blue Lakes Boulevard
Twin Falls, Idaho 83301

Re: Water Right for
Power Generation
Permit No. 47-7676

Gentlemen:

We have been requested by Cogeneration, Inc. to notify you regarding their financial capabilities of completing the Rock Creek Hydroelectric Power Project located in Twin Falls County, Idaho. As we understand it, this project will require construction funds in the amount of \$1.2 million to \$1.6 million to complete. Please be advised that we have reviewed Cogeneration, Inc.'s financial statements. It appears to us that this corporation is financially capable of completing the stated project. When the time is appropriate we will assist Cogeneration, Inc. in securing the required funding on what appears to be a very exciting hydroelectric project.

Sincerely,



Leonard L. Davis
Vice President & Manager

LD:rp

cc: John J. Straubhar, P.E.

APPROVED

Main Office: 1001 Main Street • P.O. Box 2900 • Boise, Idaho 83701 • (208) 336-5700



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

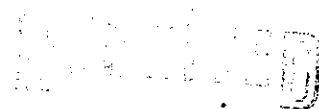
Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

July 24, 1981



AUG 10 1981

Department of Water Resources
Southern District Office

RE: Application for Permit No. 47-7676

Dear Applicant:

The 1981 Idaho Legislature made a change in Section 42-205, Idaho Code, that may affect the above referenced application. The change requires that if a proposed hydropower project will use existing irrigation facilities, the approval of the owner of the facilities must be obtained before an application for permit to develop a water right can be approved.

Please find enclosed an affidavit which we must receive before we can complete the review of your application. Please complete the affidavit, sign it before a notary, and return it to this office at your earliest convenience, no later than August 15, 1981.

Sincerely,

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure



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:

4Z-2626-

MECHAM, BRUCE C.

1509 N. JUNIPER, TWIN FALLS, ID 83301

Source: ROCK CREEK tributary to SNAKE RIVER

Date Filed: 10/30/1980

Amount: 200.00 CFS

Diversion Point: NESE Sec 23 T 09S R 16E, TWIN FALLS Co.

Use: POWER (200.00 CFS) from 01/01 to 12/31

Place of Use: SENE Sec 23 T 09S R 16E

Diversion Means: PENSTOCK

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 DECEMBER 15, 1980.

C. STEPHEN ALLRED

Director

Published 11/27 & 12/4/80.

47-7878
MECHAM, BRUCE C.
1500 N. JUNIPER
TWIN FALLS, ID 83301
Source: ROCK CREEK tribu-
lary to SNAKE RIVER
Date Filed: 10/30/1960
Amount: 200.00 CFS
Diversion Point: NESE Sec
23 T 09S R 16E, TWIN
FALLS Co.
Use: POWER (200.00 CFS)
from 01/01 to 12/31
Place of Use: SENE Sec 23 T
09S R 16E
Diversion Means:
PENSTOCK

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 re-
ceived on or before DE-
CEMBER 15, 1960.

C. STEPHEN ALLRED
Director
PUBLISH: Thursday, Nov.
27, and Dec. 4, 1960.

ok
mace
11/19/60

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

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

NOVEMBER 13, 1980

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

Gentlemen:

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

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

Please send the affidavit of publication and publication billings to this office before DECEMBER 15, 1980.

Yours truly,

Mary A. Hill
Secretary

Encl.

611



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

November 6, 1980

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

Re: Application for Permit No. 37-7861 - 37-7862 - 47-47-7676

Dear Mr. Bell:

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

Sincerely,

Mary A. Hill
Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

RECEIVED