

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

Name of applicant City of Soda Springs Phone 208-547-2151
Post Office address 9 West Second South, Soda Springs, ID 83276

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 11-0495 Decreed to Village of Soda Springs
(Name)
in case of Utah Power & Light Co. vs Last Chance Canal Co.
dated in 7-14-1920 in District Court county of Caribou
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____

3. Source of water Soda Creek tributary to Bear River4. Date of priority 6-1-1907

5. Water is used for the following purposes: *Not specified in decree
amount 40 for Power Generation purposes from * to *
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 40 cubic feet per second
&/or
b. _____ acre feet per annum

*Not specified in decree
7. Location of original point of diversion is _____ 1/4 of _____ 1/4 of Section _____
Township _____ Range _____, B.M., in _____ County
Additional points of diversion, if any _____

8. Lands irrigated or place of use: *Not specified in decree

TWP.	RANGE	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	

Total number of acres to be irrigated _____

9. Describe any other water rights used for the same purpose as described above The city also holds water rights 11-2091, 11-2092, 11-2133, 11-2156 & 11-2161 for power gen.
10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
3. 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 $\frac{1}{4}$	

Total number of acres to be irrigated _____

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

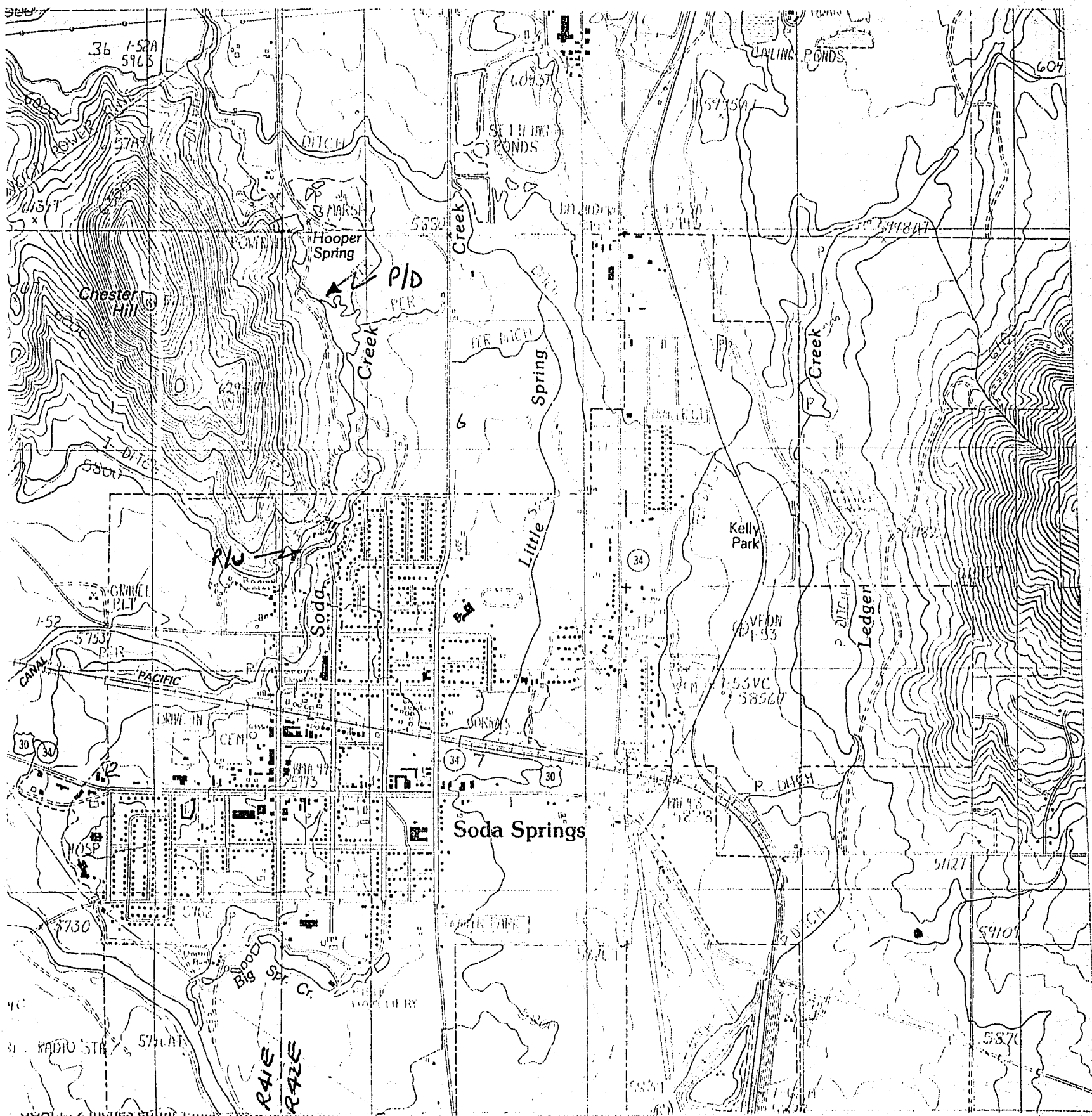
1. General Information
 - a. Amount of water to be diverted 40 c.f.s. &/or _____ acre feet
 - b. Description of diverting works Existing concrete diversion dam. This dam diverts water into the "Feeney Ditch".
 - c. Describe the reasons for the proposed changes The city is proposing replacement of existing Powerplant No. 1 & 2 with a new powerplant (No. 5 located within the same 40 acre tract as existing Powerplant 1. Powerplant No. 5 will use the combined water rights for Powerplant No. 1 (11-0495) and Powerplant No. 2 (11-2092).
2. Change in point of diversion No Change (See "remarks")
Point of diversion NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 6 Township 9S
Range 42E, B.M., Caribou County
Additional points _____
3. Change in place of use (No change) See "remarks"
 - a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
 - b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer

c. Describe the land or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	42E	6											X						

Total number of acres to be irrigated _____

- Describe any other water rights used for the same purpose as described above. The city currently holds water right 11-2092 and has made application to transfer the points of diversion & use to match 11-0495 (See application dated 11-9-83)
- Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



D. REMARKS

This application for transfer is submitted to clarify the point of diversion, period of use and place of use of water right 11-0495. The point of diversion will remain as is in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, T. 9S, R. 42E. Although the point of use will change, it will remain within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6, T. 9S, R. 42E. The period of use will be from 1-1 to 12-31

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 19th day of January, 19 84

(Signature of Applicant)

(Notary Public)

My commission expires Lifetime

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

		FOR DEPARTMENT USE ONLY	
Received by <u>CW</u>	Date <u>1-5-84</u>	Protest filed by <u>Robert Torgesen</u>	
Prelim. check by <u>BP</u>	Fee <u>50.00</u>		
Receipted by <u>BP</u>	Date <u>1-5-84</u> #29798		
Published in <u>Caribou County Sun</u>		Copies of protest forwarded by <u>CW</u>	
Pub. dates <u>2/2 ; 2/9/84</u>		Hearing held by _____ Date _____	
Watermaster recommendation requested on _____		Recommended for _____ approval _____ denial _____	
_____ rec'd. _____		by _____	

RECEIVED

FEB 24 1984

Department of Water Resources
Eastern District Office

PUBLIC NOTICE

First Time Published

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
NO. 11-0495**

Notice is hereby given that City of Soda Springs, Idaho has applied to the Dept. of Water Resources for a change in the point of diversion and place of use of the waters of Soda Creek tributary to Bear River. The right sought to be changed is evidenced by Decree No. 11-0495 to Village of Soda Springs in case of Utah Power & Light Co. vs. Last Chance Canal Co. dated in 7-14-1920 in District Court, Caribou County and is recorded as follows:

AMOUNT: 40 cfs

PRIORITY: 6-1-1907

POINT OF DIVERSION: Not specified in decree

The water is used for power generation purposes on lands not specified by the decree.

TO BE CHANGED AS FOLLOWS:

The water will be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, T. 9S, R. 42E, B.M. Caribou County and used for power generation purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6, T. 9S, R. 42E, B.M.

Any protests against the above proposed change of water right must be filed with the Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83401, on or before February 20, 1984.

A. Kenneth Dunn
Director

Published in the Caribou County Sun on Feb. 2 and 9, 1984.

**Affidavit of
Publication**

County of Caribou }
State of Idaho } ss.

Mark Steele

being first duly sworn on his oath, states:

That he is Publisher of the Caribou County Sun, a newspaper of general circulation in Caribou County, Idaho, published weekly at Soda Springs in said County that said newspaper has been published in said County uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement;

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof

for 2 successive weekly issues thereof, the date of the first publication being the

2nd day of
February, 1984

The date of the last publication

being the 9th day of
February, 1984

Subscribed and sworn to be-

fore me this 29th day
of February, 1984

Wendy A. Steele
Notary Public, residing
at Soda Springs, Idaho
(SEAL)

My Commission expires the

1st day of March
1984.

Transfer No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

Name of applicant City of Soda Springs Phone 208/547-2151Post Office address 9 West Second South, Soda Springs, ID 83276**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. _____ Decreed to _____ (Name)
in case of _____ vs _____
dated in _____ in _____ county of _____
(Name of court)

b. License No. 11-0495 issued by the Idaho Department of Water Resources

c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____

_____3. Source of water Soda Creek tributary to Bear River4. Date of priority 6/1/1907

5. Water is used for the following purposes:

amount 40 cfs for power generation purposes from January 1 to December 31
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 40 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6
Township 9 South Range 42 East, B.M., in Caribou County
Additional points of diversion, if any _____

8. Lands irrigated or 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	42E	6											X						40 cfs

Total number of acres to be irrigated N/A

9. Describe any other water rights used for the same purpose as described above The City also holds water rights 11-2091, 11-2092, 11-2133, 11-2156, and 11-2161 for power generation.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B). N/A

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
3. 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 $\frac{1}{4}$	

Total number of acres to be irrigated _____

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

- a. Amount of water to be diverted 40 c.f.s. &/or _____ acre feet
- b. Description of diverting works Existing concrete diversion dam. This dam diverts water into the "Feeney Ditch."
- c. Describe the reasons for the proposed changes The City is proposing replacement of existing Powerplant No. 1 and No. 2 with a new powerplant (No. 5) located within the same 40 acre tract as existing Powerplant No. 1. Powerplant No. 5 will use the combined water rights for Powerplant No. 1 (11-0495) and Powerplant No. 2 (11-2092).

2. Change in point of diversion No change proposed (See Paragraph D. REMARKS)

Point of diversion _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Change in place of use No change proposed (See Paragraph D. REMARKS)

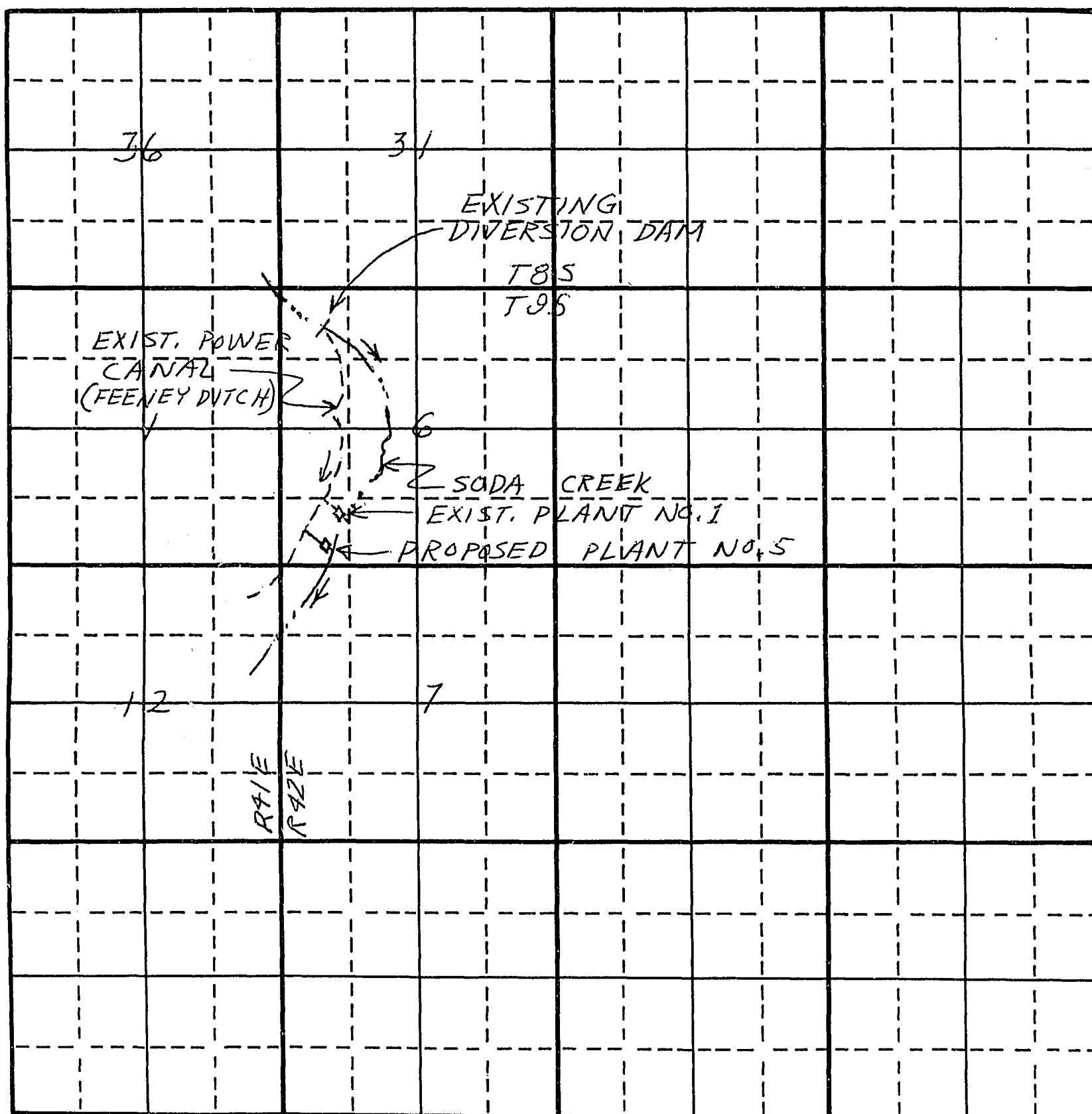
- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
N/A

c. Describe the land place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	42E	6											X						40 cfs

Total number of acres to be irrigated N/A

- Describe any other water rights used for the same purpose as described above. The City currently holds water right 11-2092, and has made application to transfer the points of diversion and use to match 11-0495 (See Application for Transfer dated 11/9/83).
- Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

D. REMARKS

This Application for Transfer is submitted to clarify the point of diversion and
place of use of water right 11-0495. The point of diversion will remain as is in
the NW $\frac{1}{4}$, NW $\frac{1}{4}$, Section 6, T9S, R42E. Although the point of use will change, it will
remain within the SW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 6, T9S, R42E.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement
in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

David H. Clegg
(Signature of Applicant)

Subscribed and sworn to before me this 30th day of December, 19 83.

Janet L. Stamps
(Notary Public)

My commission expires May 28, 1985

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

FOR DEPARTMENT USE ONLY

Received by <u>OW</u>	Date <u>1-05-84</u>	Protest filed by _____
Prelim. check by _____	Fee <u>\$ 50⁰⁰</u>	_____
Received by <u>BP</u>	Date <u>1/5/84</u> # <u>29798</u>	_____
Published in _____	Copies of protest forwarded by _____	
Pub. dates _____	Hearing held by _____ Date _____	
Watermaster recommendation requested on _____	Recommended for _____ approval _____ denial _____	
_____ rec'd. _____	by _____	

January 6, 1984

David H. Clegg
City of Soda Springs
9 West Second South
Soda Springs, ID 83276

Dear Mr. Clegg:

I have received your application for transfer which would clarify the decree #11-0495 for power generation using Soda Creek water. The original decree did not specify the point of diversion, place of use or period of use. In filling out your original application, these items were incorrectly filled in from known information and not from the decree. I have enclosed a corrected application which should be signed, notarized and returned to this office (no additional money is required).

Please check all portions of the application prior to signing. If you have any questions, please call (525-7161) or come to the Idaho Falls Office.

Sincerely,

GERALD F. RAMSEY
Radiologic Specialist

GFR:bp

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

G. F. RAMSEY

G. F. RAMSEY

INITIAL REVIEW BY: JAN 6 1984 JAN 20 1984

1. Right number 11-0495 Applicant CITY OF SODA SPRINGS
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Other CLARIFY POINT OF DIVERSION AND PLACE OF USE
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☒ Check description of point(s) of diversion.
 - d. ☒ Check description of place of use.
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
 - h. ☒ Check for expansion in use of right. Comments _____
 - i. ☒ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) 11-2092
 - j. ☒ Is use within a Watermaster District? ☐ Yes ☒ No
If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☒ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
4. By _____ Date JUL 12 1984

RECEIVED

* All uses within Watermaster Districts require special conditions.

Department of Water Resources

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 11-0495

Notice is hereby given that City of Soda Springs, Idaho has applied to the Dept. of Water Resources for a change in the point of diversion and place of use of the waters of Soda Creek tributary to Bear River. The right sought to be changed is evidenced by Decree No. 11-0495 to Village of Soda Springs in case of Utah Power & Light Co. vs. Last Chance Canal Co. dated in 7/14/1920 in District Court, Caribou County and is recorded as follows:

AMOUNT: 40 cfs PRIORITY: 6/1/1907

POINT OF DIVERSION: Not specified in decree

The water is used for power generation purposes on lands not specified by the decree.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, T. 9S, R. 42E, B.M. Caribou County and used for power generation purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6, T. 9S, R. 42E, B.M.

Any protests against the above proposed change of water right must be filed with the Dept. of Water Resources 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83401, on or before February 20, 1984.

A. KENNETH DUNN

Director

Published in the Caribou County Sun on 2/2 & 2/9/84.



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

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

February 3, 1984

Evan M. Kackley
2323 Ellis Ave.
Boise, ID 83702

Dear Mr. Kackley:

Please find enclosed the copy of Transfer #11-0495 that you requested.

Please remit \$2 to this office to cover the cost of the copies.

Sincerely,

JULIE KELSO
Secretary

February 7, 1984

RE: Application for Transfer No. 11-0495 CITY OF SODA SPRINGS

Gary Jensen, Watermaster
Water District No. 11-B
Star Rt.
Soda Springs, ID 83276

Dear Mr. Jensen:

Please find enclosed a copy of the above referenced application and watermaster recommendation form. Please review the application and complete the form, returning it to this office on or before February 20, 1984.

Thank you for your cooperation in this matter.

Sincerely,

BARBARA L. POWERS
Secretary

bp

Enclosures

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 11-0495

RECEIVED

FEB 14 1984

RECOMMENDATION OF WATERMASTER

Department of Water Resources
Eastern District Office

I, Gary L. Jensen, watermaster of Soda Creek,
of Water District No. 11-B, County of Caribou, State of Idaho,
whose address is HC 70 BOX 2050 Soda Springs, Idaho 83276
have read the attached copy of the application for transfer of water right for _____
City Of Soda Springs, and to the best of my knowledge believe the
(name)
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: NONE

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-
quested for the following reasons: _____

Dated at Soda Springs, Idaho, this 10th day of February 19 84.

Gary L. Jensen 11-B
(signature)

Please use reverse side if needed.

February 13, 1984

RECEIVED

FEB 15 1984

Department of Water Resources
Eastern District Office

State of Idaho
Department of Water Resources
Eastern District Office
150 Shoup--Suite 15
Idaho Falls, Idaho 83402

To Whom It May Concern:

We, Robert K. Torgesen and/or Nedra Torgesen do hereby Protest the change in the point of diversion and place of use of the waters of Soda Creek tributary to Bear River, as evidenced by the Decree No. 11-0495 to the Village of Soda Springs, Idaho.

For the following reasons:

1. It would change our point of diversion as Decreed in Claim No. 11-4289, also Decreed by Instrument No. 1698--Sheet No. 87 and 88--Entry No. 77 Final Decree--Utah Power and Light -vs- Last Chance Canal Company.
2. It interferes with our Ditch Rights in the Feeney and Chester Ditches.
3. Consideration needs to be given to financial loss to us, caused by interference in transferring water through the Feeney and Chester Ditches, because of canal and power plant construction by the City of Soda Springs or its contractors.

This Protest made on February 13, 1984 for the purpose of preserving Water Rights and Ditch Rights.

State Of Idaho
County of Caribou

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing protest to construction of a power plant and change of water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Robert K. Torgesen
Robert K. Torgesen-Claimant

Nedra Torgesen
Nedra Torgesen-Claimant

Sworn to before me this 14 day of February, 1984

Helen B. Kingsford
Notary Public
Residing at Soda Springs, Idaho

My commission expires Lifetime

Torgesen Proct to City Of Soda Springs, Ida
Page 2

NOTE OF EXPLANATION:

Our point of diversion in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec 6-T9-R42E will need to be changed to the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec 6-T9-R42E or the exact location of the proposed new power plant.

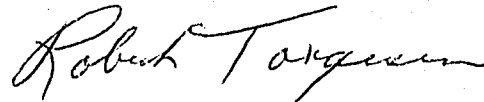
The additional canal to be constructed to service the new power plant, will be built part-way across the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec 6-T9-R42E on the exact location of the Feeney and Chester Ditches.

We need to be assured that if the necessary changes are allowed, that all new gates for diversion and any pipes or ditches are installed in a workable manner and to the satisfaction of Robert Torgesen. We request that no construction or changes of any kind be allowed until terms have been agreed upon between Robert K. Torgesen and/or Nedra Torgesen and the City of Soda Springs or its contractors.

We will be happy to work with the City of Soda Springs and Appreciate any help the Department of Water Resources can give us in working out the necessary agreements.

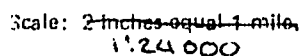
Thank You

Sincerely,



Robert Torgesen
Box 45
Soda Springs, Idaho 83276

cc: Roy G. Rainey--City Administrator
City of Soda Springs, Idaho



State of Idaho)
) ss.
County of Caribou)

Robert Taylor
(Claimant)

Helen B. Kingsford
Notary Public
Residing at Soda Springs, Idaho

10-16-82 FOR DEPARTMENT USE ONLY

Received by CW Date 6-23-83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by Kaw Date 10-27-83 _____
\$30.00 fee received by CW Date 6-23-83 #30679 _____
Published in Caribou County Sun _____
Dates 11/10 & 11/17/83 _____

February 22, 1984

RE: Application for Transfer No. 11-0495 CITY OF SODA SPRINGS

Robert Torgesen
Box 45
Soda Springs, ID 83276

Dear Mr. Torgesen:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

You will be notified at a later date as to the time and place set for conference and/or hearing.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

February 22, 1984

RE: Application for Transfer No. 11-0495

City of Soda Springs
9 West Second South
Soda Springs, ID 83276

Gentlemen:

Enclosed please find a copy of the protest filed against the above referenced application. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed use under this transfer conflict with the local public interest?

You will be notified at a later date as to the time and place set for conference and/or hearing. Legal counsel is not mandatory at an proceeding before the Department, although you may desire to employ an attorney in your behalf.

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

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure

cc: IDWR - State Office

February 22, 1984

RE: Application for Transfer No. 11-0495 CITY OF SODA SPRINGS

Caribou County Sun
P.O. Box 815
Soda Springs, ID 83276

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on February 2 and 9, 1984.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

WILLIAM T. GOODMAN
LARRY R. DUFF
ALAN GOODMAN
THOMAS P. BASKIN

LAW OFFICE
Goodman and Duff

CHARTERED
717 7TH STREET
BOX 61
RUPERT, IDAHO 83350

April 27, 1984

AREA CODE 208
TELEPHONE NO.
436-4774

RECEIVED
APR 30 1984

Department of Water Resources

Mr. A. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

11-0495
11-2092

Re: Application Nos. 29763 and 29798
City of Soda Springs, Idaho

Dear Mr. Dunn:

I have been requested by my clients, Evan M. Kackley, M.D. and Lois Kackley, to contact your office to request that the period for filing protests to the above applications be reopened since the filings made did not disclose the apparent diversion by the applicant of all waters of Soda Creek from the diversion dam to the discharge point from the proposed power plant. Further, that this letter be considered as a protest to the applications.

The applications indicate "no changes" in place of diversion or place of use. These applications do not seem to be consistent with the application of the City of Soda Springs to the Federal Energy Regulatory Commission wherein it is claimed that the diversion dam diverts the entire flow of Soda Creek except in periods of when the flow of the creek exceeds the capacity of the power canal. The diversion dam was boarded up by the applicant within the last couple of years.

The power canal referred to is the Feeney Ditch which traverses lands owned by Lois Kackley for about 3/4ths of a mile. The size and capacity of this ditch as it has existed for many years is described and limited by the State Permit No. 5339 issued on August 21, 1909. This information is also contained in the "Comments and Protest" of my clients recently filed with the FERC and a copy of which was directed to your office.

In addition to the foregoing, the applications contain the following statement: "I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right."

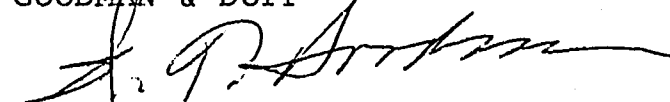
A. Kenneth Dunn, Director
April 27, 1984
Page 2

It is submitted that the de-watering of about 3/4ths of a mile of Soda Creek does in fact cause an injury to the landowner involved and further, the diversion of more water into the power canal than the water rights held by the City constitute an enlargement in the use of the original right. This is further indicated by the FERC application which states the power canal "Feeney Ditch" has a capacity of up to 120 cfs. The historical and actual use of this ditch has not been of that capacity and considerable work would be required to bring the ditch to that capacity in the opinion of my clients.

We would appreciate your consideration of the matter at this point.

Very truly yours,

GOODMAN & DUFF



William T. Goodman

WTG:mb

cc: Dr. & Mrs. Evan M. Kackley

May 22, 1984

RECEIVED

MAY 24 1984

Department of Water Resources
Eastern District Office

William T. Goodman
GOODMAN & DUFF
Box 61
Rupert, ID 83350

Dear Mr. Goodman:

Re: License Nos. 11-2092 (2972) and 11-0495 (2989)

Your letter of April 27, 1984 requested that the protest period be reopened on the City of Soda Springs's applications for transfer.

The city has filed applications to transfer two of its water rights. Transfer application No. 2972 of water right License No. 11-2092 requested a change in the point of diversion and the place of use of 48 cfs of water used for power generation. That transfer application was approved March 24, 1984 and, therefore, your protest cannot be considered. Transfer application No. 2989 of decreed water right No. 11-0495 which requests a change in the place of use of 40 cfs, however, has been protested and, therefore, the final action has not been taken on that application. Your protest is, as you know, after the period set out by statute and cannot be considered, but you may petition to intervene under rule 6 of the Department's Rules of Practice and Procedure. A copy of those rules are enclosed.

If you have any questions, please let me know.

Sincerely,

BOBBY D. FLEENOR
Chief, Regional Offices Bureau

BDF:rf

Enclosure

bcc: Eastern Region w/ copy of Goodman's letter

PHOSPHATE CENTER OF THE WORLD

DAVID H. CLEGG
Mayor

PHILLIP MERCHEN
President

LaRAE RASMUSSEN
Clerk-Treasurer

ROY G. RAINEY
City Administrator

City of Soda Springs

County Seat and Commercial Center of
Caribou County
Founded May 20, 1863
9 West Second South - Phone 547-2151
SODA SPRINGS, IDAHO 83276

June 20, 1984

Councilmen

Phillip Merchen
Carl L. Schenck
Robert K. Torgesen
Edie Tracy

RECEIVED
JUN 21 1984

Department of Water Resources

RECEIVED

JUL 2 1984

Department of Water Resources
Eastern District Office

Mr. A. Kenneth Dunn, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn;

This letter refers to the request by William T. Goodman on behalf of Evan M. Kackley for reopening the period for filing protests on Applications, Numbers 29763 and 29798 by the City of Soda Springs, Idaho.

It is respectfully requested that the unnumbered application for Transfer of Water Right Number 11-0495 dated January 19, 1984, be withdrawn at this time.

We object most strenuously to any action relating to the Transfer of Water Rights No. 11-2092 which was approved by Mr. Glen Saxton on March 23, 1984, without legal protest of any kind. The gross inaccuracies in Mr. Goodman's letter should be noted as follows:

Transfer No. 2972 specifies a change in the point of diversion of Water Right 11-2092 from SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 6, T9S, R42EBM, to NW $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 6, T9S, R42EBM.

The diversion dam has never been "boarded up by the applicant."

HOME OF THE WORLD'S LARGEST MAN-MADE GEYSER

Page -2-

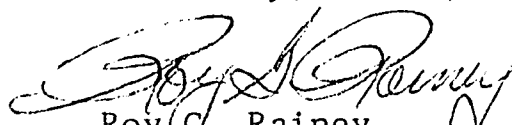
State Permit No. 5339 issued on August 21, 1909, describes but in no way limits the Feeny Ditch.

Kackleys hold no water rights on either Soda Creek or the Feeny Ditch between the approved point diversion and the south boundary of their property and consequently have no standing from which to claim damages or injury.

The City holds rights to 90 cfs on a reservoir and canal immediately upstream from the stated point of diversion which together with the 20cfs flow from Hooper Springs into Soda Creek, insures more than adequate water to prevent "dewatering of about 3/4 of a mile of Soda Creek."

The City of Soda Springs requests your immediate attention to this important matter and your definitive response. We shall take whatever steps may be necessary to defend our actions and our rights in the matter and trust that you will do the same relative to approval of 11-2092.

Sincerely,


Roy G. Rainey
City Administrator

RGR/kg

July 11, 1984

RE: Application for Transfer No. 11-0495

Mr. Roy G. Rainey
City Administrator
City of Soda Springs
Nine West Second South
Soda Springs, ID 83276

Dear Mr. Rainey:

This letter is to acknowledge receipt of your withdrawal of the above referenced application. The Department will take no further action in this matter and has taken the steps necessary to void the application in our files.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

cc: Robert K. Torgesen

July 26, 1984

Clyde Nelson
P.O. Box 797
Soda Springs, ID 83276

Dear Mr. Nelson:

Pursuant to the request of Mr. Ernest Carlsen, of our Eastern Regional Office in Idaho Falls, enclosed is a copy of Mr. Bobby D. Fleenos's letter of May 22, 1984, to William T. Goodman.

If we can be of further assistance, please contact our office.

Sincerely,

KAY WALKER
Technical Records Specialist

KW:k
Enclosure