

Form 202
3/78

MAY 07 1980

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

13 7283
Ident. No.
RECEIVED

MAY 2 1980

APPROVED

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of applicant City of Preston Phone 852-1817
Post office address 70 West Oneida, Preston, ID 83263

2. Source of water supply Bergquist Spring which is a tributary of Cub River

3. Location of point of diversion is NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 10 Township 15S
NW 11

Range 41E B.M. Franklin County, additional points of diversion if any: _____

Area is unsurveyed. Approximate location is 15,800 ft. East 1200 ft. South of the

N.E. corner of Sec 7, T15 South, R 39 East BM.

4. Water will be used for the following purposes:

Amount 13 CFS for Hydro 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. 13 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Spring collection system with headgates

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

Period of year when water will be diverted to storage Jan 1 to Dec. 31 inclusive.
(Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 2 to 5 years (minimum 1 year — maximum 5 years).
Allow 5 years RC 10/14/1981

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 8 Township 15S

Range 40E B.M.

(2) Amount of power to be generated: 1000KW horsepower under 1000 feet of head.

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

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

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

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

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 _____

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

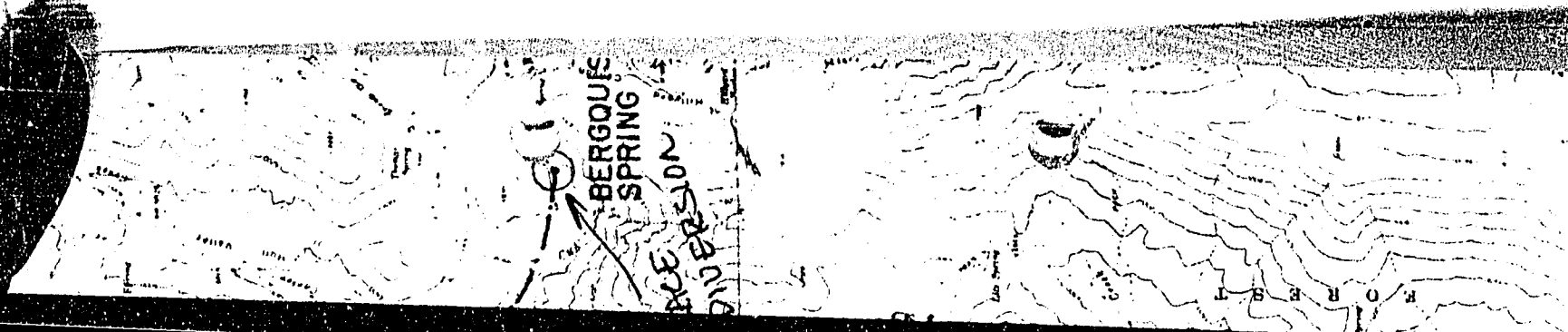
N/A

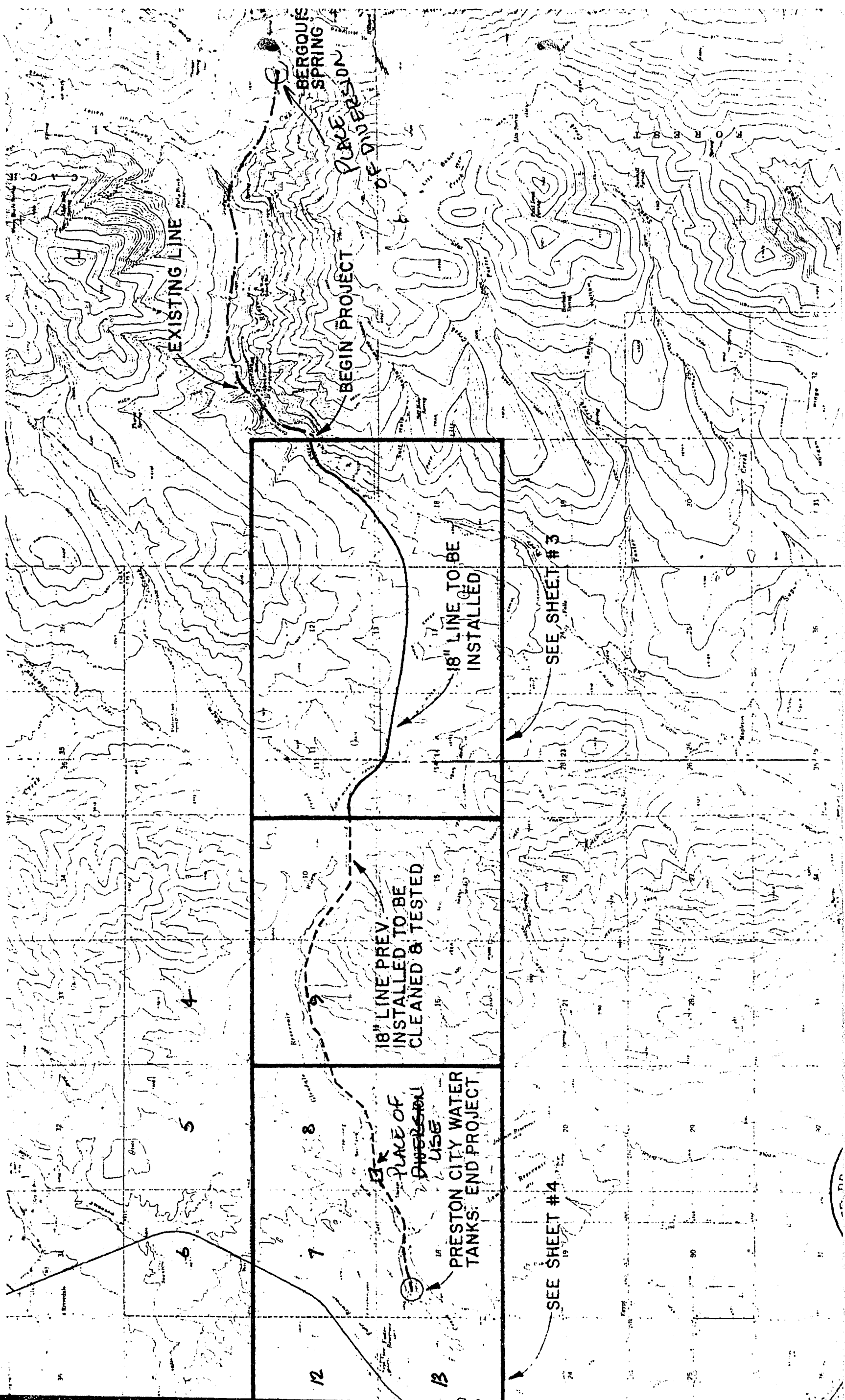
9. a. Who owns the property at the point of diversion U.S. Forest Service

b. Who owns the land to be irrigated or place of use Preston City

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

10. Remarks Hydro electric generator will be located on an existing water supply line belonging to the City of Preston





SEE ATTACHED SHEET

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.

Hayne L. Bell, Mayor
(Applicant)

Proposed Priority 5/13/1980

Received by JY Date 05-02-80 Time 3:00
Preliminary check by EMC Fee \$ 155.00
Receipted by KW Date 5/14/80 # 13996
Publication prepared by kw Date 5/16/80
Published in Preston Citizen
Publication dates 5/22 & 5/29/80
Publication approved _____ Date _____
Protests filed by: Preston Whitney Mre. Co.,
Forest Service
Withdrawal Agreement 9/13/81
Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by EMC RC

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. 13-7283, 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, 19 87.
- 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.

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. 13A, Cub River.

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

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

Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Witness my hand this 7th day of September, 1982.

J. Glen Saxton
Chief, Operations Bureau

No 1124

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin }

J. WALTER ROSS

being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

May 22, 1980, and ending

with the issue of May 29, 1980.

Fee \$ 12.24

Subscribed and sworn to before me this 30th day

of May, 1980.

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1982

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:

13-7283

CITY OF PRESTON
70 WEST ONEIDA, PRESTON, ID 83263

Source: BERGQUIST SPRING tributary to CUB RIVER

Date Filed: 05-13-1980

Amount: 13.00 CFS

Diversion Point: NENE Sec. 10 T 155 R 41E, 41E NWNW Sec. 11 T 155 R 41E,

FRANKLIN, Co.

Use: POWER (13.00 CFS) from 01-01 to 12-31

Place of Use: SWSW Sec. 08 T 155 R 40E

Diversion Means: SPRING COLLECTION SYSTEM WITH HEADGATES.

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, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before JUNE 9, 1980.

C. STEPHEN ALLRED

Director

Legal No. 1124-34L-Pub. May 22 and May 29, 1980.

RECEIVED

JUN 11 1980

Department of Water Resources
Eastern District Office

No 1147

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Walter Ross

being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once

a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

July 3, 1980, and ending

with the issue of July 10, 1980.

Fee \$ N/C

Subscribed and sworn to before me this 31st day of July, 1980.

Kevin O. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 1982

NOTICE OF CORRECTION

Notice is hereby given that Application for Permit No. 13-7283 in the name of the City of Preston was advertised incorrectly on May 22 and 29, 1980. The point of diversion was advertised as being within the NENE, Sec. 10, T. 15S, R. 41E, NWNW, Sec. 11, T. 15S, R. 41E, Franklin County and the place of use was advertised as being within the SWSW, Sec. 08, T. 15S, R. 40E.

WHEREAS, the actual point of diversion is located within the NENE, Sec. 10, T. 15S, R. 41E, NWNW, Sec. 11, T. 15S, R. 41E, Franklin County and the place of use is actually within the SWSW, Sec. 8, T. 15S, R. 40E.

Any protests against the granting of this permit as a result of this correction must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before July 21, 1980.

C. STEPHEN ALLRED
Director

Legal No. 1147 - 24L - Pub. July 3 and 10, 1980.

RECEIVED

AUG 11 1980
Department of Water Resources
Eastern District Office

ok kw
8/11/80

Preston-Whitney Irrigation Co.

PRESTON, IDAHO 83263

June 5, 1980

Director, Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

The Preston-Whitney Irrigation Co. Inc. hereby
protests the granting of the application of the

CITY OF PRESTON
70 West Oneida St. Preston, Idaho

for application # 13-7283

comprising 13CFS from Bergquist Springs for power
purposes.

The company respectfully requests a hearing prior
to granting said permit. There is grave doubt that the
planned power operation would divert water from
the area of need of the irrigation company and
therefore handicap their distribution of water rights.

The Cub River Irrigation Co. joins in this protest.

By order of the Board of Directors in meeting assembled
June 4, 1980.

PRESTON WHITNEY IRRIGATION CO.

By

Angus Condie
Angus Condie, Secretary

Seal

RECEIVED

JUN 6 1980

Department of Water Resources
Eastern District Office

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

324 25th Street
Ogden, Utah 84401

RECEIVED

JUN 9 1980

Department of Water Resources
Eastern District Office

2540

June 6, 1980



Mr. Ernest Carlsen
Sr. Resource Analyst
Idaho Department of Water Resources
Eastern Region
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Mr. Carlsen:

Thank you for your letter of May 22, 1980, concerning the City of Preston's Application for Permit to Appropriate Water from Berquist Spring in Cub River.

We are writing regarding Application for Permit No. 13-7283, filed by the City of Preston. The application is for year-round use of thirteen cfs of water from Berquist Spring for hydroelectric power production. We protest the awarding of this application on the grounds that year-round use of thirteen cfs may be inconsistent with agreement made by the City of Preston and the Forest Service for operation of a water transmission pipeline on the Caribou National Forest.

A special use permit was agreed upon by the Preston Mayor October 28, 1977, and issued by the Caribou National Forest November 1, 1977. This agreement states that maximum flow through the pipeline will be limited in order to satisfy minimum flow requirements for Cub River. It appears that the use of water requested will not meet these requirements. If the City of Preston notifies the Forest Service of intention to change the pipeline diversion, we will evaluate the proposal through an environmental assessment process.

It may be possible for the Forest Service, the City of Preston, and the Idaho Fish and Game to arrive at a mutually acceptable proposal that will meet the needs of Preston, while maintaining minimum flow requirements. We request that you hold in abeyance awarding of this water use application until we have an opportunity to review the special use permit with the applicant and ascertain the appropriate level of flow diversion.

We appreciate your early and considerate notice of the application.

Sincerely,


(for) Deputy Regional Forester
Resources

Form 205
7/81

13-7283
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT FOR WATER RIGHTS TO BE USED
FOR POWER PURPOSES

13-7200
Ident. No. 13-7283

RECEIVED

AUG 7 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 signer of this affidavit.

(check one)
James L. Bell
Applicant

State of Idaho)
County of Franklin) ss.

On this 5th 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.

Nanette Coburn
Notary Public residing at

Lester, Idaho

seal
My commission expires:

lifetime

"I hereby certify that the above account is correct
and just, that the services were actually rendered
as charged, and that we have not received payment
therefor."

Signed Kevin Allen

By Office Manager

13-7283
COUNCILMEN

E. A. CROCKETT, PRESIDENT
NEPHI LARSEN
JAMES HOGGAN
W. S. EVANS
C. L. GREAVES, CLERK
LILLIE E. BENSON,
TREASURER
P. M. CONDIE, ATTORNEY

CITY OF PRESTON

CITY BUILDING

T. R. BOWDEN, MAYOR

PRESTON, IDAHO

April 25, 1938

COMMITTEE

T. R. BOWDEN,
FINANCE, FIRE, POLICE,
LIGHTS AND LIBRARY
E. A. CROCKETT,
SANITATION AND PUBLIC
IMPROVEMENTS
NEPHI LARSEN
WATER AND SEWER
JAMES HOGGAN
STREETS AND PARKS
W. S. EVANS
CLAIMS, LICENSES, TAXES

Young & Bullen,
Attorneys at Law
Thatcher, Building
Logan, Utah

Gentlemen:

Answering your inquiry of April 23, Preston City is now engaged in constructing a new pipe line for its waterworks system, and are changing their point of diversion from the Birch Spring, further up the Cub River.

A request was made of the Commissioner of Reclamation of the State for permission to make this change, and we were granted permission. He did, however, state that it would be necessary for the City to obtain permission from any irrigation companies whose point of diversion might be above the waters of Birch Spring and Ranger Spring.

There are no canal companies taking water above Ranger Spring, and only one above Birch Spring, the Preston-Whitney Irrigation Company. The Cub River Irrigation Company is below both of these springs, and will not be effected by the change.

The City does not contemplate taking more water than they are entitled to and the pipe line is being constructed to the same size as the old system. There is no question but what Birch and Ranger Springs will return more water to Cub River than the City will take from the Bergquist Spring. These two springs flow during the early months of the year three times as much water as the City requires.

In addition to the Birch Spring and Ranger Spring, we have a decreed right on the Cub River for one and one-half second feet of water. We also plan to put in a measuring device to measure the waters of both of these springs to protect other water users on the river during the drouth periods, should the flow fall below three and one-half second feet, which the City is entitled to from this source.

Our pipe line will carry five second feet of water, which previously has been made up from the flow of the springs, and during low periods one and one-half second feet from the river.

Young & Bullen

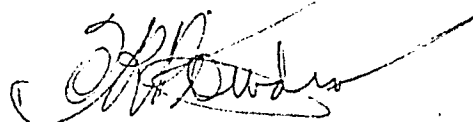
April 25, 1938

Page 2

We do not feel that any interested parties are going to be effected by this change, and should the flow from the abandoned springs fall below five second feet during any year, we are providing the necessary equipment at the new point of diversion to measure the water, and our supply will be cut accordingly.

I trust that this will be a satisfactory explanation to the Canal Company.

Very truly yours,



Mayor

TRB:LP

13-7283-

CITY OF PRESTON

70 WEST ONEIDA, PRESTON, ID 83263

Source: BERGQUIST SPRING tributary to CUB RIVER

Date Filed: 05/13/1980

Amount: 13.00 CFS

Diversion Point: NENE Sec 10 T 15S R 41E NWNW Sec 11 T 15S R 41E,
FRANKLIN Co.

Use: POWER (13.00 CFS) from 01/01 to 12/31

Place of Use: SWSW Sec 08 T 15S R 40E

Diversion Means: SPRING COLLECTION SYSTEM WITH HEADGATES.

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:

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, 1515 Lincoln Road, Idaho Falls, Idaho 83401 on or before JUNE 9, 1980.

C. STEPHEN ALLRED

Director

Published 5/22 & 5/29/80.

May 20, 1980

C

RE: Application for Permit No. 13-7283

O

City of Preston
70 West Oneida
Preston, ID 83263

P

Gentlemen:

Attached herewith is Departmental Receipt No. 13996 in the amount of \$155.00 for the above referenced application.

Sincerely,

Y

KAY WALKER
Secretary

KW:k,
Attachment

May 22, 1980

RE: Application for Permit No. 13-7283 CITY OF PRESTON

Roland Carter, Watermaster
Water District 13-A
Rt. #2, Box 323
Preston, Idaho 83263

Dear Mr. Carter:

We are enclosing a copy of an application that may be of interest to your water district. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 9, 1980, and we are required to take final action shortly thereafter.

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

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:cw:kw

Enclosure

May 22, 1980

RE: Application for Permit No. 13-7283 CITY OF PRESTON

United States of America
Forest Service
324 - 25th Street
Ogden, Utah 84401

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 9, 1980, and we are required to take final action shortly thereafter.

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

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:cw:kw

Enclosure



STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

June 6, 1980

REGION 5
636 PERSHING, SUITE B
POCATELLO, IDAHO 83201

RECEIVED

JUN 9 1980

Department of Water Resources
Eastern District Office

Mr. Ernest Carlson, Senior Resource Analyst
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Application for Permit No. 13-7283 by the City of Preston

Dear Mr. Carlson:

Recently we received notice regarding a proposal by the City of Preston to divert 13 cfs of water from Bergquist Spring, a tributary of the Cub River, in Sections 10 and 11, Township 15 South, Range 41 East, B.M., Franklin County, Idaho. Our comments on this proposal are as follows:

Past studies of the water flow from Bergquist Spring and the Cub River by the U. S. Forest Service and the U. S. Geological Survey indicate that the spring flows an average of 16 cfs throughout the year. The effects of taking 13 cfs from the spring instead of the present four would be that the city would acquire approximately 80% of this total spring flow.

U.S.G.S. records from their gaging station, 0.7 miles upstream from the forest boundary show that the average flow of the river during the six winter months (October through March) ranges from 20 to 28 cfs. Thence, the removal of an additional eight to nine cfs from the spring would reduce the average flow of the river downstream from Bergquist Spring from approximately 30% to 40%.

This reduction in flow could seriously impact the fish populations in the area downstream from Bergquist Spring and especially in that area from Bergquist Springs to Carter Creek. Specifically, these low flows would probably result in icing conditions in the river section from Bergquist Spring to Carter Creek so that over-winter survival would be seriously reduced. Indications are that in low flow years during the winter months this area may even dry up.

The Cub River is a Class I or Blue Ribbon Stream as determined by our department. This is a stream having significant trout populations so that it has multi-state value. A considerable amount of recreation occurs on this stream and any reduction in flows such as proposed would directly affect its fish populations and recreational usage. Rainbow, cutthroat and eastern brook trout are all present in this stream section and would probably suffer as a result of this flow decrease. Fish mortality for a given year would be determined by the low flows which occurred during that time.

EQUAL OPPORTUNITY EMPLOYER

Application for Permit No. 13-7283 by the City of Preston
June 6, 1980
Page 2

Obviously, the City of Preston needs culinary water and we feel they should have a permit for that amount needed; however, the use of additional water from Bergquist Spring and its affect on the fish populations in Cub River concerns us. Before this permit is granted to allow the use of 13 cfs from this spring, we recommend that additional studies be down on the effects so that the fish population in Cub River is not harmed and the City of Preston has the amount of water which they need.

Sincerely,

IDAHO DEPARTMENT OF FISH AND GAME
Jerry M. Conley, Director

Bill Davidson

Bill Davidson, Supervisor
Region 5

RECEIVED

JUN 11 1980

324 25th Street
Ogden, Utah 84401

13-7283

Bob

Department of Water Resources

2540

June 6, 1980

Mr. Ernest Carlsen
Sr. Resource Analyst
Idaho Department of Water Resources
Eastern Region
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Mr. Carlsen:

Thank you for your letter of May 22, 1980, concerning the City of Preston's Application for Permit to Appropriate Water from Berquist Spring in Cub River.

We are writing regarding Application for Permit No. 13-7283, filed by the City of Preston. The application is for year-round use of thirteen cfs of water from Berquist Spring for hydroelectric power production. We protest the awarding of this application on the grounds that year-round use of thirteen cfs may be inconsistent with agreement made by the City of Preston and the Forest Service for operation of a water transmission pipeline on the Caribou National Forest.

A special use permit was agreed upon by the Preston Mayor October 23, 1977, and issued by the Caribou National Forest November 1, 1977. This agreement states that maximum flow through the pipeline will be limited in order to satisfy minimum flow requirements for Cub River. It appears that the use of water requested will not meet these requirements. If the City of Preston notifies the Forest Service of intention to change the pipeline diversion, we will evaluate the proposal through an environmental assessment process.

It may be possible for the Forest Service, the City of Preston, and the Idaho Fish and Game to arrive at a mutually acceptable proposal that will meet the needs of Preston, while maintaining minimum flow requirements. We request that you hold in abeyance awarding of this water use application until we have an opportunity to review the special use permit with the applicant and ascertain the appropriate level of flow diversion.

We appreciate your early and considerate notice of the application.

Sincerely,

Adrian E. Dalton

(for) Deputy Regional Forester
Resources

cc:

L

WL

Caribou N.F. (2)

Idaho Department of Water Resources (Allred)

Idaho Fish and Game Department -

Pocatello (Davidson)

June 24, 1980

RE: Application for Permit No. 13-7283 CITY OF PRESTON

U. S. Forest Service
324 - 25th Street
Ogden, Utah 84401

Gentlemen:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: TRM State Office

June 24, 1980

RE: Application for Permit No. 13-7283 CITY OF PRESTON

Angus Condie, Secretary
Preston Whitney Irrigation Company
Preston, Idaho 83263

Gentlemen:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

cc: IDWR - State Office

June 24, 1980

City of Preston
70 West Oneida
Preston, Idaho 83263

Gentlemen:

Enclosed is a copy of the protests filed against the issuance of a permit pursuant to your Application No. 13-7283. The Department suggests you contact the protestants directly in an effort to determine the nature of the protests and to attempt to resolve the protests.

If you do not advise us within twenty (20) days that the protests have been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

We have also enclosed a copy of the letter from Fish and Game supplying comments on your application but not officially protesting it.

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Region Supervisor

RDC:cw:kw

NOTICE OF CORRECTION

Notice is hereby given that Application for Permit No. 13-7283 in the name of the City of Preston was advertised incorrectly on May 22 and 29, 1980. The point of diversion was advertised as being within the NENE, Sec. 10, T. 15S, R. 41E, NWNW, Sec. 11, T. 15S, R. 41E, Franklin County and the place of use was advertised as being within the SWSW, Sec. 08, T. 15S, R. 40E.

WHEREAS, the actual point of diversion is located within the NENE, Sec. 10, T. 15S, R. 41E, NWNW, Sec. 11, T. 15S, R. 41E, Franklin County and the place of use is actually within the SWSW, Sec. 8, T. 15S, R. 40E.

Any protests against the granting of this permit as a result of this correction must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401 on or before July 21, 1980.

C. STEPHEN ALLRED

Director

Published in the Preston Citizen 7/3 & 7/10/80.

*Called
7-01-80
(w)*

June 26, 1980

RE: Notice of Correction No. 13-7283 CITY OF PRESTON

Preston Citizen
Box 472
Preston, Idaho 83263

Gentlemen:

We are resubmitting a legal notice to be published on July 3 and 10, 1980. This notice was originally published in your paper on May 22 and 29, 1980. Unfortunately, it was advertised incorrectly. As we did not receive a galley proof, we had no way of checking the accuracy of this notice before it went to print. We, therefore, request this be readvertised again at your expense.

Please submit a galley proof before the first dates we have requested, assuming the notice is correct. If we have any corrections, we will notify you before the first date of publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to this office by July 21, 1980. Your cooperation in this matter is greatly appreciated.

Very truly yours,

KAY WALKER
Secretary

Enclosure

EW:kw

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Caribou National Forest
Suite 294, Federal Building
Pocatello, Idaho 83201

2540

July 8, 1980



Ronald D. Carlson
Eastern Region Supervisor
Idaho Department of Water Resources
1515 Lincoln Road
Idaho Falls, ID 83401

Dear Mr. Carlson:

On Monday, July 7, 1980, representatives of the Caribou National Forest met with Mayor Wayne Bell and representatives of the Preston City Council regarding a protest filed by the Forest Service against approval of the Application for Permit No. 13-7283, City of Preston. We have agreed to a course of action that we believe will resolve the protest.

The Caribou National Forest will conduct those field measurements necessary to quantify the volume of streamflow needed to satisfy minimum flow requirements for Cub River. The Forest and the City of Preston will then amend the Special Use Permit agreed upon by both parties for transmission of water from Bargquist Springs so as to specify that minimum flow volume will be protected.

The Caribou National Forest will work in this effort with representatives of the Idaho Fish and Game Department and with Mr. Kenneth Spiers, Project Engineer for Forsgren-Perkins Engineering (the pipeline contractor for the City of Preston). We feel that all parties can arrive at a mutually acceptable proposal that will meet the needs of Preston while maintaining minimum flow requirements for Cub River.

We suggest that a conference or hearing as suggested by you in your June 24 letter, will not be necessary for resolution of this conflict. However, it will take longer than the 20-day time period you mentioned for completion of the necessary field measurements. We will proceed with fieldwork as rapidly as prior commitments allow.

Sincerely,

Charles J. Hendricks
for CHARLES J. HENDRICKS
Forest Supervisor

RECEIVED

JUL 9 1980

Department of Water Resources
Eastern District Office

CONVERSATION MEMORANDUM

DATE 7/10/80

FILE 13-7283

NAME OF PARTY Marvin Bodily

EMPLOYEE Ernest Carlsen *gnc*

RE: Pursuant to a memo from Mr. Bob Fleenor dated July 7, 1980, I contacted
Mr. Marvin Bodily, Secretary for Cub River Irrigation Company. I informed
Mr. Bodily that Cub River Irrigation Company would have to send written
notice of their intent to protest in order for the Department to consider
them as protestants against Application for Permit No. 13-7283. I further
advised him that any protest by Cub Irrigation would be accepted by the
Department although timeliness of the protest may be a factor considered at
the conference and/or hearing.

150 Shoup Ave. -----

525-7161

February 2, 1981

RE: Application for Permit No. 13-7283 - CITY OF PRESTON

Clyde Nelson
Attorney at Law
150 South Main
Soda Springs, ID 83276

Dear Mr. Nelson:

As per the request of Mr. Ron Carlson, enclosed please find a copy of the above referenced application for permit along with copies of the protests against the approval of this application.

If we can be of further assistance, please feel free to contact this office.

Sincerely,

KAY WALKER
Secretary

KW:k
Enclosures

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-7283 IN THE NAME)
OF CITY OF PRESTON)

NOTICE OF HEARING
&/OR CONFERENCE

On May 13, 1980, the City of Preston filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On June 6, 1980, the Department received a protest against approval of said application from Angus Condie, Secretary of Preston Whitney Irrigation Company. On June 9, 1980, an additional protest was received from the U. S. Forest Service.

The Department has set the matter of protest for hearing for Wednesday, June 10, 1981, at 11:00 a.m. in the Jury Room of the Franklin County Courthouse, Preston, Idaho. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. A pre-hearing conference may be held beginning at the above set time and prior to the hearing.

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

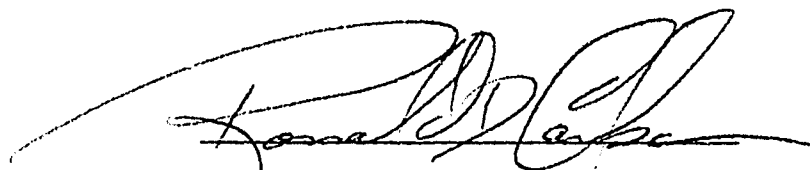
Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 28th day of May, 1981.


Hearing Officer

NAME AND ADDRESS OF SENDER		DEPARTMENT OF WATER RESOURCES EASTERN DISTRICT OFFICE 150 SHOUF AVE. IDAHO FALLS, IDAHO 83401		Indicate type of mail ☐ Registered ☐ Insured ☐ C.O.D. ☐ Certified		Certify that we have ☐ Commercial Insurance ☐ A deductible clause of \$		Affix stamp here if issued as certificate of mailing or for additional copies of this bill. POSTMARK AND DATE OF RECEIPT	
1	2	3	4	5	6	7	8	9	10
NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (if Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S.H. FEE
1	1717100 Oreida School District #351 Malad, Id.	18	75			60			
2	17177 Reed M. Smith, Malad, Id.	18							
3	17178 U.S. Forest Service Cody, Utah Route #1 Malad, Id.	18							
4	17179 Garth Thomas Route #1 Malad, Id.	18							
5	17180 David Deslamps Route #1 Malad, Id.								
6	17181 Edward L. Salt 44 Main Street Malad, Id.								
7	17182 Malad Valley Association 4040 N. Highway Malad, Id.								
8	17183 Gerry Conley P.O. Box 25 Boise, Id.								
9	17184 Bill Davidson 636 Pershing Boise, Id.								
10	17185 Michael R. Smith for Reed Smith P.O. Box 183 Malad, Id.								
11	17186 Kent Smith Holbrook Route Malad, Id.								
12	17187 Steve Reed Stone, Id.								
13	17188 Gerald Bennett Route #4 McCannan, Idaho								
14	17189 Dick Gibson Gibson Ranch McCaman Idaho								
15	17190 Don Gilchrist P.O. Box 257 Gracet, Idaho								
TOTAL NUMBER OF PIECES LISTED BY SENDER 15		TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE 15		POSTMASTER, PER (Name of receiving employee) C.R.		The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to \$1,000 or the full amount of the deductible if the deductible exceeds \$1,000. The maximum indemnity payable is \$25,000 for registered mail, \$400 for C.O.D. and \$400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.			

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO.13-7283 IN THE NAME OF)
City of Preston)

STIPULATION & AGREEMENT

BY THIS STIPULATION, the undersigned parties to the
above-captioned case waive compliance with the requirements
of Idaho Code, Section 67-5211, including the right to a proposed
decision, to file exceptions to a proposed decision and to present
briefs and oral arguments to the Director of the Department of
Water Resources and agree that the Director may render a final
decision in this case without first submitting a proposed decision.

Dated this _____ day _____, 19____.

13-7283 - City of Preston
JURY ROOM, FRANKLIN COUNTY COURTHOUSE, PRESTON, IDAHO

Wednesday, June 10, 1981 (11:00 a.m.)

ROSTER OF ATTENDANCE

Hearing Officer _____

Name

Address

Representing

CLYDE G. NELSON
DON L. HARDING

NELSON & HARDING
ATTORNEYS AND COUNSELORS AT LAW
172 SOUTH MAIN STREET
SODA SPRINGS, IDAHO 83276

TELEPHONE (208) 547-2135
POST OFFICE BOX 797

June 5, 1981

Mr. Ernie Carlson
Department of Water Resources
150 Shoupe Ave.
Idaho Falls, ID. 83401

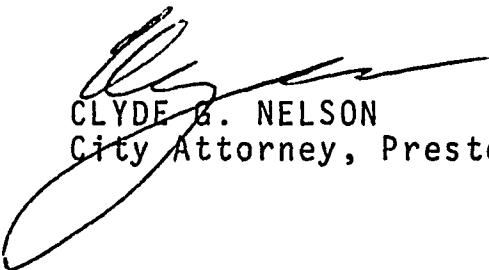
Re: Notice of Hearing - Application for Permit No. 13-7283

Dear Ernie:

Pursuant to our telephone conversation of June 4, 1981, this letter is to verify the fact that counsel for the City of Preston, Idaho, the applicant, and counsel for Preston-Whitney Irrigation Company and Cub River Irrigation Company, have agreed that the hearing presently scheduled for June 10, 1981, be continued until the latter part of June or early July. We are going to attempt to negotiate a settlement in this matter, although I am somewhat pessimistic about achieving successful results after our conferences with representatives of the irrigation companies.

I will assume that this matter is continued unless I hear from you by June 8, 1981.

Sincerely,


CLYDE G. NELSON
City Attorney, Preston, Idaho

CGN:js

cc: J. D. Williams
Arlene Nash

RECEIVED

JUN 10 1981

Department of Water Resources
Eastern District Office

CONVERSATION MEMORANDUM

DATE June 9, 1981

FILE 13-7283

NAME OF PARTY _____

EMPLOYEE Ernest Carlsen *ENC*

RE: Cancellation of hearing: Clyde Nelson, attorney for the applicant

informed me that both he and counsel for one of the protestants wished to have
the scheduled hearing continued in hopes of reaching a settlement. Because the
hearing was scheduled to take place in just a couple of days, I informed all the
parties involved of the continuance by telephone.

In addition, I also advised Mr. Nelson that it may be some time before
we would be able to reschedule the hearing and that his client should be
willing to accept a rather extensive delay.

INTER-DEPARTMENT MEMO — 1

FROM

NCY

DATE

6/12/21

TO

13-7283

SUBJECT

CONF. scheduled for 6/10/21

CONF. was cancelled because
parties believed an agreement could
be reached.

SIGNATURE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Copy

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

13-7283

July 24, 1981

RE: Application for Permit No.

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.

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure

September 2, 1981

Franklin County Courthouse
Preston,
Idaho 83263

Gentlemen:

This is to confirm the use of the basement Meeting Room for conference and/or hearing to be held by this office on Tuesday, September 15, 1981 beginning at 9:00 a.m. throughout the day, and on Wednesday, September 16 beginning at 9:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

NAME AND ADDRESS OF SENDER		NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS		POSTAGE	FEE	Handling Charge	Actual Value (if Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S. H. FEE	REST. DEL. FEE	REMARKS
1	17266	18 New Smith, David, Sr.		18	75							11-7222
2	17267	Richard J. Johnson, David, Sr.										"
3	17268	James J. Parker, 2256 S. 1st										"
4	17269	John J. Johnson, 1111 S. 1st, Box 101, Laramie										7-29-229
5	17270	Mike Tucker, 2142 20th, Laramie										"
6	17271	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
7	17272	John J. Johnson, 1111 S. 1st, Box 101, Laramie										13-225
8	17273	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
9	17274	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
10	17275	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
11	17276	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
12	17277	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
13	17278	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
14	17279	John J. Johnson, 1111 S. 1st, Box 101, Laramie										"
15	17280	John J. Johnson, 1111 S. 1st, Box 101, Laramie										13-225

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN ★ U.S. GOVERNMENT PRINTING OFFICE: 1979-301-994

NAME AND ADDRESS OF SENDER		NAME OF ADDRESSEE, STREET, AN	
1 NO	NUMBER OF ARTICLE		
1	17251	Hans Engel, Lake	
2	17252	William D. Anderson	
3	17253	Helen Jones, 17400	
4	17254	John Johnson, 1407	
5	17255	John Johnson, 7001	
6	17256	John Johnson, 7001	
7	17257	John Johnson, 7001	
8	17258	John Johnson, 7001	
9	17259	John Johnson, 7001	
10	17260	John Johnson, 7001	
11	17261	John Johnson, 7001	
12	17262	John Johnson, 7001	
13	17263	John Johnson, 7001	
14	17264	John Johnson, 7001	
15	17265	John Johnson, 7001	

TOTAL NUMBER OF
PIECES LISTED BY
SENDER

15

TOTAL NUMBER OF
PIECES RECEIVED
AT POST OFFICE

15

POSTMASTER

05

2. ARTICLE ADDRESSED TO: <i>Office, Alcala</i> <i>1515 - 324-25-26</i> <i>Alcala, N.Y.</i>		3. ARTICLE DESCRIPTION: REGISTERED NO. <i>17258</i>		CERTIFIED NO. _____ INSURED NO. _____	
(Always obtain signature of addressee or agent)					
I have received the article described above. SIGNATURE ☐ Addressee ☐ Authorized agent <i>[Signature]</i>		DATE OF DELIVERY <i>SEP 2 1961</i>			
1. The following service is requested (check one): ☒ Show to whom and date delivered..... ☐ Show to whom, date and address of delivery..... ☐ RESTRICTED DELIVERY Show to whom and date delivered..... ☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery, 5—		POSTMARK <i>SEP 2 1961</i>			
5. ADDRESS (omit initials if requested) Federal Service Building 324 - 25th Street Ogden, Utah 84401					
6. CLERK'S INITIALS <i>[Initials]</i>		7. CAUSE: <i>[Blank]</i>			

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 13-7283 IN THE NAME)
OF CITY OF PRESTON)

NOTICE OF HEARING
AND/OR CONFERENCE

On May 13, 1980, the City of Preston filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On June 6, 1980, the Department received a protest against approval of said application from Angus Condie, Secretary of Preston-Whitney Irrigation Company. On June 9, 1980 the Department received an additional protest from the U. S. Forest Service.

The Department has set the matter of protest for hearing for Tuesday, September 15, 1981, at 3:00 p.m. in the basement Meeting Room, Franklin County Courthouse, Preston, Idaho. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. A pre-hearing conference may be held beginning at the above set time and prior to the hearing.

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

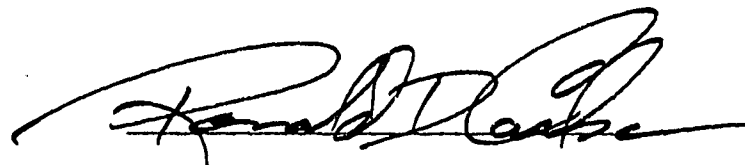
Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Failure to appear at the time and place set for hearing by the applicant or protestant(s) may allow the Department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 31st day of August, 1981.


Regional Supervisor

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 13-7283 IN THE NAME
OF CITY OF PRESTON

STIPULATION

BY THIS STIPULATION, the undersigned parties to the above-captioned case waive compliance with the requirements of Idaho Code, Section 67-5211, including the right to a proposed decision, to file exceptions to a proposed decision and to present briefs and oral arguments to the Director of the Department of Water Resources and agree that the Director may render a final decision in this case without first submitting a proposed decision.

Dated this _____ day _____, 19____.

(Notary Subscription)

13-7283 - City of Preston

Meeting Room, Franklin County Courthouse, Preston, Idaho

Tuesday, September 15, 1981 - 3:00 p.m.

ROSTER OF ATTENDANCE

Hearing Officer _____

Name	Address	Representing
Frank G. Beith	Pocatello	US Forest Service
Tom Robison	"	"
Paul J. Baird	Ogden, Utah	U.S. Forest Service
Tom Tull	Preston	Director Pw!C
JACK CORBETT	PRESTON	PRESTON
Ralph Poyter	Preston	Preston Whitney
Don Elrod	Preston	city Council
Robert Merrill	Preston	Idaho Journal
WAYNE BELL	PRESTON	Newspaper
Anne Ora Nielson	Preston	MAYOR Council (city)
Maurice Nielson	Preston	Preston, Whitney Dir.
Roger White	Leicester, Utah	President Salt River Div.
Mervin J. Bodily	Leicester, Utah	Secy High Club River Description Co
Blaine Harrell	Preston	Pres Preston Whitney Dir
Bozue Jensen	Preston	Preston Whitney Irrigation
Angus Condie	"	Secy " " "
Kimberly Christensen	Preston	Preston City Council
Leon Edwards	Preston	Preston Whitney Irrigation
KEN SPIERS		PRESTON CITY ENG.
Clyde Nelson	Soda Springs	Attorney - Preston City
JR. Sullivan	Preston	- Attorney for Preston - Whitney.

September 25, 1981

RE: Application for Permit No. 13-7283 CITY OF PRESTON

Angus Condie, Secretary
Preston-Whitney Irrigation Company
Preston, Idaho 83263

Dear Mr. Condie:

This is to acknowledge receipt of your withdrawal of protest against approval of the above referenced application. The Department has resumed processing of this application.

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

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure: Copy of Agreement

September 25, 1981

RE: Application for Permit No. 13-7283 CITY OF PRESTON

Adrian E. Dalton
Deputy Regional Forester
U. S. Forest Service
324 25th Street
Ogden, Utah 84401

Dear Mr. Dalton:

This is to acknowledge receipt of your withdrawal of protest against approval of the above referenced application. The Department has resumed processing of this application.

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

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure: Copy of Agreement



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup
Idaho Falls, Idaho 83401
(208) 525-7161

September 25, 1981

RE: Application for Permit No. 13-7283

City of Preston
70 West Oneida
Preston, Idaho 83263

Gentlemen:

This letter is to advise you that the U. S. Forest Service and the Preston-Whitney Irrigation Company have withdrawn their protests against the above referenced application. The Department has resumed the processing of your application.

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

Respectfully submitted,

ERNEST M. CARLSEN
Assistant Regional Supervisor

EMC:cw

Enclosure: Copy of Agreement

IN THE MATTER OF)
APPLICATION FOR) STIPULATION
PERMIT 13-7283)
IN THE NAME OF)
THE CITY OF PRESTON) AGREEMENT

With the understanding that the approval of this application will be subject to all existing water rights, that ^{an} adequate measuring device will be installed as part of the diverting works and will be under or subject to the ^{jurisdiction} ~~control~~ of the water master, we agree to withdraw our protest to the Dept. S ~~of~~ taking final action on this permit application. It is further understood that other items of contention will be covered by such additional agreements as may be deemed necessary.

Signed at Preston, Idaho this
13th day of Sept.

Wayne L. Beely
Mayor, City of Preston

Regan Wheeler
City of Preston

Blaine Lomble

Frank J. Beith
US Forest Service
Caribou N.F. 9/15/81

SEP 23 1981

Department of Water Resources
Eastern District Office

POWER CALCULATIONS FOR APPLICATION NO. 13-7283

P = Kilowatts .74 X hp

Q = cfs

H = feet

e = efficiency

proposed

1000 kw

13 cfs

1000 ft

?

$$e = \frac{P(11.8)}{QH} = \frac{1000(11.8)}{13 \times 1000} = \frac{11800}{13000} = .91 \text{ or } 91\%$$

Based on the above calculations the proposed project must have an 91 % efficiency.

RC
10/14/81

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: Ernest
CHECK:

APPLICATION NUMBER: 13 7283
13-7283

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee. \$155.00
☒ 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: _____
Date: _____
Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

5/8/80 - Telecon w/ Mr. Bell, mayor. They will be sending filing fee
hold advertising Application until it is returned (encl.)

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
☐ Idaho Fish and Game Department. _____
☐ Idaho Department of Lands. _____
☐ U.S. Bureau of Land Management. _____
☒ U.S. Forest Service. KW 5/27
☒ Other WD 13A KW 5/27

PROCESSING:

- ☒ Yes ☐ No Platted by: LC Map No. DD-44-DD-45
☐ Yes ☐ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising. June 9 ✓
Final date for protests: _____
☒ Yes ☐ No Protests received. If yes, record information on 4th page of application. 13-2288
13-2408

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 8-11-80
☒ 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. Code 01E
☒ Yes ☒ No Access port required.
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what district? 13A
5-13-80 Date of priority recommended.
Special conditions of approval or cover letter. _____

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

Department of Water Resources

By: Ernest Carlson Date: Sept. 23, 1981

STATE OFFICE REVIEW:

Con item 7
3LW/LOB L12 RM 01E, 04, 05 (13A Sub-River), 08A, 17 & 26
☐ See attached sheet for more information.

By: Relian Date: 10/14/81 signed

FERC WAIVER REC'D
OK TO APPROVE June 8-23-82



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

October 16, 1981

RE: Application for Permit No. 13-7283

City of Preston
70 West Oneida
Preston, ID 83263

Gentlemen:

We have completed a preliminary review of the above referenced application. This review has included advertising by the regional office and a verification that all required preliminary information has been provided.

For power projects that are under the jurisdiction of the Federal Energy Regulatory Commission (FERC), we withhold final action on the application pending FERC approval of (1) a preliminary permit, or (2) an exemption. If you have not yet contacted FERC, the address below is a good starting point:

Federal Energy Regulatory Commission
Regional Engineer's Office
Attn: Mr. Jerry Leach
6th Floor, 333 Market Street
San Francisco, CA 94105
(Tel. No. (415) 764-7150)

The continued validity of this application is contingent on your proceeding with due diligence toward obtaining an approval or an exemption from FERC. Please keep this office informed of progress in this regard.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw

Attachment
E-1 Form

§ 4.94 Standard terms and conditions of exemption.

Any exemption granted under § 4.93 for a small conduit hydroelectric facility 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 facility. 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 facility 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.

19 PERC 162,314

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of Preston, Idaho) Project No. 5892-000

ORDER GRANTING EXEMPTION FROM LICENSING FOR
A CONDUIT HYDROELECTRIC PROJECT

(Issued May 24, 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 J (1980) implementing Section 30 of the Federal Power Act (Act) for a project as described in the attached public notice. 2/

Notice of the application was published 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 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.

1/ City of Preston, Idaho, Project No. 5892, filed on January 15, 1982.

2/ 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 45 Fed. Reg. 21216 (1980), as amended by Order No. 112 in Docket No. RM81-5, issued November 21, 1980, (45 Fed. Reg. 79024).

DC-A-2

- 2 -

Department of Water Resources
Eastern District Office

AUG 17 1982

RECEIVED

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) Preston Hydropower Project No. 5892 as described and designated in the City of Preston's application filed on January 15, 1982, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.94 of the Commission's regulations attached hereto as Form E-1, 18 C.F.R. §4.94 (1981).

(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) (1981). 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, except as specifically ordered by the Commission.

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

RICHARD A. BROWMAN
MAYOR

RECEIVED

AUG 18 1982

OFFICE OF THE MAYOR

CITY OF PRESTON
PRESTON, IDAHO 83263

August 16, 1982

RECEIVED

AUG 17 1982

Department of Water Resources
Eastern District Office

Mr. Ron Carlson
Department of Water Resources
State of Idaho
150 Shoup Avenue
Idaho Falls, Idaho 83401

REF: Application #13-7283

Dear Ron,

Pursuant our meeting last Thursday afternoon, August 12, 1982 please find attached the FERC Order granting exemption from licensing of the Preston Hydropower Project.

I trust this is the information you have been waiting for. We would appreciate notification at your earliest convenience of the approval of the application permit on the water.

I apologize for our delay in getting this to you. However, as I mentioned to you last week, I was of the opinion and had been previously informed this matter had already been taken care of.

If you should require additional information please let me know.

Sincerely,

Richard A. Browman

cc: City Council
Attorney
Clerk

Permit 13-7248

6200 AF Irr from Storage
6200 AF storage for Irr

License 13-7055

.02 Domestic

License 13-2104

25.0 Irrigation & Domestic

License 13-2022

30.0 cfs Irrigation & Domestic

License 13-2102

10.0 cfs Irrigation & Domestic

License 13-2103

25.0 cfs Irrigation & Domestic

License 13-2054

1.0 cfs Domestic

Recommend # L14

RC 8/30
82

Overlap Review for 13-7283

No other rights at P/D

Rights at P/D

License 13-2108 215.0 cfs Cul-River, Work Creek,
Word Creek Res.

Irrigation & Domestic

License 13-2288 → same as 13-2108

Rights along 18" line as shown in App Map

License 13-0018
T1702 & 2378

Irrigation
.10 cfs

License 13-0019
T1863

Irrigation
.20 cfs



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

September 22, 1982

RE: Permit No. 13-7283

City of Preston
70 W. Oneida
Preston, ID 83263

Gentlemen:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the fourth page.

Be sure to note the special condition requiring you to install a measuring device, or an access port to provide for the installation of measuring equipment by the Department. Enclosed please find a list of measuring device options, and specifications for the installation of the access port.

The 1982 Idaho Legislature added a requirement that the excavation or construction of diverting works must be started within one year of the date the permit was issued. The project must then be diligently constructed until completed. To maintain the permit in a valid status you must complete and return the enclosed postcard when construction is commenced, no later than one year from the date of the approval of the permit.

Please be advised that prior applications for permit have been filed to appropriate water from your source which may impact the availability of water to be used under this permit. Therefore, you should be sure to analyze the impact of these rights before making a major investment for your water use 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.

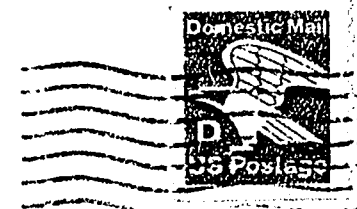
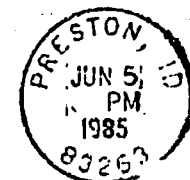
Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:kw
Enclosures

CITY OF PRESTON

PRESTON, IDAHO 83263



Department of Water Resources
Statehouse
Boise, Idaho 83720

CITY OF PRESTON

70 West Oneida
Preston, Idaho 83263

June 4, 1985

RECEIVED

JUN 7 1985

Department of Water Resources

Preston City
852-1817
Gene R. Larson, Public Works Administrator
70 West Oneida
Preston, Idaho 83263

Preston City is a small city, population 3750, located in south eastern Idaho. We have a Mayor and City Council type of government. We have very little industry in our City. We depend mostly on the areas farming for our economy.

Several years ago we had a need for a new water line from our spring. As it was built the idea was conceived to build a hydro plant on this line, before the water entered our storage tanks some 15 miles from its source. Due to the amount of fall we could get plenty of pressure to run a turbine. We employed the firm of Forsgren and Perkins Engineers to draw plans. It was determined that we could build a building, install a turbine and generator, complete with all necessary equipment to put it on line for just over one half million dollars. The city had been reserving money as contingency funds for this purpose. We were able to build this project without monetary assistance from Federal or State grants.

We contracted with General Electric to furnish and install all equipment. The turbine was made in England, very simple construction. We were told they have some similar turbines in operation that have been running over one hundred years, with minimal maintenance. One reason we went to this type of turbine was because of the low maintenance factor. The plant requires very little service. It is checked twice a day, seven days a week. If anything should malfunction, we have automatic controls which shut-off the turbine and the water bypasses it. This prevents any major damage to the hydro plant, as well as to our culinary water supply. It takes about 280 lbs. of water pressure to run the turbine at full capacity. This produces about 350 kilowatts of power per hour. The City earns about \$100,000.00 net profit per year. This is a

great benefit to our budget and makes pay back over a period of five years.

The hydro plant was put in operation in December of 1982. Preston City is the first city or organization to complete a project such as this in the State of Idaho. Many other cities and irrigation companies have inquired about our hydro plant. We believe we will see others doing the same or similar projects through out the State. All power we produce is sold to Utah Power and Light Co.. We do not utilize personally any of the power for our own operation.

We feel this is a very worth while project. We are harnessing energy and putting it to beneficial use, that would other wise go to waste.

Respectfully submitted
by: Preston City

Gene R. Larson



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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

June 12, 1985

City of Preston
Attn: Gene R. Larson, Public
Works Administrator
70 West Oneida
Preston, ID 83263

Re: Permit No. 13-7283

Dear Mr. Larson:

Thank you for your letter dated June 4, 1985, in which you described that the hydropower plant proposed in the above-referenced permit is now operational. Although the permit allows until September 1, 1987 for the completion of the diversion system and application of water to beneficial use, there is no reason that completion of the system cannot occur prior to that date. If the system is currently operating as originally proposed, and no additional water flows are proposed to be used in the near future, then you may want to file proof of beneficial use on behalf of the city. For this purpose, we have enclosed a proof of beneficial use form and instructions.

After the proof of beneficial use form is filed, this Department will send an examiner to inspect the system, and a water right license will subsequently be issued based on the extent of beneficial use found. If you have questions about the remaining procedure, please feel free to contact this office.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT/lis

Enclosures

138674
CERTIFIED MAIL
June 30, 1987

CITY OF PRESTON
70 W. ONEIDA
PRESTON, ID 83263

PROOF DUE NOTICE

RE: Permit No. 13-7283

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before September 1, 1987. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this Department on or before the above described proof due date, or the permit will no longer be of any force nor effect.

Sincerely,

RITA FLECK
Secretary/Records Manager

Enclosures

POST OFFICE TO ADDRESSEE

EXPRESS MAIL
NEXT DAY SERVICE



B 90590592

ORIGIN		Date In: 8-27	Postage \$ 1.07
Post Office ZIP Code: 83260	Time In: 4:45 PM	Return Receipt Fee \$	
Initials of Receiving Clerk: [Signature]	Weight: 1 lbs.		
☒ Accepted for next day delivery. ☐ Accepted for this destination after deposit deadline for next day delivery therefore, for delivery by second day. (Consult your local Express Mail Next Day Service directory for deposit deadlines for different destinations.)		Total Postage & Fees \$ 1.07	
☐ International On Demand			

Account Number (If any) (Using an authorized number indicates postage and fees paid.)
 Express Mail Corporate Account No.:
 Federal Agency Control No.:

FROM:
 City of Preston
 70 West Oneida
 Preston, Idaho 83263

DESTINATION	
Date of Delivery: 8-28-87	Time of Delivery: 11:22 A.M.
Initials of Delivery Employee: [Signature]	
☒ Signature of Addressee or Agent: [Signature] DELIVERY WAS ATTEMPTED	
Date:	Time: A.M. P.M.
Notice Left By:	

ADDRESSEE'S COPY

TO: Telephone Number: _____
 Department of Water Resources, State of Idaho
 State House
 Boise Idaho 83720

September 2, 1987

City of Preston
70 W. Oneida
Preston, ID 83263

Gentlemen:

Re: Permit No. 13-7283

Returned is the proof of beneficial use form and your check No. 4268 in the amount of \$425.00 submitted to this office on August 28, 1987.

Note that for the diversion rate of 13 cfs, the filing fee is \$400.00. Please return the filing fee as soon as possible to keep the permit in good standing.

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

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

PRESTON, IDAHO 83263

[illegible]

Form 217
03/86

RECEIVED

AUG 28 1987

Department of Water Resources

RECEIVED

SEP 10 1987

Department of Water Resources
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received \$400.00
Date 9-10-87
Receipt # 44574
Receipt by [Signature]
Reviewed by [Signature]
Sent to region

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

Permit No. 13-7283

Name(s) of Permit Holder: City of Preston, Idaho

Post Office Address: 70 W. Oneida

Preston, ID. 83263

Telephone No. 1-852-1817

Source of Water: Bergquist Springs being located approx. 15,800 ft. East and 1,200 ft. South of the NE corner of Sec. 7, T15S, R39E, B.M.

Extent of Use:

Domestic (number of households)

Stockwater (number and type of stock)

Irrigation (acres)

Other/Remark hydroelectric generation

Total rate and/or volume for which proof is submitted 13 cfs acre-feet

Show the date water was first diverted and beneficially used under this permit: Dec. 16, 1982

Measuring Device: Required? XYes No
Installed? XYes No

Fee enclosed \$ 425.00 400.00 ✓
(See License Examination Fee Schedule)

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

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

Elmer Oliverson, City Public Works Director

1-852-1817

(Name)

(Telephone Number)

70 W. Oneida Preston, ID. 83263

(Address)

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

City of Preston, Idaho

August 26, 1987

By: [Signature]

MAYOR ✓

Date

Signature of Permit Holder (and title, if appropriate)

* See first received 8-28-1987

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07283

Priority: May 13, 1980

Maximum Diversion Rate: 10.00 CFS
Maximum Diversion Volume: 7227.0 AF

This is to certify, that CITY OF PRESTON
70 W ONEIDA

PRESTON ID 83263 has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated May 13, 1980; and
has submitted Proof of Beneficial Use on August 28, 1987. An examination indicates
that the works have a diversion capacity of 10.000 cfs of water from:

BERGQUIST SPRING tributary to CUB RIVER

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
POWER	01/01 to 12/31	10.00 CFS	7227.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 10, Township 15S, Range 41E
NWNW , Sec. 11, Township 15S, Range 41E
FRANKLIN County

PLACE OF USE: POWER

TWN RGE SEC

15S 40E 8

SWSW

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

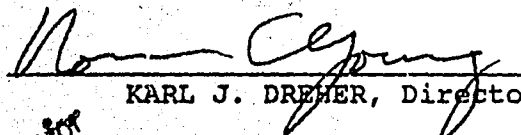
State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 13-07283

CONDITIONS OF APPROVAL AND REMARKS

5. The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.
6. Use of water under this water right will be regulated by the watermaster of State Water District No. 13A.
7. Use of water under this right shall be non-consumptive.
8. Water used under this right when discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.
9. The diversion and use of water under this license is subject to review by the Director on or after December 1, 2017. 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.
10. Rights 13-00027, 13-00028, and 13-07283 when combined shall not exceed a total diversion rate of 10.0 cfs.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 7TH
day of MARCH, 1992.


KARL J. DREHER, Director

Acting for

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

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

OCTOBER 21, 1987

CITY OF PRESTON
70 W. ONEIDA
PRESTON ID 83263

RE: Permit No. 13-7283

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 525-7161 or in person in the third floor State Office Building, 150 Shoup, Idaho Falls, Idaho.

Sincerely,
s/HAROLD W. JONES
Sr. Resource Agent

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

JAN 20 1989

Department of Water Resources

A. GENERAL INFORMATION

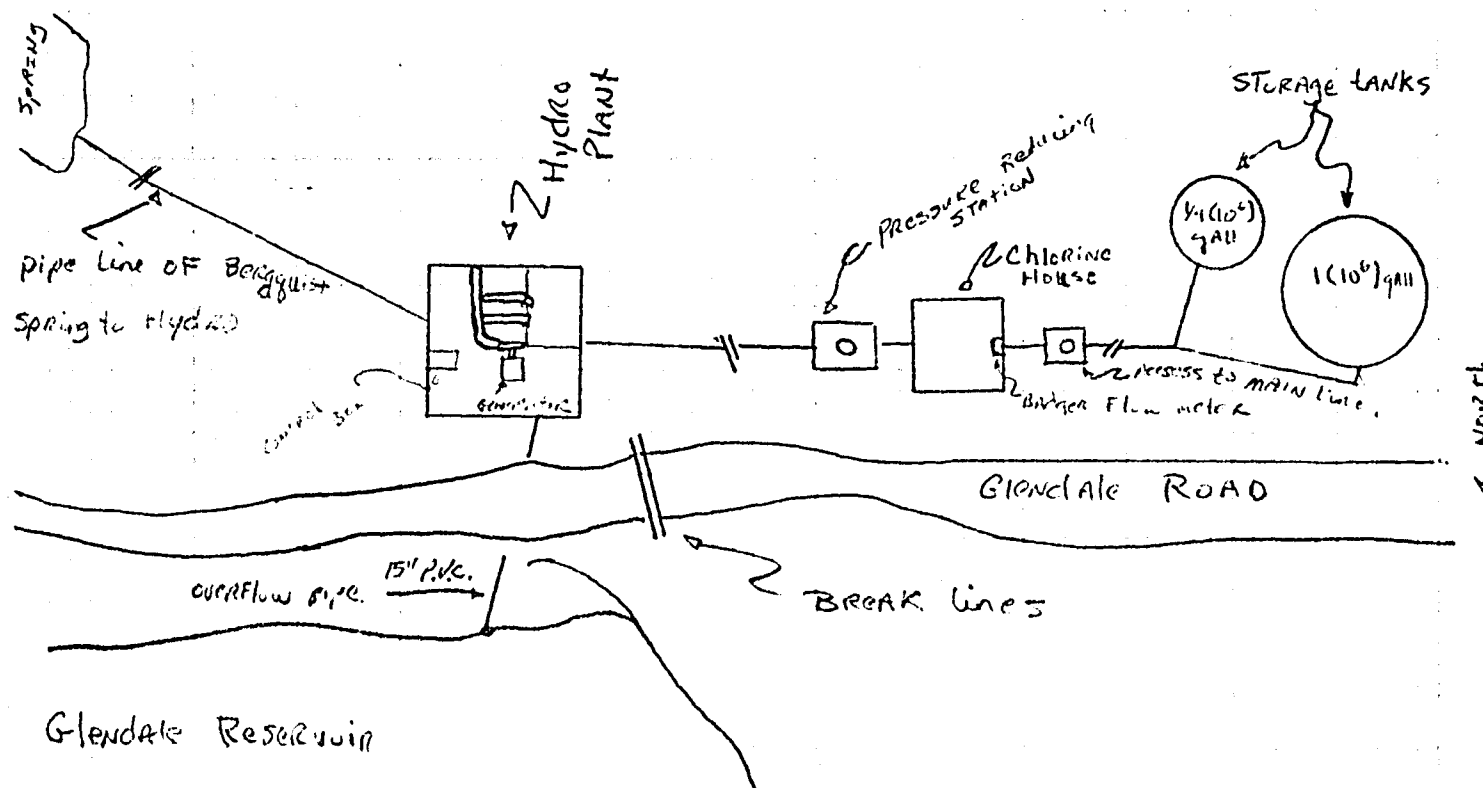
1. Owner: City of Preston Permit No. 13-7283
Current Address: 70 West Oneida, Preston Idaho 83263 Phone No. 852-1817
2. Accompanied by: JACK CORBETT EXAM. DATE: 6-29-88
Address: 181 N. 3RD E, Preston, ID Phone No. 852-0295
Relationship to Permit Holder: Hydro plant operator
3. Source: Bergquist Spring tributary to Cub River

B. OVERLAP REVIEW

1. Other water rights with same place of use: NO
☐ Copies Attached
2. Other water rights with same point of diversion: NO
☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. Diversion System Diagram: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☒ Alternative diagram attached



Scale: X" = No Scale

2. ☒ Copy of U.S.G.S. Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).
☒ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater).
☐ Aerial Photo Attached (required for irrigation of 10 acres or more).

System Description (continued)

3. Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Bergquist Spring to 3-4'x5'x8' deep collection basin set in a row then flows into a control box then 30" pipe for 200' then reduces to 18" pipe to Hydro plant then from Hydro to Chlorine house and storage tanks, and what over flows goes into Glendale Reservoir.

Spring was flowing at normal capacity.

☒ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	KW Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
Generator	G.E.	410	GU 84 269 27		
Turbine	Gilkes	see	Section (H)		

*Code to correspond with No. on map and aerial photo

5. Point(s) of Diversion:

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SW	NW	NE	11	15S	41E	Franklin	map + on site inspection

6. Place(s) of Use:

Indicate Method of Determination _____

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	
15S	40E	8										H							

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Flow meter	B13	BADGER	M-3506		900 gpm	

2. Measurements:

Badger Flow meter was reading 3400-3500 gpm; This measurement is the water flow from Hydro plant to city storage tanks.

UNMEASURED OVERFLOW going into GONDAR RESERVOIR: 5 gpm = 2 sec., 9 gpm = 2.3 sec.

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

$$Q_T = [3500 \text{ gpm} + 139.53 \text{ g.p.m.}] / 440.8 \text{ gpm} = 8.11 \text{ cfs}$$

2. Alternate Method for Checking Purposes:

$$Q_{\text{BURET}} = 5 \text{ gpm} / 2.15 \text{ sec} = 139.53 \text{ gpm}$$

☒ PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

☒ VOLUME CALCULATIONS N/A HYDRO

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

☒ Volume Calculations for Other Uses:

H. REMARKS AND OVERLAP REVIEW ANALYSIS

Gilkes Turbine: NO: 6224
Rated Output 575 BHP
Rated Net Head 576 Ft
Rated Flow 10 Ft³/sec
Speed 1200 RPM

INFORMATION TAKEN FROM
I.D. PLATON ON TURBINE.

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion	Annual Volume
	From	To	Q (cfs)	V (afa)
Hydro	JAN 1	Dec. 31	8.11	
Totals:			8.11	

2. 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

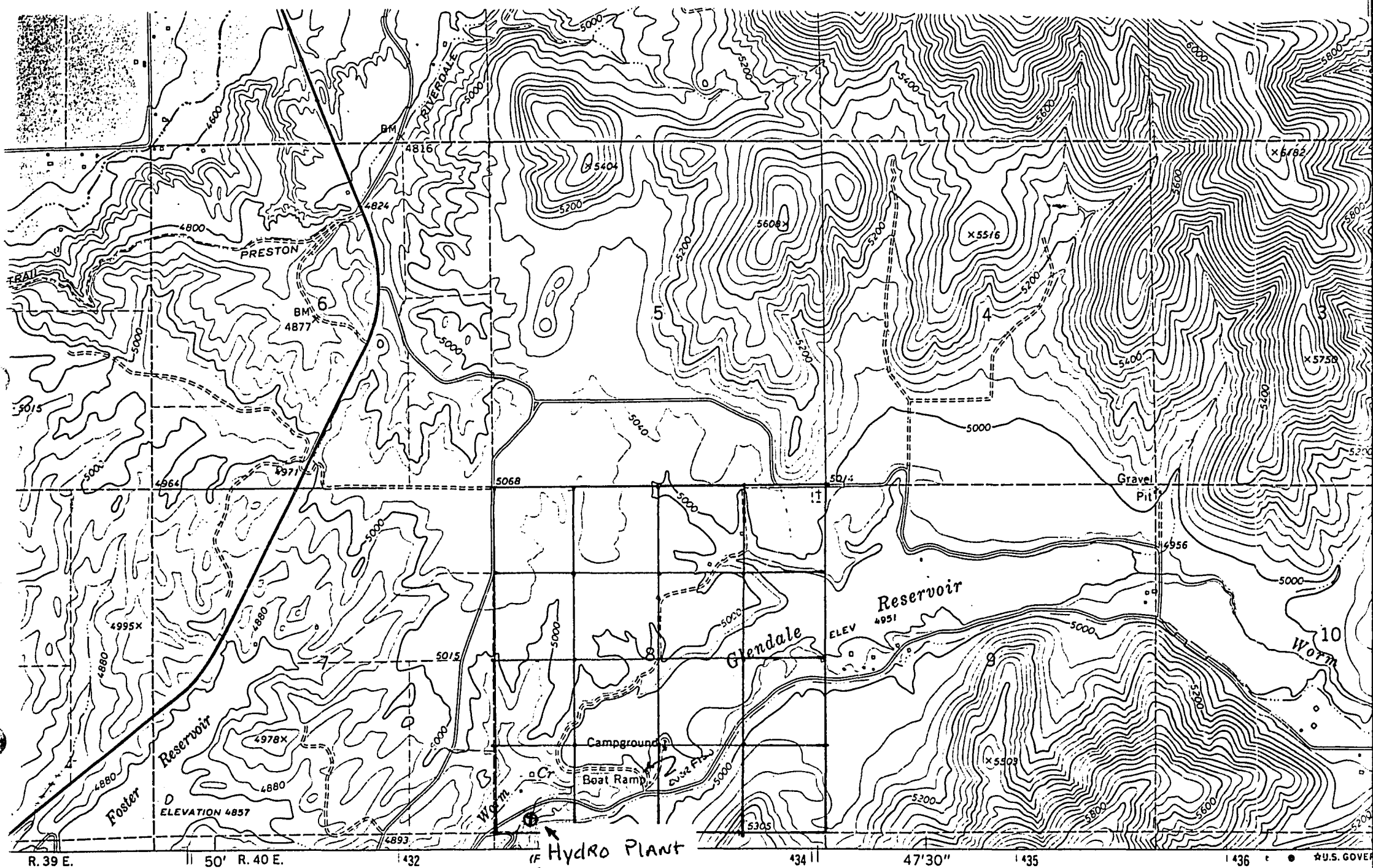
J. AUTHENTICATION

Field Examiner's Name Richard L. Landon
Signature Richard L. Landon
Certification Date 7-29-88
Field Report Preparation Date _____

Steve McConnell
10-Jan-1989

CONSULTANT SEAL

- K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.



R. 39 E.

50' R. 40 E.

432

Hydro Plant

434

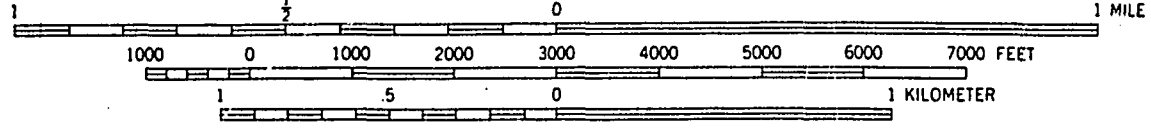
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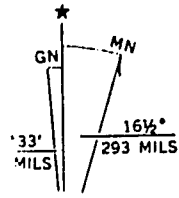
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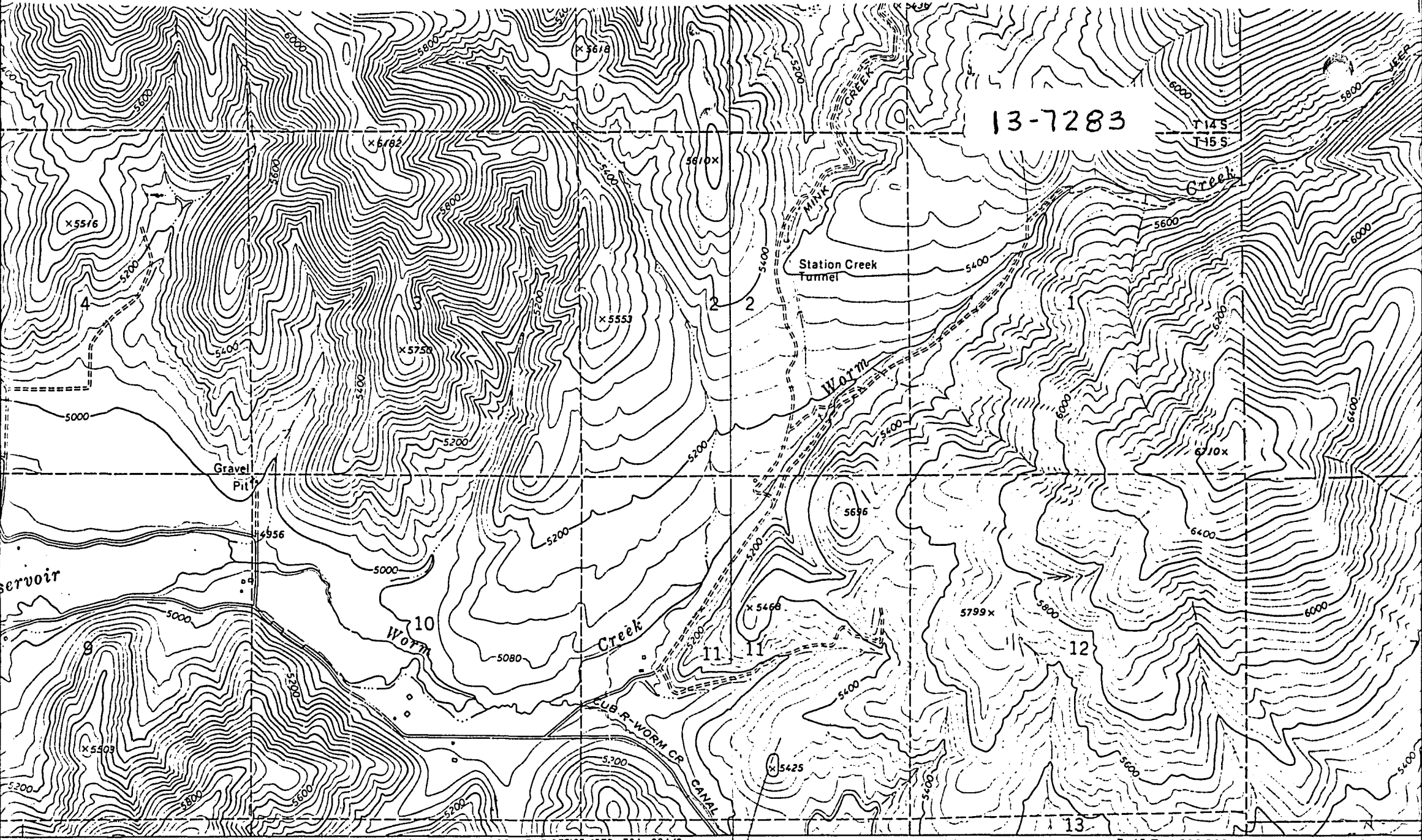
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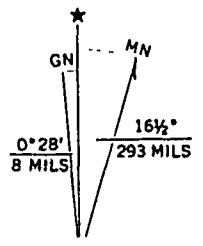


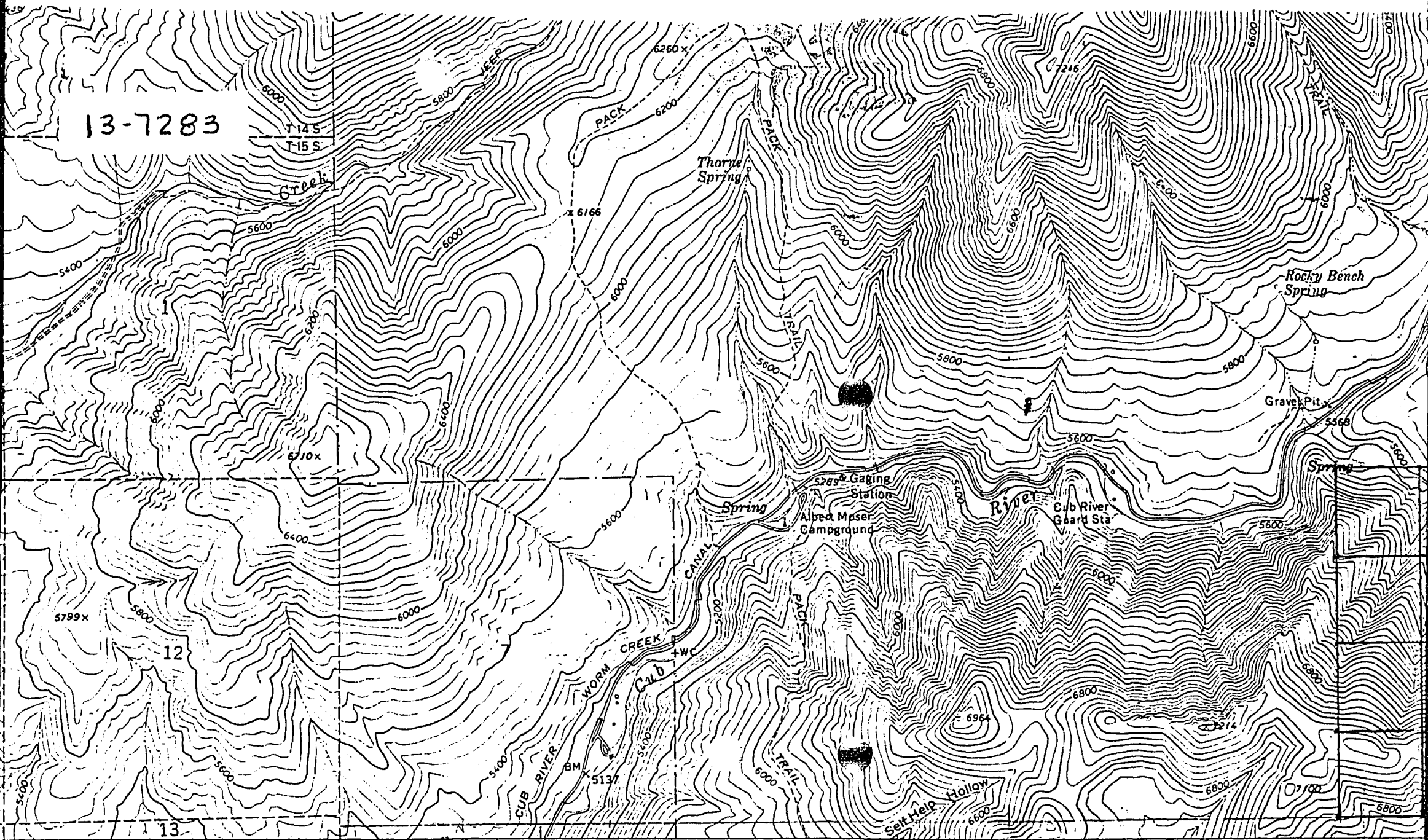
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ROAD CLASSIFICATION

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|------------------------------------|--|
| Primary highway,
hard surface | Light-duty road, hard or
improved surface |
| Secondary highway,
hard surface | Unimproved road |
| ○ Interstate Route | ○ U. S. Route |
| | ○ State Route |

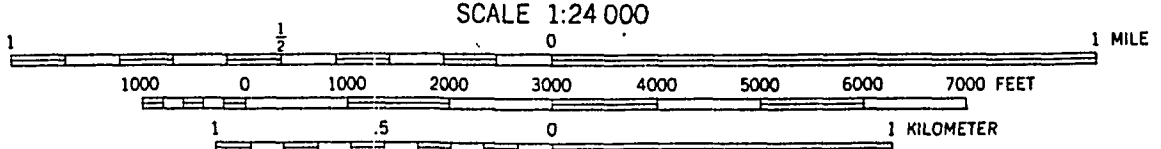
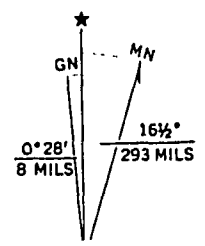
Mapped, edited, and published by the Geological Survey
 Control by USGS and USC&GS
 Topography by photogrammetric methods from aerial
 photographs taken 1968. Field checked 1969
 Polyconic projection. 1927 North American datum
 10,000-foot grid based on Idaho coordinate system,
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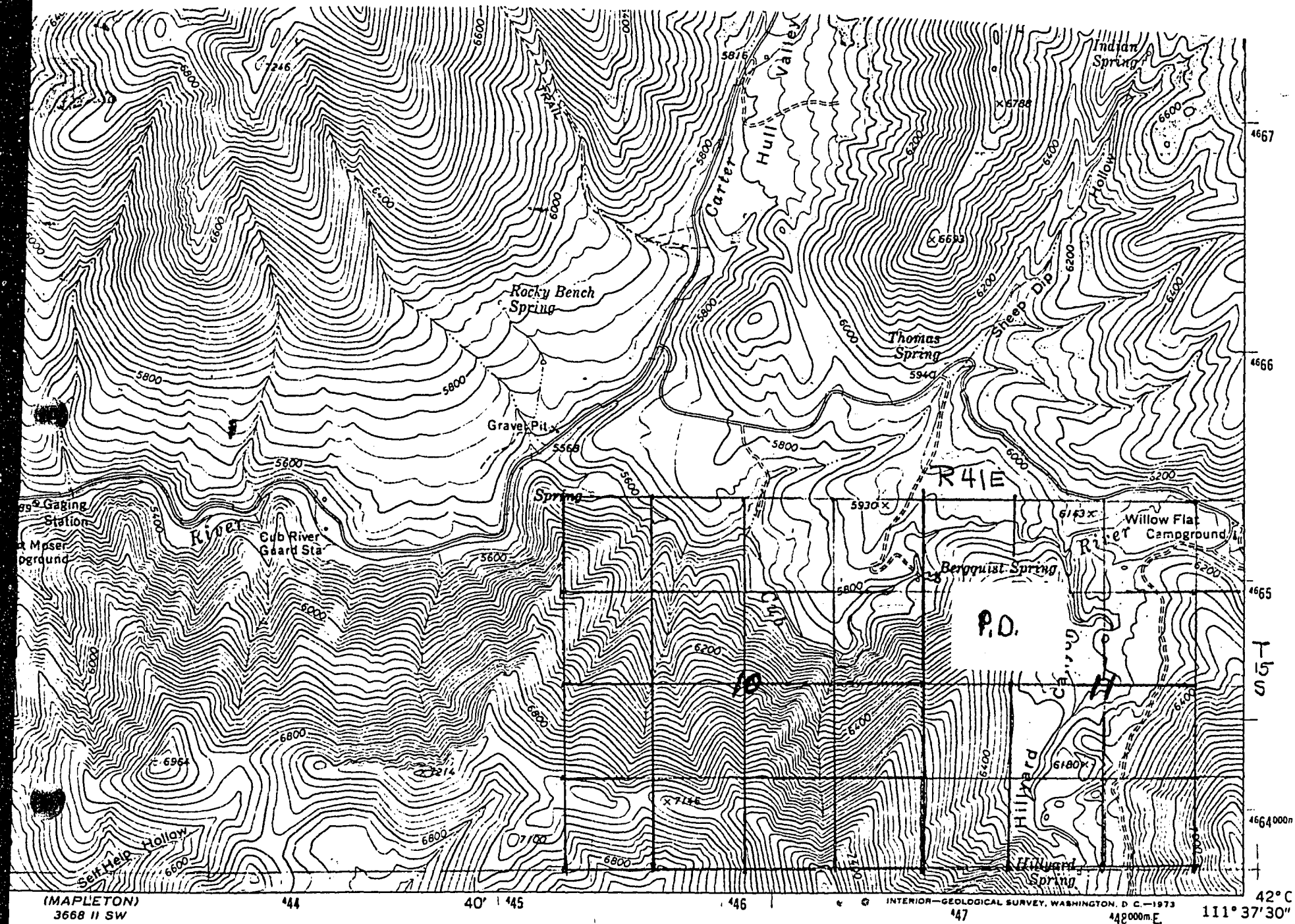


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CONTOUR INTERVAL 40 FEET
 DATUM IS MEAN SEA LEVEL



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ROAD CLASSIFICATION

Primary highway, hard surface _____ Light-duty road, hard or improved surface _____
Secondary highway, hard surface _____ Unimproved road _____
○ Interstate Route ○ U. S. Route ○ State Route

Hydroelectric Power from the Preston City Water Line

An Engineering Feasibility Study
prepared for

The Pacific Northwest Regional Commission
and the Preston City Council
(Contract 765-22)
November 1978

by



FORSGREN-PERKINS ENGINEERING, p.a.

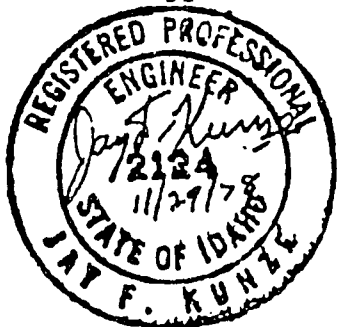
Rexburg • Idaho Falls • Pocatello • Preston • Logan • Salt Lake City • Wenatchee, Wash.

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Jay F. Kunze
 Dr. Jay F. Kunze, P.E.
 Mgr. of Energy Services



Douglas C. Jensen, P.E.
 Mgr. of Cache Valley Office.

Legal Notice

This study was performed under a contract from the PNRG, and is intended only as a feasibility study. Forsgren-Perkins Engineering makes no warranty with regard to future implementation.

1.0 Summary

The City of Preston obtains its domestic water from a spring 13 miles ENE of the City. The water is piped to storage tanks two miles northeast of the City, tanks that primarily serve as surge tanks. The spring water is fed into the pipeline at a year-around nominally constant flow of 4.5 cfs (2010 gallons per minute, or 127 liters per second). The total available head from the spring to the lowest point in the line is approximately 1000 feet. This system, therefore, has a potential of generating over 300 kW of electricity, assuming 80% turbine-generator combination efficiency. Structural limitations on the pipeline will require bleeding of some pressure and therefore reducing this to 220 kW with 4.5 cfs flow. At 3 cents per kWh, this power potential is worth \$49,000 per year at 85% utilization factor.

The City of Preston government services consume about 24% of this energy, and the new Oakwood Elementary School (electrically heated) can consume an additional 41%; the new high school addition, also electrically heated, can consume about 7%.

The cost of a hydroelectric generator installed into the pipeline at the storage tank location plus the cost of electrical switch gear is estimated to be \$220,000. Existing transmission lines owned by Utah Power & Light are adequate to carry this power out of the area.* Utah Power & Light has indicated a willingness to negotiate an agreement with the City of Preston that would enable a generating system to be installed and utilized on the pipeline.

Since the direct payback period is less than ten years, this installation would be an economical option for the City. However, presently there is no mechanism available for Idaho municipalities to revenue-bond for new electric-generating facilities, though the executive branch of the State government is giving some consideration to the necessary legal actions to alter the State constitution to permit the revenue bonding. Alternative methods of financing might be available, or Utah Power and Light might be willing to build and operate the system, leasing the location and its hydraulic energy from the City.

This proposed application represents a typical use of so-called "soft technology". The power to be generated exceeds the needs of local government services, yet represents only about 1/1000 of the annual growth needs for the utility serving the area. The installation appears to be cost-effective, provided institutional impediments do not significantly impact total cost. Environmentally the application is benign, having virtually no adverse effects, present or future.

*However, a higher capacity line would need to be run from the existing storage tanks to the main 12.5 kV line about one mile away.

2.0 Background

Preston (Figure 1) is a small farming community of 4,000 population in Southeastern Idaho. The water system is municipally owned; the supply originates from mountain springs 13 miles from town. Electricity is supplied to the area by Utah Power and Light Company, which derives nearly 90% of its electricity from coal-fired plants. Busbar cost of power from plants starting up this year is 2.8¢/kWh. Average delivered price of electricity throughout the Utah Power and Light system this last year was about 3¢/kWh. The price in Idaho is predicted to escalate at about 12% per year for the next several years. Present delivered electrical rates from Utah Power & Light are listed in Table I.

The pipeline for the city water supply presently carries 4.5 cfs (2020 gpm), nearly constant year around. The line is sized to carry as much as 12 cfs without excessive pressure drop, and this amount apparently is legally available for the City at the source springs (Bergquist Spring). (See Figure 2)

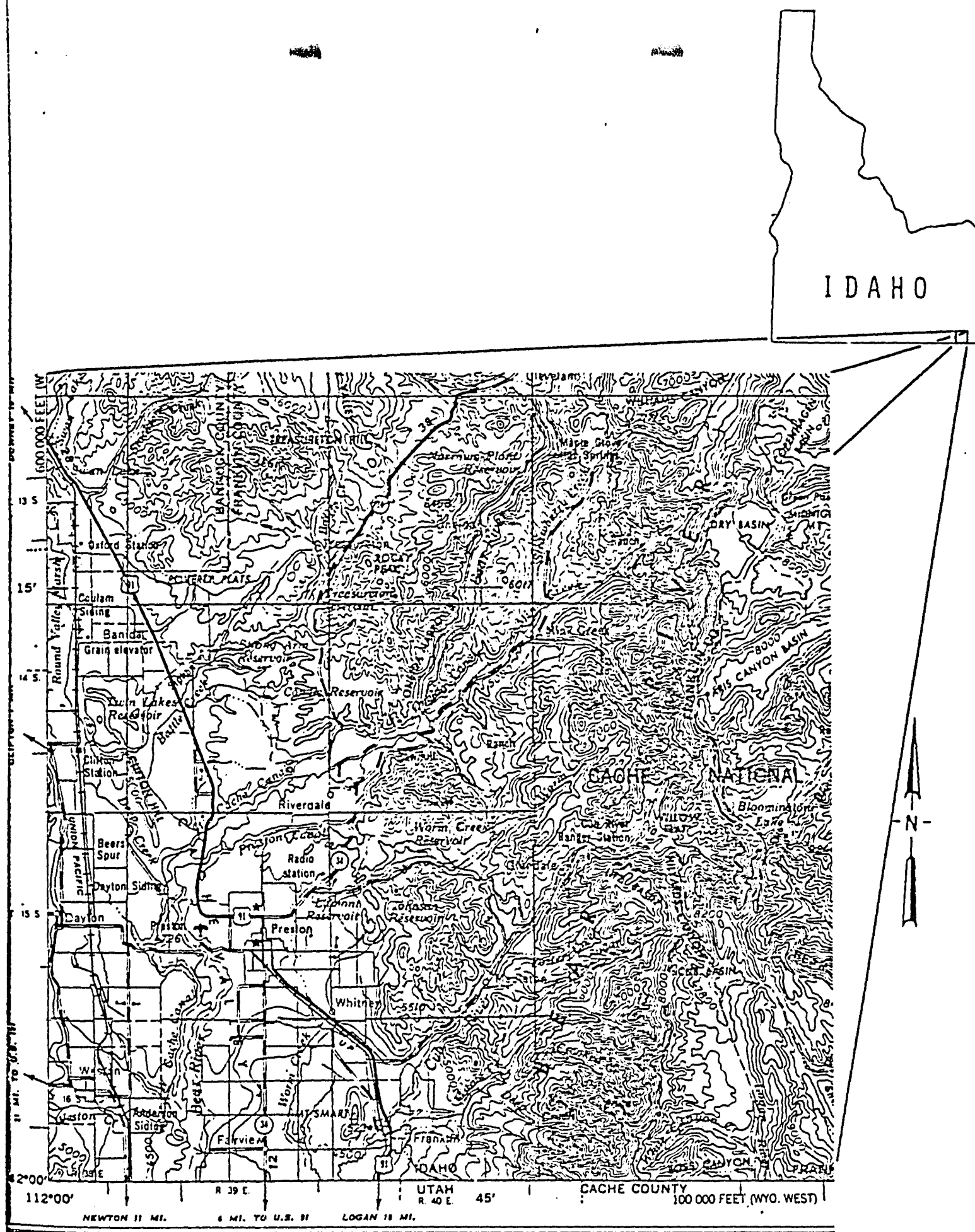
Preston's climate is typical of semi-arid, high mountain plains, yearly temperature extremes range from -20° F. to 100° F. Heating needs are about 7500° F.-days per year.⁽¹⁾ The City is not served by natural gas pipelines.

The businesses in the City are primarily retail outlets. There are no major industries within the city limits. Most of the older homes and schools are heated by oil or coal. The newer residences and the newer school facilities are electrically heated. Table II lists the uses of electricity by the City government and by the School District within its electrically heated schools.

The Pacific Northwest Regional Commission was asked, by the City of Preston, to fund a feasibility study for using the potential and kinetic energy in the water line. Since the source of water and the flow through the line is virtually constant, the electrical generating facility would be a constant load, more easily managed than the usual fluctuating hydroelectric facilities, whose flow depends on run-off, irrigation demand, storage requirements upstream, etc. This constancy of the resource would be an advantage to help off-set the disadvantage of the relatively small power output. For instance, the following example shows the range of power output to be expected:

	<u>Minimum</u>	<u>Normal</u>	<u>Maximum</u>
Flow (cubic ft./sec)	3.5	4.5	12
Head at Turbine (ft)	750	730	420
T-G Efficiency	0.78	0.80	0.82
Output (kW)	173	222	350
Annual kWh(85% utilization)	1.3 million	1.6 million	2.6 million
Value at 3¢/kWh/yr.	\$39,000	\$48,000	\$78,000

(1) Climatological Data for Idaho, National Oceanic and Atmospheric Administration, Vol. 80 and 81.



SCALE 1/4." : 1 mile

Figure 1. Location Map of the Preston, Idaho Area

TABLE I

Power Rates - Electrical- Utah & Idaho on UP&LCommercial-General Service Rate 6

	<u>Idaho</u> <u>3/78</u>	<u>Utah</u> <u>9/78</u>
<u>Power Rate</u>		
First set per kWh & next 70 kWh/kW in excess of 5 kW to 435 kW	7.696(70kWh)	9.300(500kWh)
Next 55 kWh per kW in excess of 435 kW	7.496¢	9.059¢
<u>Energy Rate</u>		
Per kWh next 500 kWh	8.639	6.569
500	6.204	-----
5000	3.770	4.201
10,000	2.071	2.584
Per kWh next 400 kWh per kW of power	1.638	1.824
Per kWh all additional	1.096	1.527

Industrial, Medium Voltage (to 46,000 V) Rate 8

<u>Power Rate</u>		
Per first 100 kW	\$4.18	\$4.95
next 400 kW	3.98	4.74
all additional kW	3.70	4.41
<u>Energy Rate</u>		
Per kWh first 20,000 kWh	2.183¢	2.436¢
All additional	1.462	1.759

Industrial, High Voltage (at 44,000 or 69,000 V) Rate 9

<u>Power Rate</u>		
First 100 kW	\$3.90	\$4.63
Next 200 kW	3.70	4.39
All Additional	3.19	3.78
<u>Energy Rate</u>		
Per kWh, first 1,000,000	1.440¢	1.732¢
All additional	1.208	1.516

Note: Rate increases are pending in both Utah and Idaho (November 1978)

TABLE II

Preston, Idaho
City and School District
1977-78 Power Usage (Kw-hr)

	Oakwood Elementary		High School's New Bldg.		Preston City*
	<u>Heat</u>	<u>Lights</u>	<u>Heat</u>	<u>Lights</u>	
July	1,200	5,490	200	820	45,243
August	1,440	6,030	120	1,060	-----
September	12,000	15,030	240	840	26,683
October	18,000	17,010	1,920	2,280	24,109
November	38,400	19,890	5,640	2,660	27,155
December	76,560	20,070	13,720	2,500	30,778
January	87,600	18,180	16,760	2,600	28,813
February	80,640	19,350	13,840	2,500	30,832
March	81,360	22,320	13,760	2,820	27,297
April	36,240	16,650	8,040	2,260	26,522
May	32,160	20,160	6,640	2,400	26,835
June	<u>3,360</u>	<u>6,210</u>	<u>5,080</u>	<u>1,980</u>	<u>43,565</u>
TOTAL	468,960	186,390	85,960	24,720	382,000

*Street lighting accounts for 8600 Kw-hr/month.

Comparison of the total kWh potential from such a hydro-electric facility can be made with the local government electrical usage listed in Table II. Under the "Normal" case, about 75% of the electric energy needs of the City and School District schools in Preston could be supplied by the hydroelectric unit. However, most of this usage is in the winter, and the peak loads by these users would be over 400 kW (on cold evenings and early mornings). Very small fractional usage of the generator output by these users would occur in the summer. However, summer is the time that Utah Power and Light experiences its peak usage on its entire system (the 1978 peak was 2,120,000 kW on July 27, up 233,000 kW from the year earlier).⁽²⁾

(2) Electrical World, Nov. 1, 1978, Vol. 190, #1 (p.55).

3.0 Engineering Conceptual Design

Figure 2.7 shows the location of the pipeline on a topographical map of the area. The source point (Bergquist Spring) is at an elevation of 5,795 ft. The water storage tank location, 2 1/2 miles from the Preston city center, is at an elevation of 4,875 ft. The low point on the water line is about 1/2 mile from the water storage tanks, at 4,809 ft.

The pipeline is Class 51 cast iron, with rated working pressure of 350 psi (808 ft.) At the normal flow rate of 4.7 cubic ft./sec, the head loss is about 60 ft. Thus, the pipeline has been designed with pressure reducing valves so that the lowest point in the pipeline will not exceed rated working pressure. This pressure reduction equipment must be retained with the hydraulic turbine equipment, giving it a maximum head of only about 750 ft. at the storage tanks. Virtually no head would be required on the discharge beyond that needed to fill the tanks. This would be established with an elevation difference or a lowhead pump.

The turbine design is a horizontal shaft impulse wheel. Horizontal mounting is preferred for this high-head machine. Governor flow control is with deflection vanes as well as slow acting needle valves to eliminate water hammer. Horizontal mounting minimizes structure for the turbine and generator.

The turbine installation includes complete bypass valving so that the turbine can be serviced easily. The generator is directly mounted to the turbine shaft. For 1200 rpm, the generator has 6 poles.

The electrical output is no greater than that consumed by a conventional large deep-well irrigation pump. Transformers and lightning arrestors will be of typical size for those units. The present two phase steel power line to the site is probably inadequate, and a transmission line will need to be built (possibly on existing poles) to the nearest 12.5 kV line, about one mile distance.

Figure 3 shows a conceptual design of the hydraulic turbine and generator as these would be installed on the water-line. A high capacity, low-head pump will need to be installed on the outlet from the turbine to supply the head needed to fill the tanks. This pump probably should be at a lower elevation than the turbine, and therefore would need to have a belt or chain drive from the turbine-generator shaft.

An alternate approach for delivering the output of the turbine to the storage tanks is to elevate the turbine approximately 10 ft. above the highest liquid level in the storage tanks. This option has been estimated to cost significantly more than the option using the high volume, low-head pump.

An alternative type of turbine that would eliminate the need for the pump would be a multistage reaction machine - the equivalent of a multistage centrifugal pump, but operating as a turbine. It would

operate with backpressure adequate to fill the tanks. However, the multistage machines compound the inefficiency of each stage, resulting in overall lower output for the system. The single stage impulse turbine, the manufacturers agree, is the most efficient design, even considering the addition of the pump which will probably bleed off 6 or 7% of the theoretically available turbine-generator output.

3.1 Environmental Considerations

A 250 kW hydroelectric generator installed in an existing water line represents no environmental difficulties. The unit is equivalent to a large irrigation pump. The power can be delivered to the main power lines on a typical 12.5 kV three phase service line. The power line represents the only real environmental effect. Because of its short length, the line is not likely to be challenged for esthetic reasons. It crosses rolling farm ground.

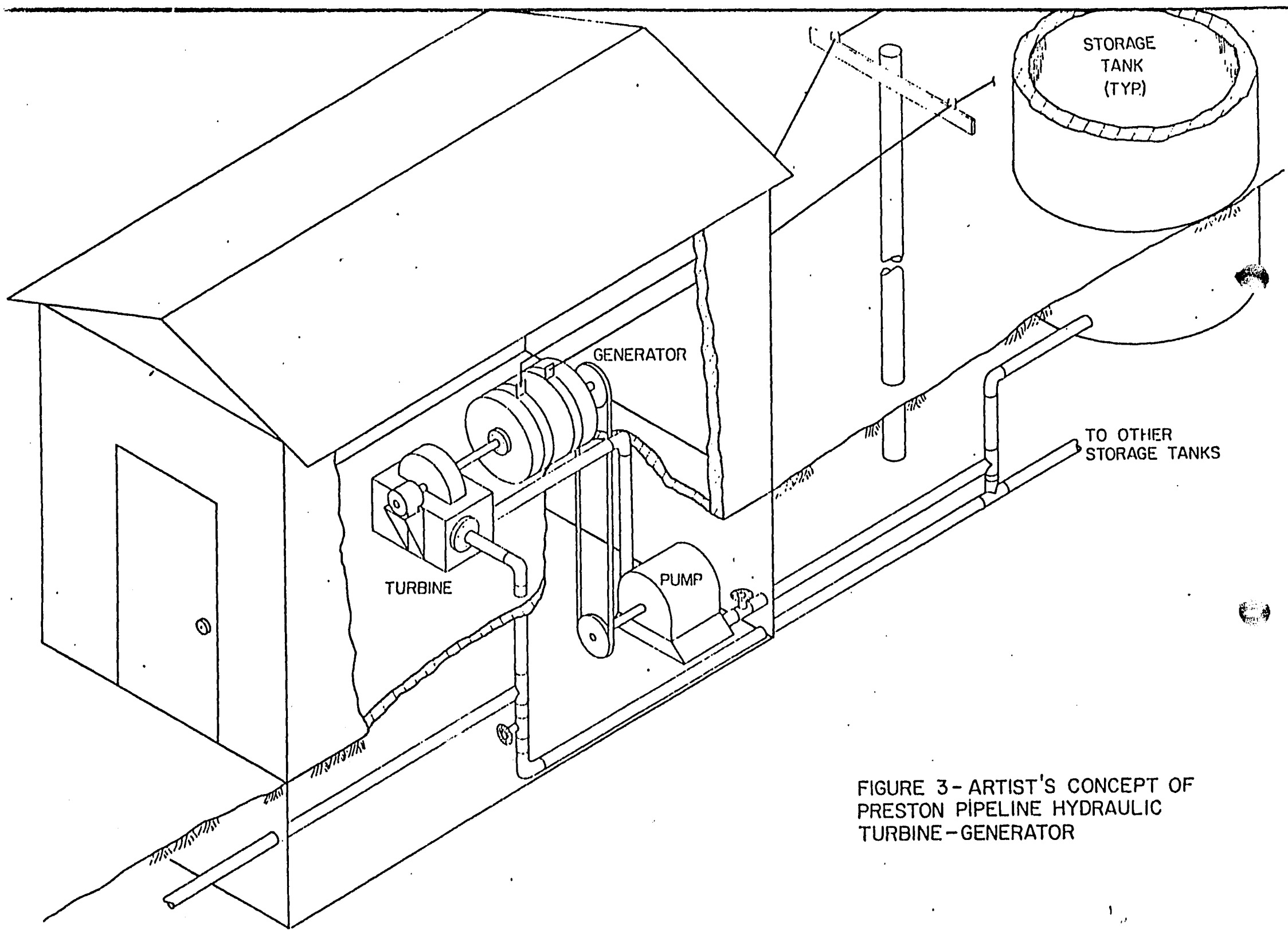


FIGURE 3 - ARTIST'S CONCEPT OF
PRESTON PIPELINE HYDRAULIC
TURBINE-GENERATOR

3.2 Institutional Considerations

There are two primary institutional impediments:

- a) Liability responsibility between the City of Preston, the School District, and Utah Power and Light. The legal contract between the participants would need to be negotiated with liability appropriately considered. This question would not appear to present an impasse, for it is felt that satisfactory arrangements on liability and other responsibilities can be successfully negotiated. No significant cost effect is anticipated.
- b) Method of financing for the capital addition. The City is not presently allowed to revenue bond for such a facility. Adequate legislation to permit revenue bonding is not likely to be permitted until after the 1980 general election, if the necessary constitutional amendment for Idaho is passed. (See Appendix)

General obligation bonding is permitted by the City for such an installation, but it is unlikely that the City has adequate bonding limit remaining for this hydroelectric facility as well as for other needed City services.

If Utah Power and Light Company were to build the plant, the capital cost is not likely to be a problem, provided the Idaho Public Utility Commission approves the cost of the facility for inclusion in the rate base.

Licensing requirements and other regulatory approvals should be minimal and quickly obtained. The 1978 National Energy Act (signed into law this month,) has granted discretionary authority to the FERC (Federal Energy Regulatory Commission) to exempt the licensing requirements of Part I of the Federal Power Act, for hydroelectric facilities using manmade conduits and constructed on non-Federal lands. Thus, it is likely that the Preston facility would not require a significant licensing period. The Idaho Public Utility Commission would need to grant approval only if ownership of the facility were to be all or in-part by an investor owned utility (i.e. Utah Power & Light Co.).

4.0 Cost Estimate for Implementation

Cost estimates were obtained from the two domestic manufacturers of hydraulic turbines. The James Leffel Company provided turbine cost estimates with controls. The remainder of the installation would be assembled in place. Generator would be purchased separately and mated with the turbine unit. Allis Chalmers Company recommended a package unit, an impulse unit of a type that they are not currently promoting. (Allis Chalmers has recently actively been promoting low-head units, primarily in the 1,000 kW or larger sizes.)

Two conceptual design cost estimates are summarized in Table III. These estimates are based on manufacturers' unofficial quotes of 360 to 440 hp impulse hydraulic turbines operating at speeds of 1200 rpm. These require six pole generators to provide the 60 cycle output. Generator capacity was assumed to be 250 kW for the Component Unit. The Package Unit has a 300 kW generator.

Generators of the induction type (that would not require line synchronization) are not common in this large of a size. Therefore, a complete control system to synchronize phase and voltage with the power line was included. However, Appendix II discusses the advantages if an induction unit is used, and long lead procurement is considered.

For this cost estimate, it was assumed that the hydroelectric unit would be installed just ahead of the storage tanks on the City-owned land. If Utah Power and Light built and owned the facility, this location would still be the most desirable, and appropriate arrangements for sale or lease of the needed land (1/4 acre) would be needed. The latter costs are not included in the cost estimate.

The bottom line of the cost estimate for the "normal" flow facility is \$209,000 for the component unit, using the James Leffel Co. quote. For subsequent cost analyses and cost/benefit studies a round number of \$220,000 has been used. The Allis Chalmers package unit will cost approximately twice as much to install and put into operation, and is not considered in the following discussion.

There are distinct economic advantages to installing a larger unit to accept the 12 cfs flow, with 350 kW output. The larger unit incurs increased costs primarily for the hydraulic turbine and generator. An additional \$20,000 will buy the larger unit. Adding another \$10,000 for increases of all other costs means that the larger unit (nearly 60% increased power output) costs an additional 15%. Operating costs should be unchanged.

Precise data on the availability year-round of flows up to 12 cfs was not obtained as part of this study. The availability of such flows to the pipeline depends on legal and institutional matters that are still unresolved. Suffice it to note that if the average flow year round could be increased to 7 cfs, the larger unit (capable of peaking 12 cfs) would provide definite economic advantage over the "normal" flow unit. However, that portion of the output power that is not constant year-around would sell at a substantially lower price than the firm power.

TABLE III

COMPONENT UNIT COST ESTIMATE - BASIC 220 kW SYSTEM*

Turbine Wheel and Housing (360 hp) 800 ft. head, 4.5 cfs	\$ 40,000
Generator (250 kW)	35,000
Controls	10,000
Switch Gear, Transformers, Arrestors, 1 mile trans- mission line	14,000
Valves, Piping, Foundation, Discharge Pump	36,000
Installation, Checkout, Startup	10,000
Engineering, Design and Inspection	<u>22,000</u>
Subtotal	\$167,000
Contingency and Escalation 25%	<u>42,000</u>
TOTAL	\$209,000

PACKAGE UNIT COST ESTIMATE - 297 kW SYSTEM**

Turbine, Generator, Controls, Base, etc.	\$290,000
Switch Gear, Transformers, Discharge Pumps, Valves, Trans. lines	32,000
Foundation, Installation, Checkout, Start-up, Shipping	28,000
Engineering, Design, and Inspection	<u>14,000</u>
Subtotal	\$364,000
Contingency and Escalation 20%	<u>72,000</u>
TOTAL	\$436,000

* Using the James Leffel Company hydraulic turbine quote.

**Using the Allis Chalmers package unit quote.

5.0 Value of Completed Facility

The "normal flow" facility proposed would have an average generating output of 220 kW. Its worth would be based on the value of the power that it can generate and the market price of that power. Estimating the value of the power and the price that can be obtained for it, requires considering many factors for both the buyer and seller. Several options are likely, as follows:

1. The City of Preston (perhaps jointly with the School District) could build the plant. An operating agreement could be contracted with Utah Power and Light Co., who would supervise operation of the plant and meter the power. The plant should operate automatically. Credits would be computed monthly toward the electric power bills of the City and School District. The busbar price of power would be less than the delivered price. Therefore, the 1,600,000 kWh that the plant would generate would be worth about the same as the delivered 1,150,000 kWh that the City and School District would consume per year. The City would be responsible for maintenance and repair costs on the plant.
2. The City of Preston could lease the non-consumptive, uninterruptable use of its water and grant a connection in the water line to Utah Power and Light. The City would derive some income from the lease and Utah Power and Light would add 1,600,000 kWh to its grid per year.
3. The City of Preston (and School District) could build its own power line to carry power to the Oakwood Elementary a High School/Jr. High School complexes. Because the City electrical load is spread throughout the area inside the City limits, virtually a whole new transmission system would need to be built if the City were to supply a significant part of its own power independent of Utah Power and Light facilities. Other large user(s) would need to be found, however, to use the remaining power, particularly during the summer. Such user(s) does not obviously exist at this time.

The third alternative is not recommended. It is expensive; 2-1/3 miles of 12.5 kV power line plus transformers will cost in excess of \$30,000*. But the major problems would be institutional. Attempting to establish a small power system enclave within an existing franchised system, yet not being able to be completely independent of the larger system is indeed a complex and most difficult arrangement. Furthermore, this latter approach does not serve as an example of the adaptation of the so-called "soft technologies" into a large hard technology, nor one of cooperation between local government and the utility industry.

*24.9kV, 3 phase power lines (14.4 kV to ground) are now costing typically \$8000/mile over fairly level farm ground.

Therefore, only the first and second alternatives will be considered in the subsequent discussion.

To set the basis for establishing a fair sales price or value for the power, to both the City and to Utah Power and Light Company, the following information is presented as background:

a) Utah Power and Light Company Generating Costs (1978) (3)

Average System-Wide Busbar Cost	2.1¢/kWh
New coal plants starting up this year	2.8¢/kWh
1.8¢/kWh for capital cost	
0.3¢/kWh for O & M	
0.7¢/kWh for fuel (coal)	

Note: average system-wide costs at the busbar are difficult to determine with accuracy. However, new plant generating costs can be figured more precisely, since these face a current amortization schedule.

Projections of new plants going on-line in 1982 are for busbar costs of 4.0¢/kWh, of which 1.3¢/kWh is fuel (coal) cost.

b) Public Power System in Northwest Generating Costs (4)
for thermal plants being built by the Washington Public Power Supply System.

For plants scheduled to start up in 1982:

4.3¢/kWh for coal plants
3.8¢/kWh for nuclear plants

(This latter figure has probably escalated slightly because of recent delays with nuclear plant construction.)

c) Current Utah Power and Light Company Incremented Rates in Utah.
The following, with reference to Table I., summarizes the incremented rates charged for industrial power by Utah Power and Light in Utah. The Utah rates are used instead of Idaho rates because, according to the company and the Utah PUC, the Utah rates are those that best represent true costs and fair return to the company. However, it should be noted that a rate increase request is pending, and that these rates can be expected to increase about 10% to 15% in the near future.

Schedule 6 (commercial)	1.53¢/kWh increment (lowest)
Schedule 8 (gen. industrial)	1.75¢/kWh increment (lowest)
Schedule 9 (high volt ind.)	1.52¢/kWh increment (lowest)

(3) Private communication from UP&L official in Salt Lake City.

(4) Bonneville Power Administration; 1976 Annual Report

However, if one considers only the out-of-pocket incremental costs incurred by Utah Power and Light Company for additional power, it would be the cost of the fuel consumed, 0.7¢/kWh presently, escalating to 1.3¢/kWh by 1982.

Based on the above costs, we now attempt to propose prices that would seem to be fair to both the City and Utah Power and Light Company. These estimates do not have the endorsement of either of these parties, and would be subject to eventual negotiation.

1. For ownership of the facility by the City, a power credit charge of 1.4¢/kWh would be appropriate for the generated power.

This should escalate at the same percentage rate as the incremented power charge escalates, and presently represents 90% of the incremented power charge on the Utah rate schedule.

The result would be a gross annual income power credit of \$22,400 to the City of Preston.

The benefit to Utah Power and Light Company might be calculated as the difference between this payment (credit) and 2.8¢/kWh, currently the new plant busbar costs. Thus, UP&L would also net \$22,400 less its costs of administering the contract. These administration costs could probably be covered within this net, including the technical monitoring of plant performance.

2. For ownership by Utah Power and Light, it would appear that a fair payment to the City of Preston might be based on one-half of the value of coal saved by operating the hydroplant, i.e. presently one-half of 0.7¢/kWh.

This 50% value would yield an income (power credit) of \$5600 per year to the City. These credits should escalate according to the average cost of coal in the UP&L system, i.e. estimated as 1.3¢/kWh in 1982. This 1982 figure gives an income of \$10,400 to the City.

The differences in these two alternatives or options are shown in Table IV. Note, the cost of capital to the City is assumed to be only 7%. The cost of capital to Utah Power and Light is figured at 15% assuming partial equity, partial debt financing basis. Power costs are assumed to escalate 10% per year for the first 5 years, 5% per year for the next 15 years.

TABLE IV

COST ANALYSIS OF BENEFITS

	<u>Option 1</u> City owns Facility 7% Int., 20 yrs.	<u>Option 2</u> UP&L owns Facility 15% cost of capital, 20 y
Gross Income to City (20 yrs.)	\$648,928	\$162,232
Amortization Cost to City*	415,338	-----
Oper. & Admin. Cost to City	<u>78,970</u>	<u>14,485</u>
20 yr. Net Income to City	\$154,620	\$147,747
Gross Income to UP&L	\$648,928	\$973,392
Amortization Cost to UP&L*	-----	702,944
Oper. & Admin. Cost to UP&L	<u>289,700</u>	<u>339,700</u>
20 yr. Net Income to UP&L	\$359,228	(69,252) loss

All cost estimates commence from 1980 dollars, the assumed start of operation. For the above, it was estimated that today's (1978) cost of operation maintenance and administration would be as follows:

<u>Annual Cost</u>	<u>Option 1</u>	<u>Option 2</u>
To City	\$ 3,500	\$ 500
To UP&L	10,000	12,500

These include a sinking fund of \$2,500 per year for maintenance and repair applied only to the facility owner. The remaining operating costs were also escalated by the same factors as above (10% for 5 yrs., 5% thereafter). These begin in 1980, for which the costs are estimated as 21% above today's costs.

*On a plant estimated to cost \$220,000

Note: The analyses in Table IV are based upon the normal facility output of 220 kW. If higher flows, and therefore higher output of power were planned, the economics would substantially improve for both the City and Utah Power and Light, under either option.

5.1 Management of the System for the Alternative Operating Schemes

The management interface between Utah Power and Light Company and the City of Preston need not be complex. The following suggestions are made to minimize the administrative costs of operating this small facility.

For Option 1, City-owned Facility:

The City should contract for engineering and construction services. The design would require the review and approval of Utah Power and Light engineering division.

Check-out and start-up testing would be done with Utah Power and Light observing and participating as appropriate.

Once acceptance testing is complete, the operating contract would be signed between the City and Utah Power and Light. Henceforth, Utah Power and Light would be responsible for monitoring the operation and shutting it down, or cutting back the output, if abnormal conditions occur. Major maintenance and repairs would be paid for by the City.

It is believed that the suggested power pricing schedule is adequate incentive to both the City and Utah Power and Light to keep the plant running at full capacity.

For Option 2, Utah Power and Light-owned Facility:

This involves the least difficult administrative interface. Utah Power and Light is responsible for construction and operation. It must agree to have adequate bypass circuits for the water line, and to interrupt the water supply during construction only briefly (a few hours).

6.0 Conclusions and Recommendations

The hydroelectric installation into a steady-flow water line represents a worthy application of the so-called "soft technology." Such technology utilizes existing local conditions to produce energy without the need for massive generating facilities.

There is a need to demonstrate applications of this type to learn from experience what the true costs and practicality are for the soft technological applications to the electric utility industry.

In the example considered in this study, a high-head low power hydroelectric system, cost estimates vary from \$1,000/kW to 2,000/kW. These estimates are from the only two active manufacturers of hydraulic turbines in the U.S. today. Neither one has experienced a booming business in recent years. Allis Chalmers is actively attempting to offer package units for the low-head hydroelectric market being promoted by the U.S. Department of Energy. The unit which Allis Chalmers was asked to quote for installation in the Preston water line was a one-of-a-kind unit. It is this reason that leads to the conclusion that the Allis Chalmers current quotation is too expensive and therefore not feasible at this time for this application. (Certainly it is not feasible economically for the situation involving the City of Preston and Utah Power and Light Co.)

Using the James Leffel Co. hydraulic turbine unit, the project appears economically feasible if the City purchases the facility, marginally so if Utah Power and Light Co. purchases it. The difference is simply in the significant difference in the cost of capital to the two organizations. The City may (in normal interest rate times) be able to obtain bonds for 7%. The effective cost of capital to an investor owned utility is nominally twice as much.

However, City ownership is not generally practical under present Idaho law, which prohibits municipalities from revenue-bonding for new hydroelectric facilities. Either the law must be changed by constitutional amendment, or other means of private financing must be available to the City, at the same low interest rates. We recommend, in any case, that the State take immediate action to change the present law.

In conclusion, it is recommended that the following steps be taken in attempts to bring about construction of this facility for the estimated cost of \$220,000.

1. The City should immediately contact the State officials for appropriate implementation of the change in State revenue bonding law. Other private means of financing should be investigated as well.
2. The City, School District, and Utah Power & Light should meet to discuss power costing, and determine if the suggestions for costing presented in this report are reasonable.

3. An engineering design should be performed, including the obtaining of bids, thus determining if indeed the "component cost estimate" is real.

Step 3 would only be initiated after satisfactory results were obtained from Steps 1 and 2.

This particular application represents a very small hydroelectric unit in comparison to the utility's growth needs. Because of the small size, the \$1000 per kW capital cost is about twice what pipeline (conduit) hydroelectric facilities of larger size (1000 kW or more) should cost. Consequently, the financial analysis does not make this as attractive an investment as a larger pipeline facility would be. The other disadvantage is not having a user (preferably the City and/or School District) that can use the entire output year around.

Despite these difficulties and disadvantages, the facility still appears to be an attractive investment possibility to the City of Preston. This application can provide much valuable experience, experience useful to electric utilities, owners of similar resources, and to those who actively promote applications of "soft technology." There are essentially no questions about the technical feasibility.

Appendix I



JOHN V. EVANS
GOVERNOR

OFFICE OF ENERGY
STATE OF IDAHO
STATEHOUSE
BOISE, IDAHO 83720
(208) 384-3800

L. KIRK HALL
DIRECTOR

November 7, 1978

Dr. Jay F. Kunze, Manager
Energy Services
Forsgren, Perkins and Associates, P.A.
350 N. 2nd East,
Rexburg, Idaho 83440

Dear Jay:

In answer to your October 31st letter, we are considering legislation to enable cities to revenue bond energy facilities and intend to introduce the measure during the 1979 session. However, as we understand the current legal framework, a constitutional amendment or change will be required, and that means putting the measure on the 1980 ballot if all goes right before that.

Our current expectation is that this session will focus primarily on taxes and other legislation will not receive much attention. Nevertheless we intend to propose the measure and hope for the best.

We will need support, especially examples of concrete projects that are not feasible now, but would be if cities had the authority to revenue bond their development. If you could help us out in this regard it would be greatly appreciated. I will contact you later about our procedures.

We also may introduce legislation that would define space heating as a domestic use of water, thereby allowing cities and water districts to revenue bond geothermal district heating systems. This can be accomplished without a constitutional amendment.

If you have any other questions or can help us out in any way, please feel free to contact us.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wayne Hart".

Wayne Hart
Staff Coordinator

WH:p

Appendix II - Additional Details on Cost Estimate for Various Alternative Designs

This type of application of small hydroelectric generators for use in existing pipelines has not previously received much interest from manufacturers of equipment. Traditional hydroelectric rates in the west, where pipelines with large elevation differences are common, have been extremely low (less than 0.5 cents/kWh). Consequently there was not financial feasibility for small systems, and hence no market for equipment.

In this conceptual design-feasibility study, the manufacturers responded with traditional equipment common to the larger high-head applications. The type of equipment that best fits the application in the Preston water line is a centrifugal pump device, virtually obtainable off-the-shelf. At least two stages will be required for such a high head application. We feel that the efficiency will be significantly lower than the single stage impulse turbine (like 70% compared to 87%). However, some pump specialists have indicated that the efficiency differences may not be as large.

The advantages of the use of such a pump device for the turbine are several. Cost is a major factor. A \$15,000 reduction is likely in the turbine cost, \$25,000 for the off-the-shelf pump vs. \$40,000 for the impulse turbine (Estimate #1 of Table III). Furthermore, the pump-turbine can operate with a back pressure sufficient to fill the surge tanks, thus eliminating the need for the fill pump. This results in an additional savings of \$8000 for the pump plus the gear and chain drive (\$15,000 total).

The use of an induction type motor as the generator should eliminate the need for the control system-synchronizer equipment, resulting in a further overall savings of \$15,000 (\$10,000 equipment plus installation). Induction motors are not common in this large a size, but can be considered available with long lead-time special order.

Consequently, an overall cost savings in the area of \$45,000 might be anticipated by use of such uncommon equipment for hydroelectric generation. Since direct experience with such equipment for this application cannot be cited, we have been reluctant to work with the lower cost estimate for economic analysis.

The pump/induction-generator combination makes operation fairly simple. The entire flow of water can go through the turbine. The generator will remain synchronized, and its output will be the maximum available at all times, at the required voltage to put it into the line. Manual start-up at the facility is envisioned, rather than remote start-up. However, shutdown valves need to be slow acting, automatic.

A reaction (pump-type) turbine will have lower efficiency; and consequently, revenues will be lower. One would need to determine if the 20% reduction in capital cost is desirable compared to the reduced output. Further evaluation of the technical considerations of design, cost, etc. for reaction (pump-type) turbines with induction motor-generator units is needed. Such efforts might appropriately be undertaken by the U.S. Dept. of Energy's Hydroelectric Program.

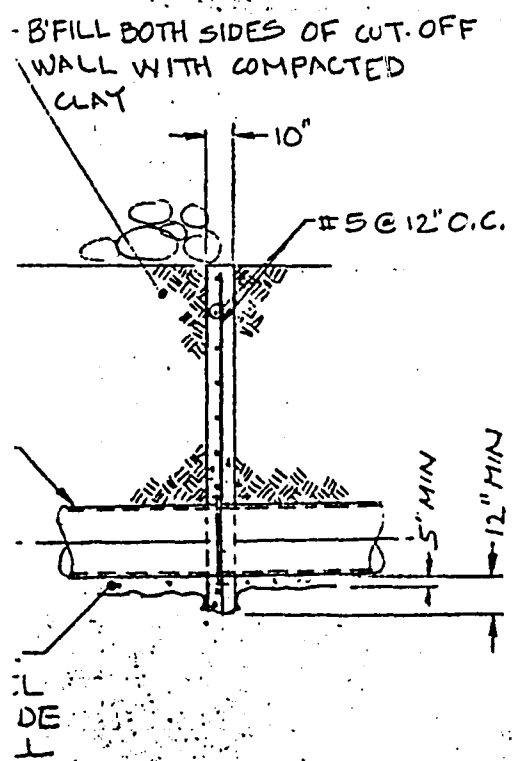
Appendix III - Alternative Means of Municipal Funding for Hydroelectric Facilities.

Financial mechanisms are available through certain special plans that may enable the City of Preston to fund the facility with private sources of capital, still enjoying the advantages of tax-free bond interest rates. An example is the Municipal Funding Corp. of America, 155 S. Madison St., Denver, Colorado 80209. A municipal lease and option arrangement is available, whereby the city would eventually own the facility on a lease-buy agreement. This particular corporation's offerings are used as an example of the financial arrangements; similar ones are probably available from other sources.

The arrangement is one available to local governments, i.e. states, counties, cities, boroughs, towns, territories; school, fire, water, hospital and sanitation districts also may qualify. Because of this restriction to participants that are normally able to issue tax-free bonds, the Corporation can also issue tax-free securities to purchase equipment and/or facilities. The Corporation leases these to the local government on a year-by-year arrangement. Lease payments automatically build equity in the facility for the local government, which eventually becomes full owner at the conclusion of the lease.

An additional option appears to have recently been made available to municipalities and cooperatives (as well as "persons") for small hydroelectric power projects. These provisions for a Federal Loan Program are in the 1978 National Energy Act signed into law early in November. Initial indications were that these loans would be applicable only to low-head hydro projects in existing dams, but there have been verbal indications that the types of eligible applications may have been broadened so that the Preston water-line project might be eligible.

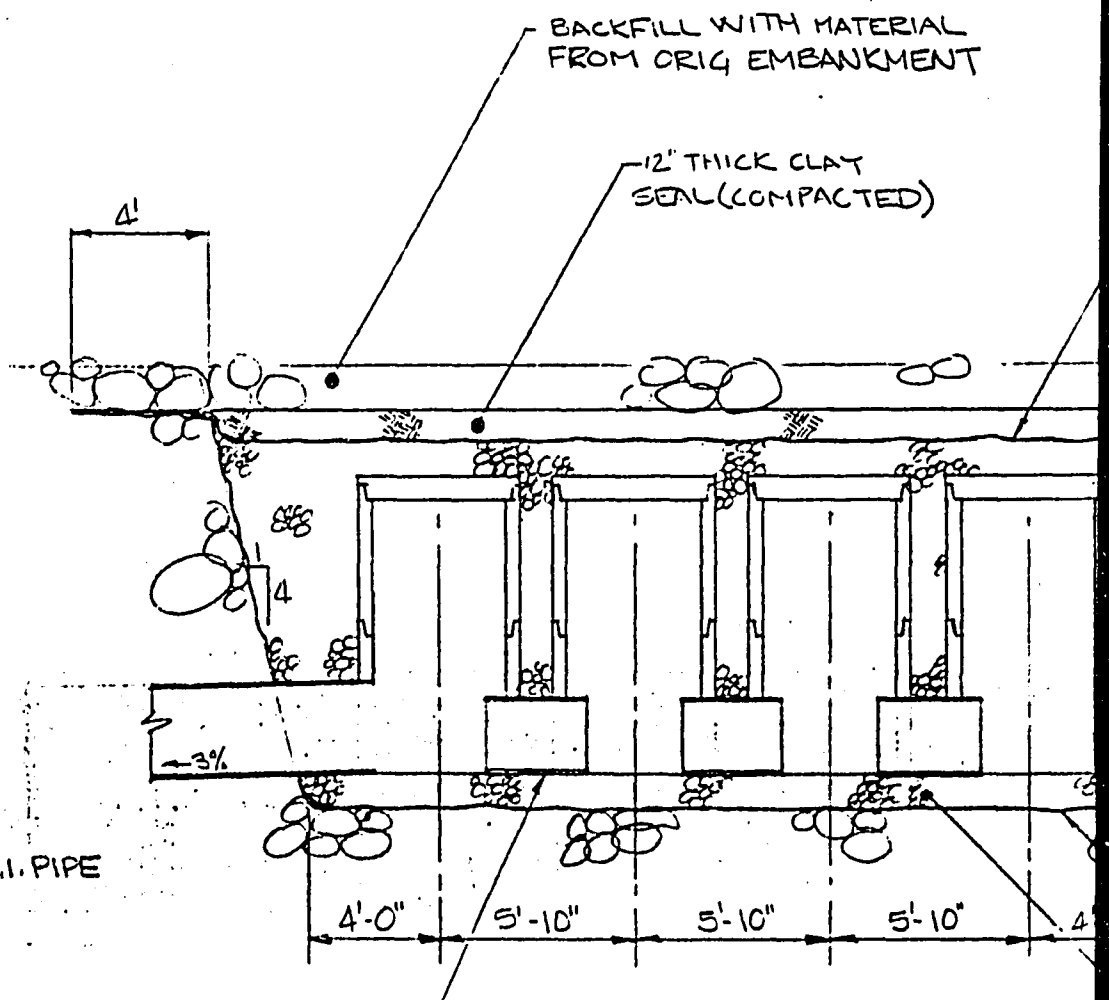
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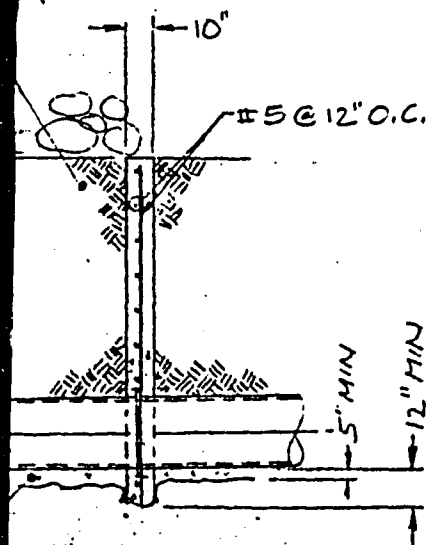
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1/4" = 1'-0"

30" Ø D.I. PIPE



BOTH SIDES OF CUT-OFF
WITH COMPACTED



SECTION E-E

1/4" = 1'-0"

30" Ø D.I. PIPE

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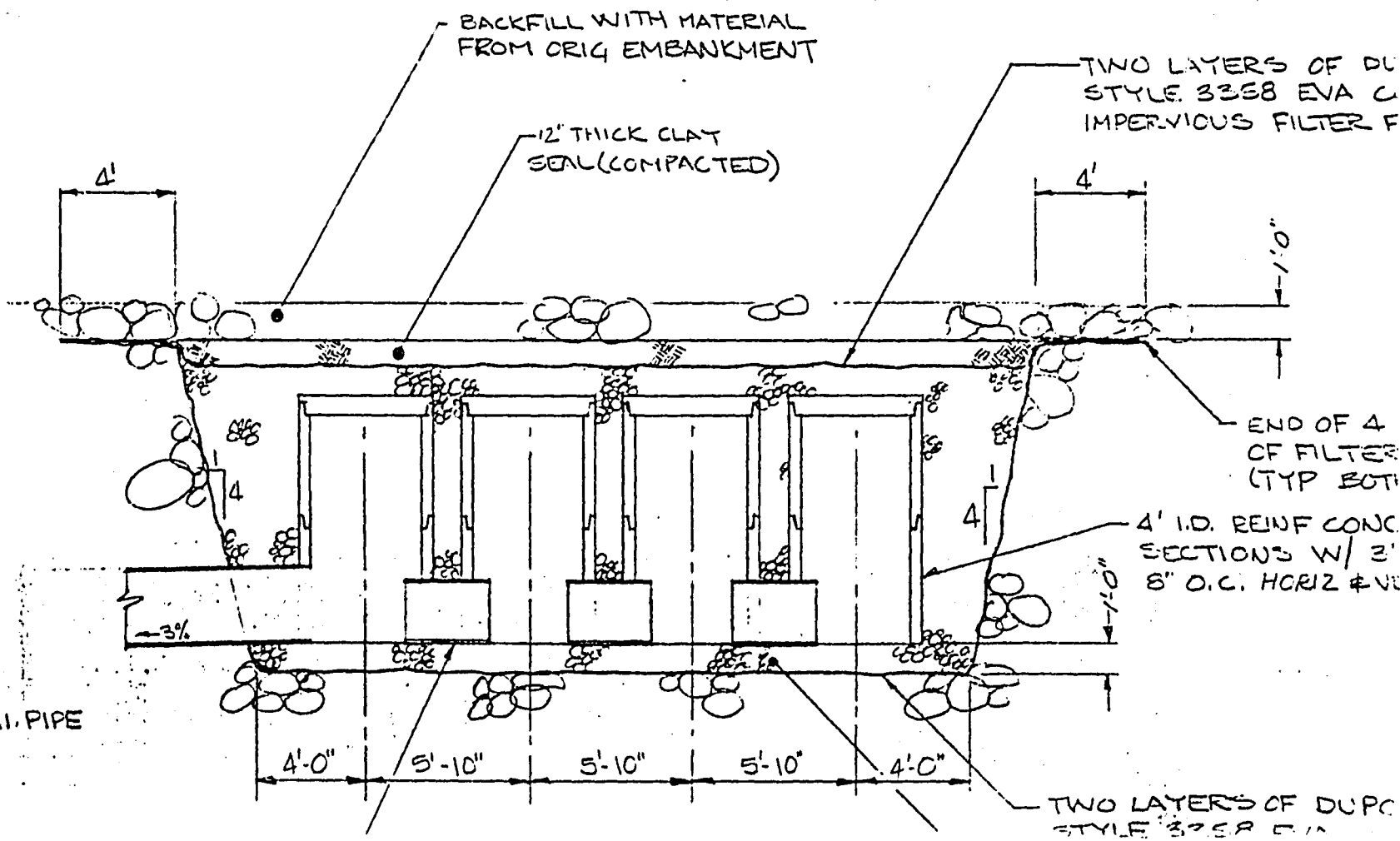
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SEAL (COMPACTED)

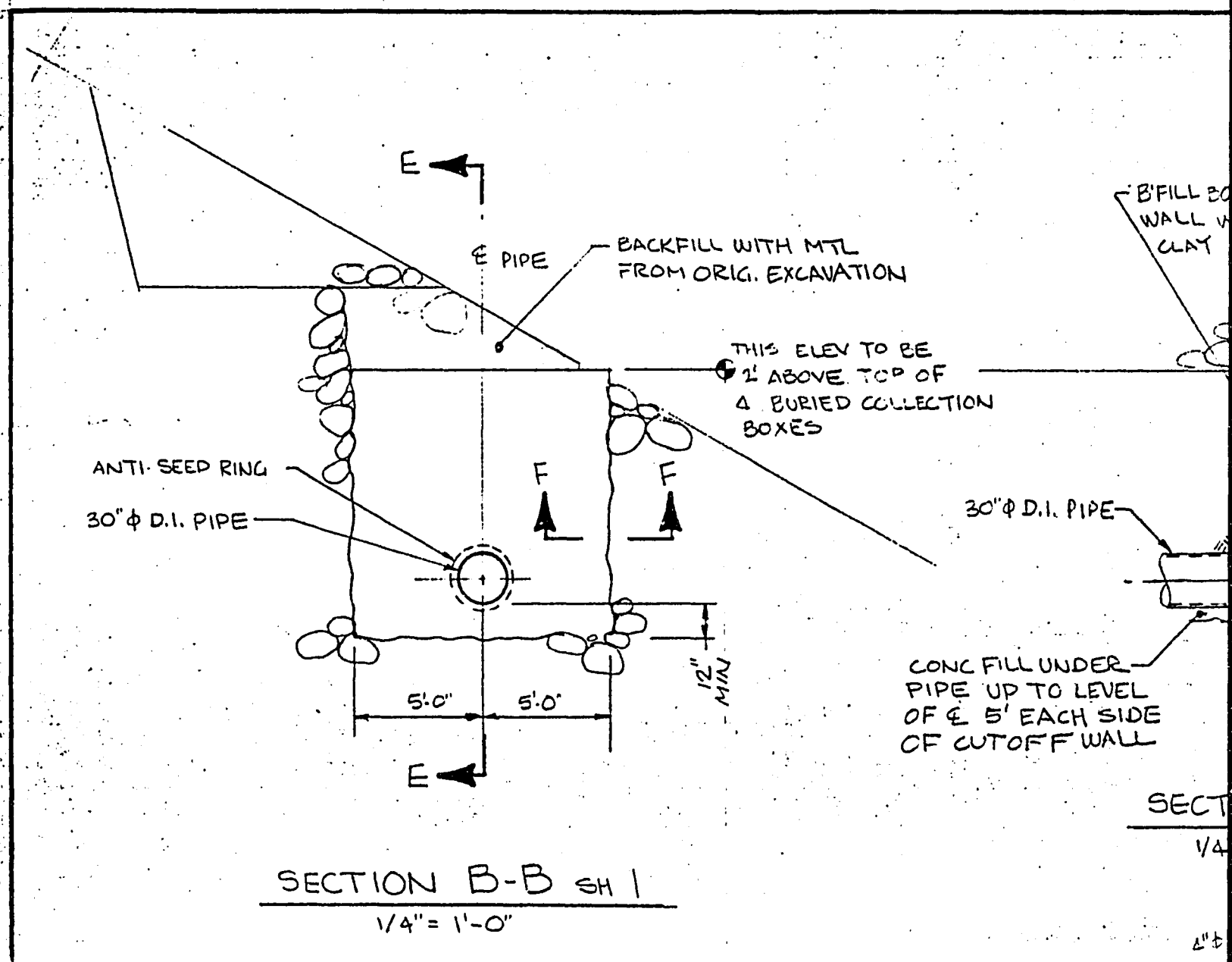
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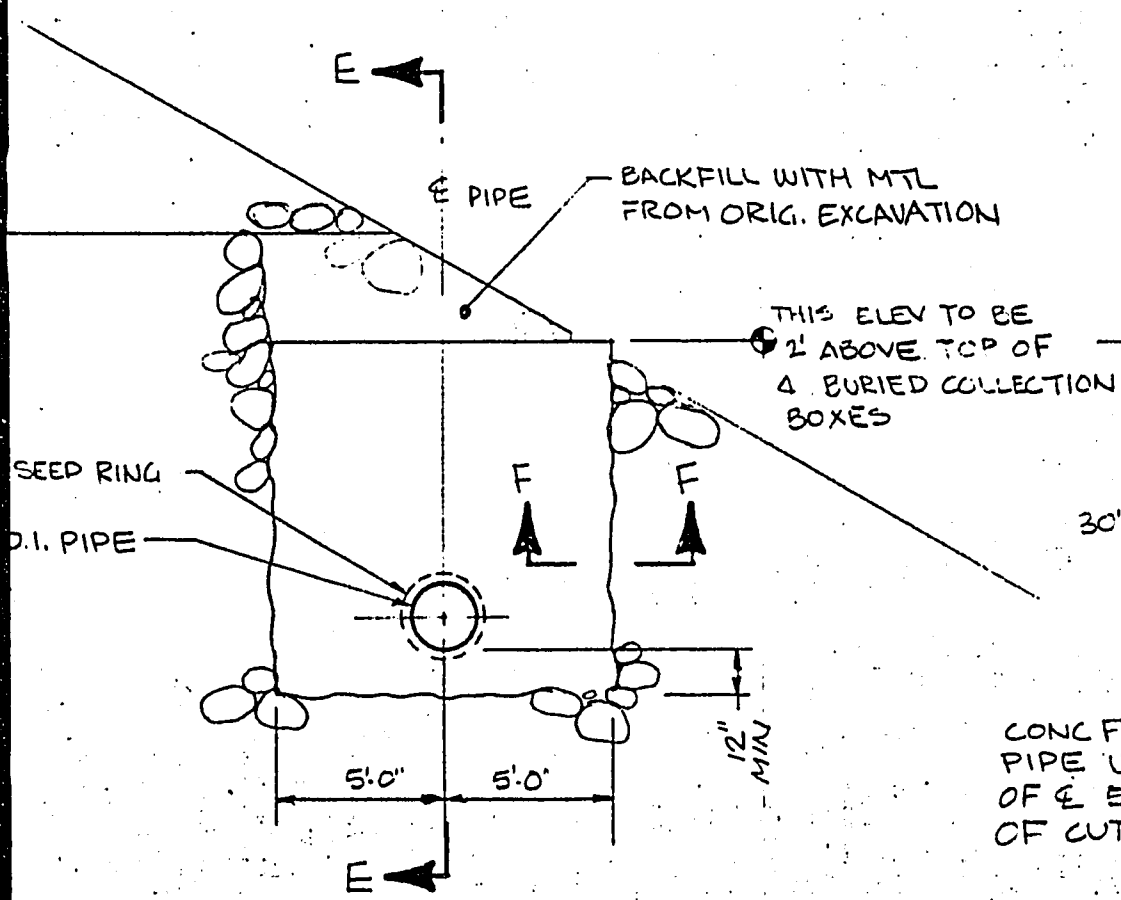
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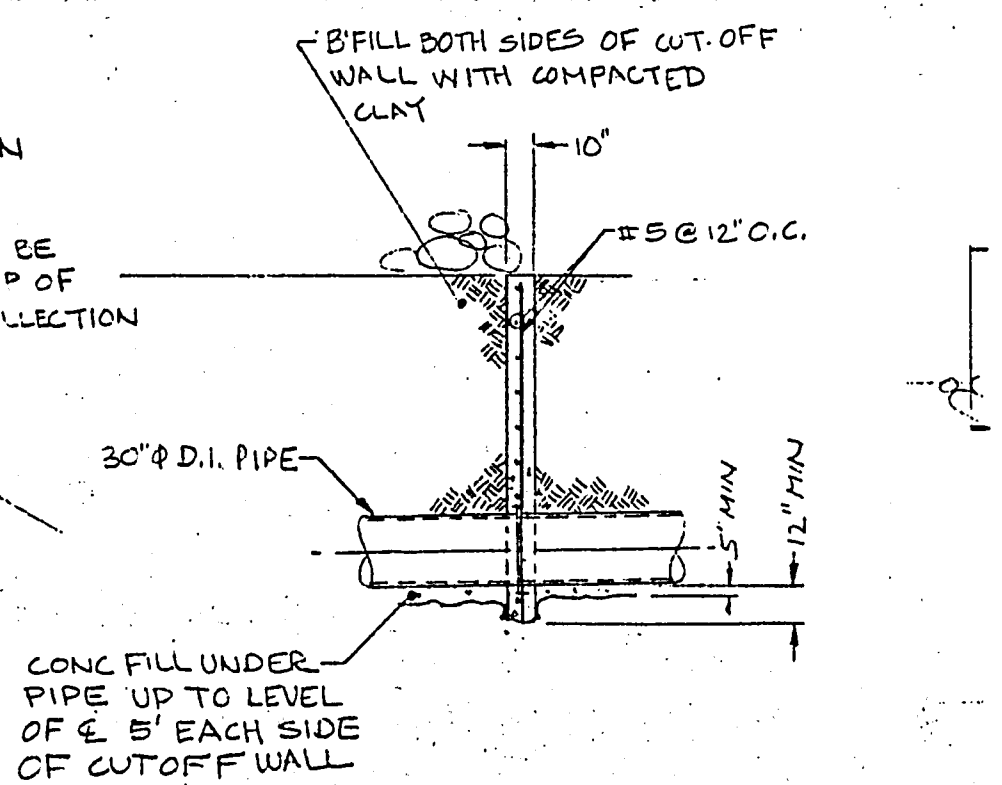
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STYLE 3258 C/A



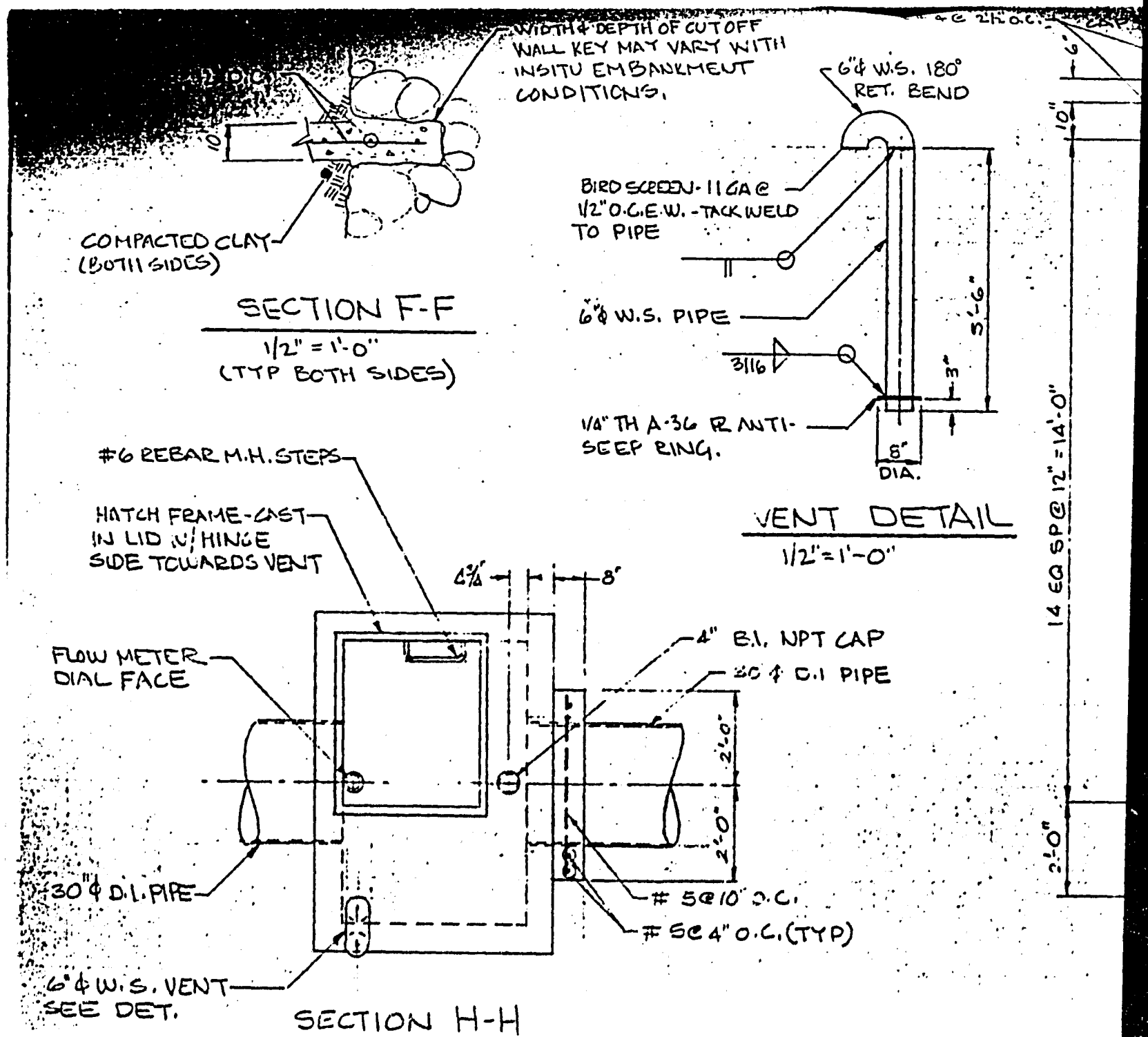


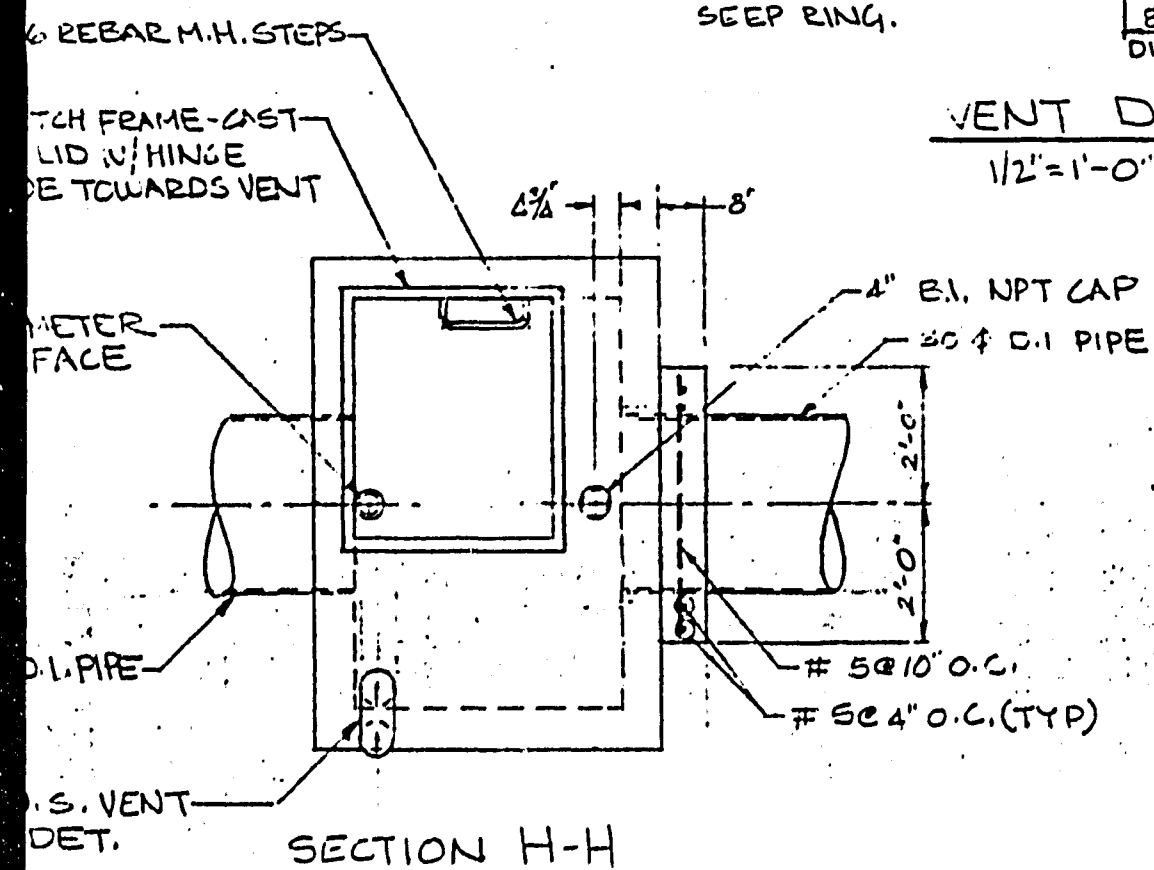
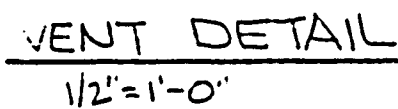


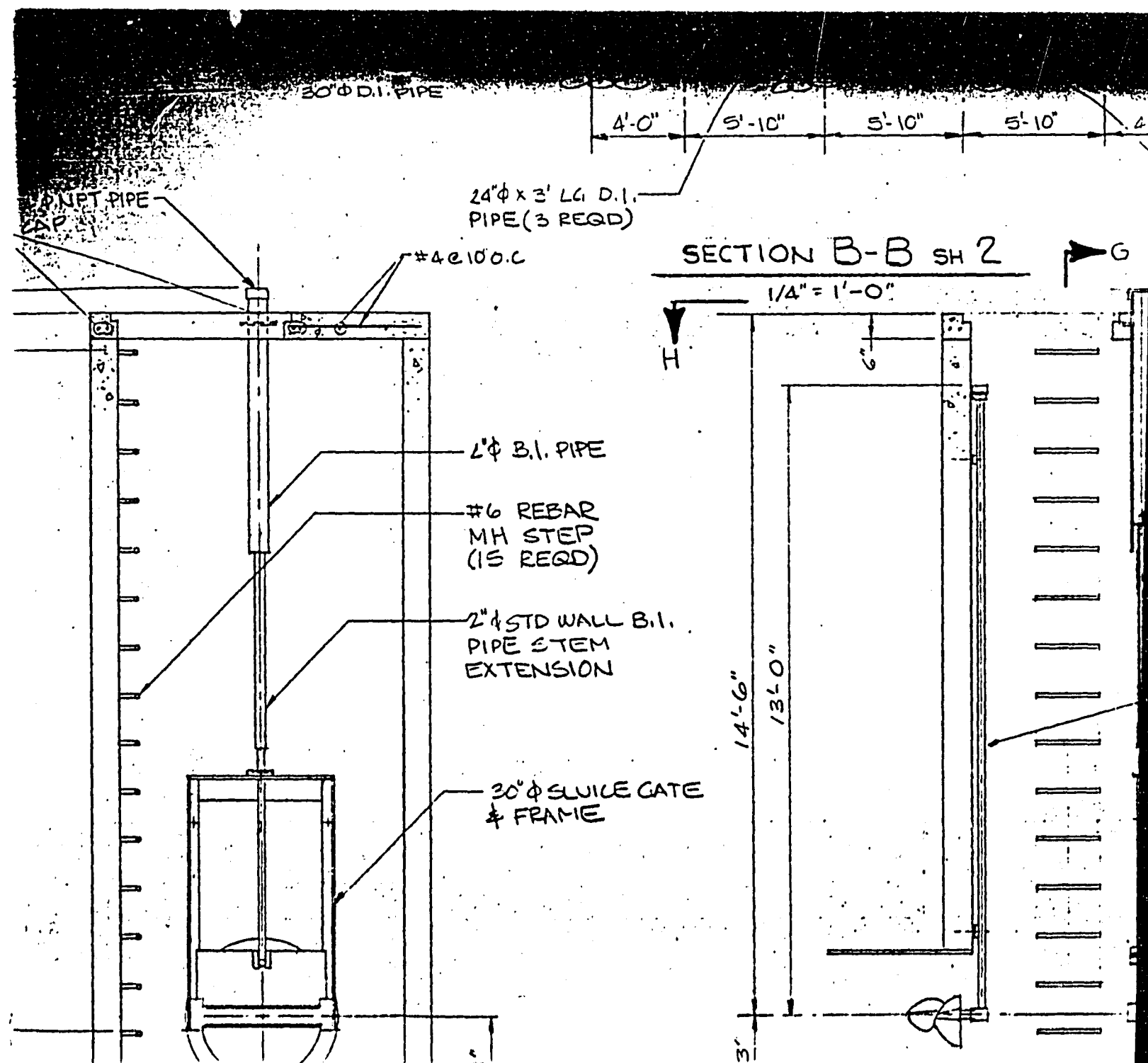
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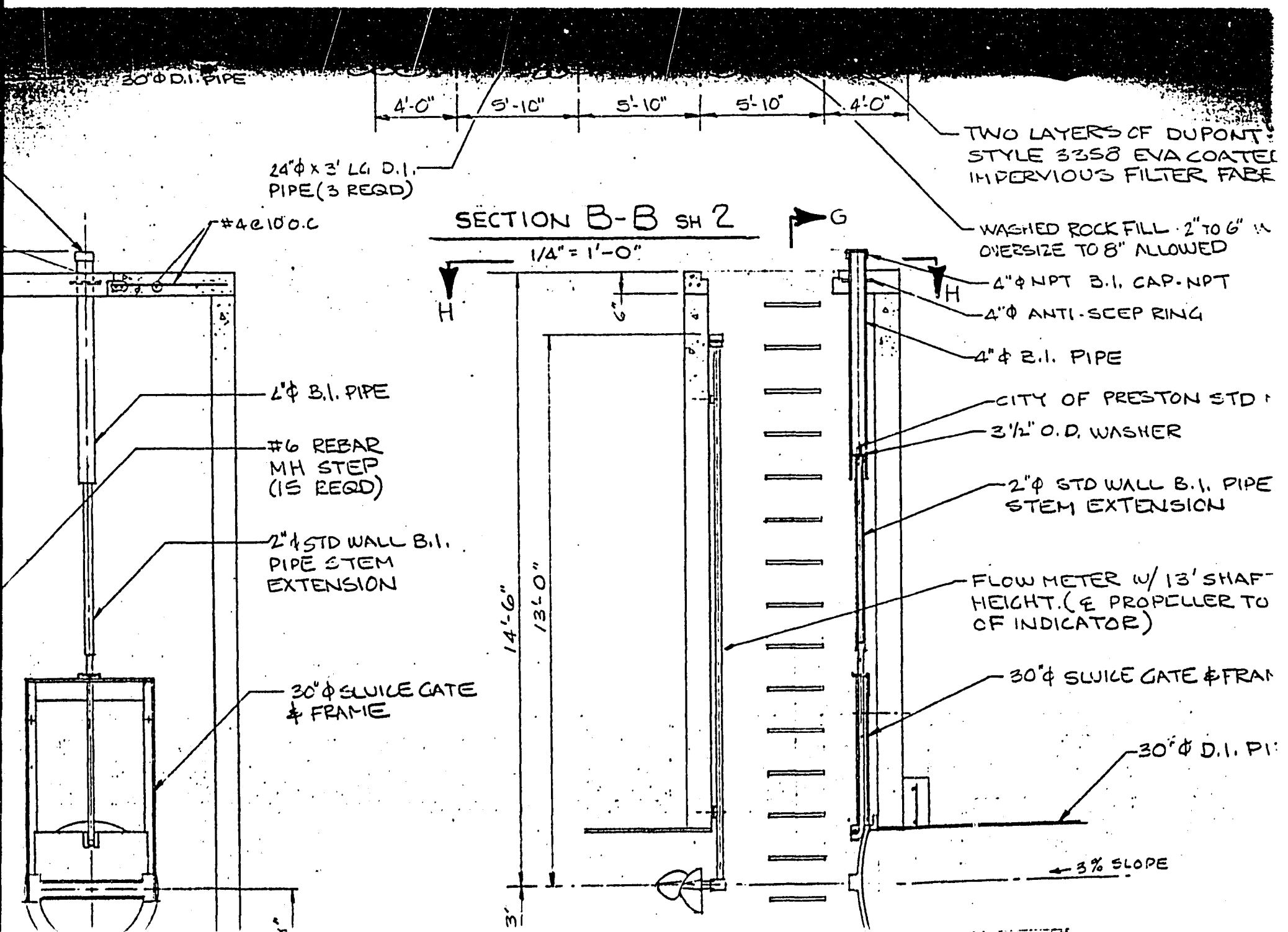


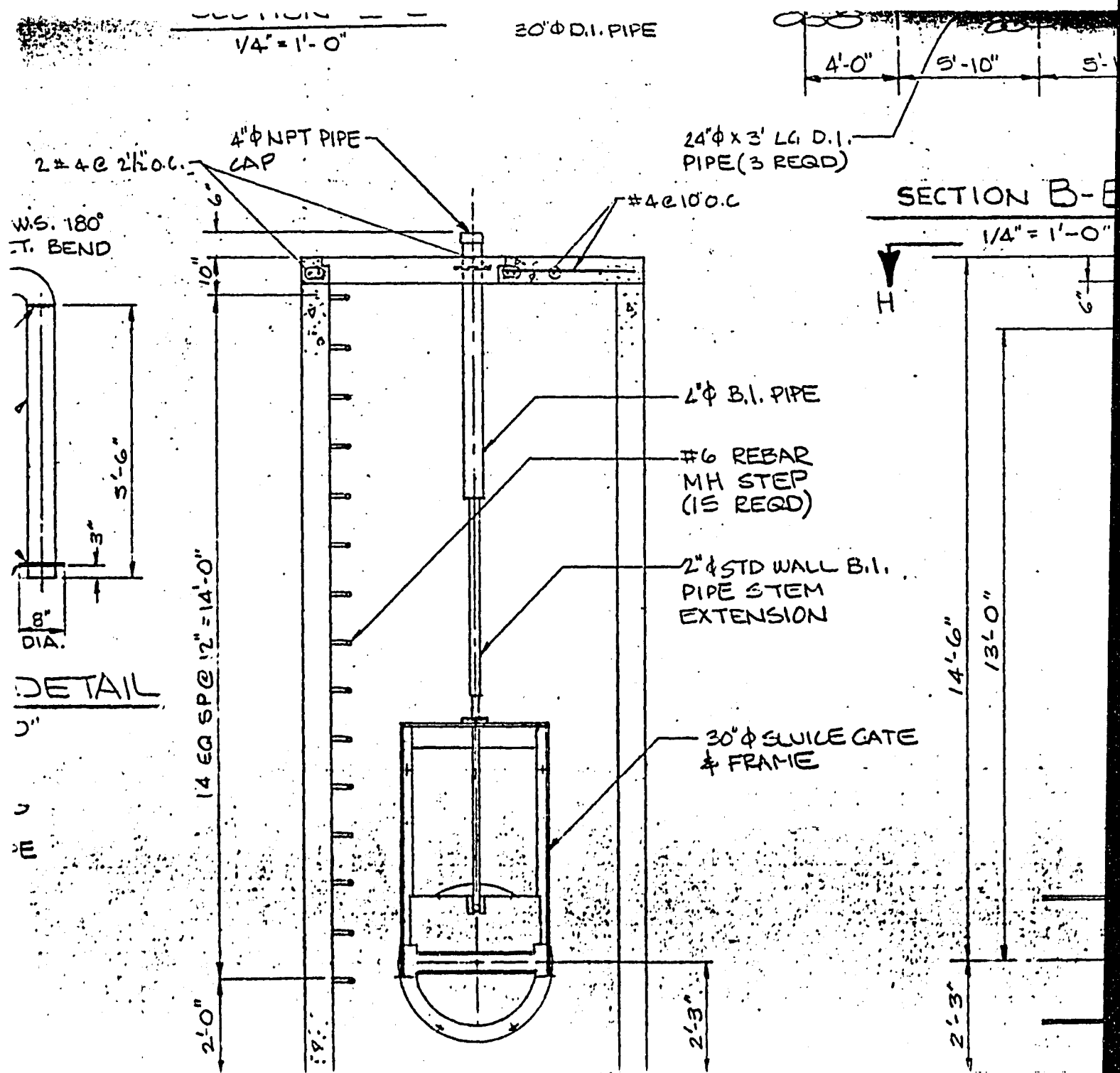
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1/4" = 1'-0"
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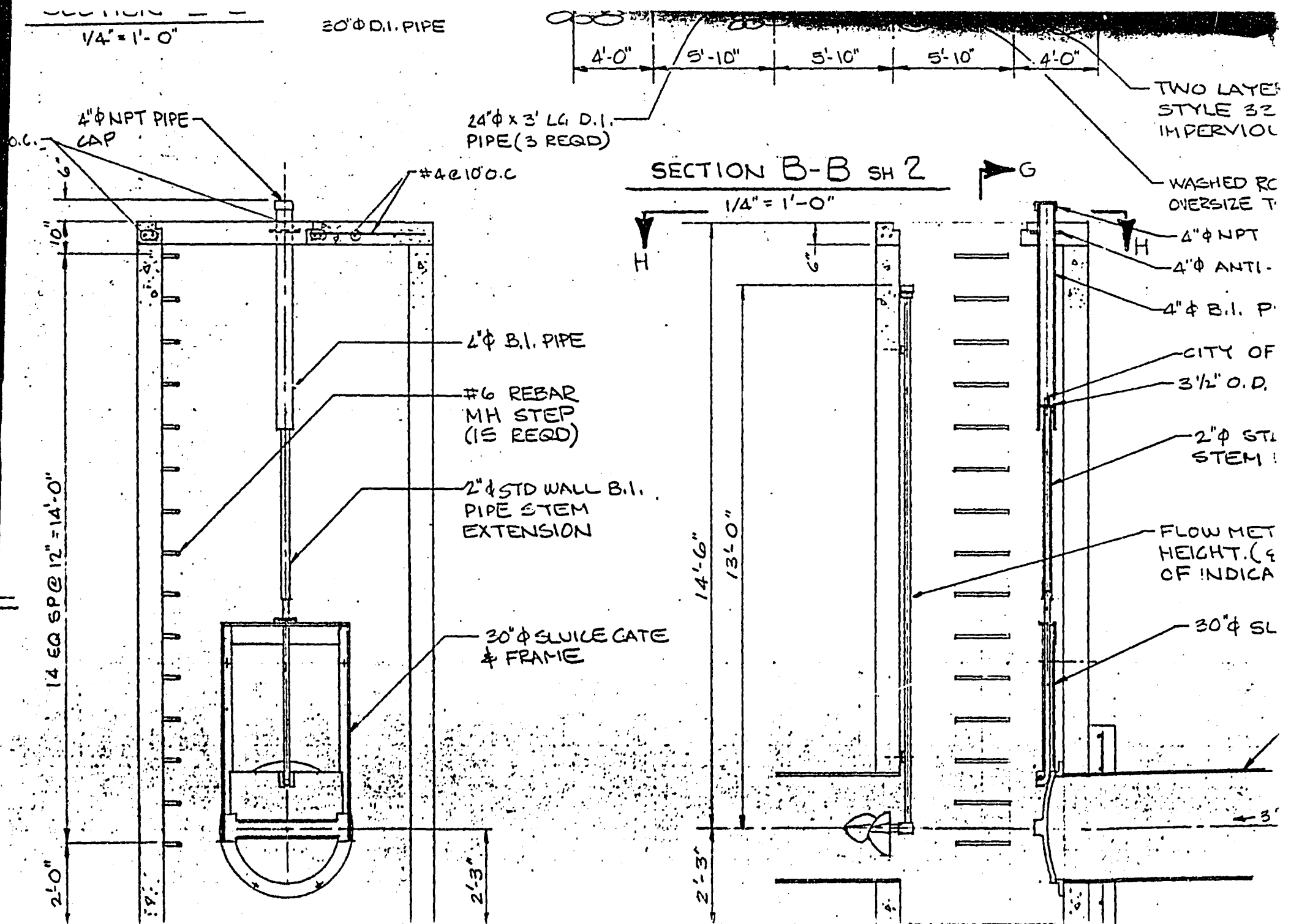




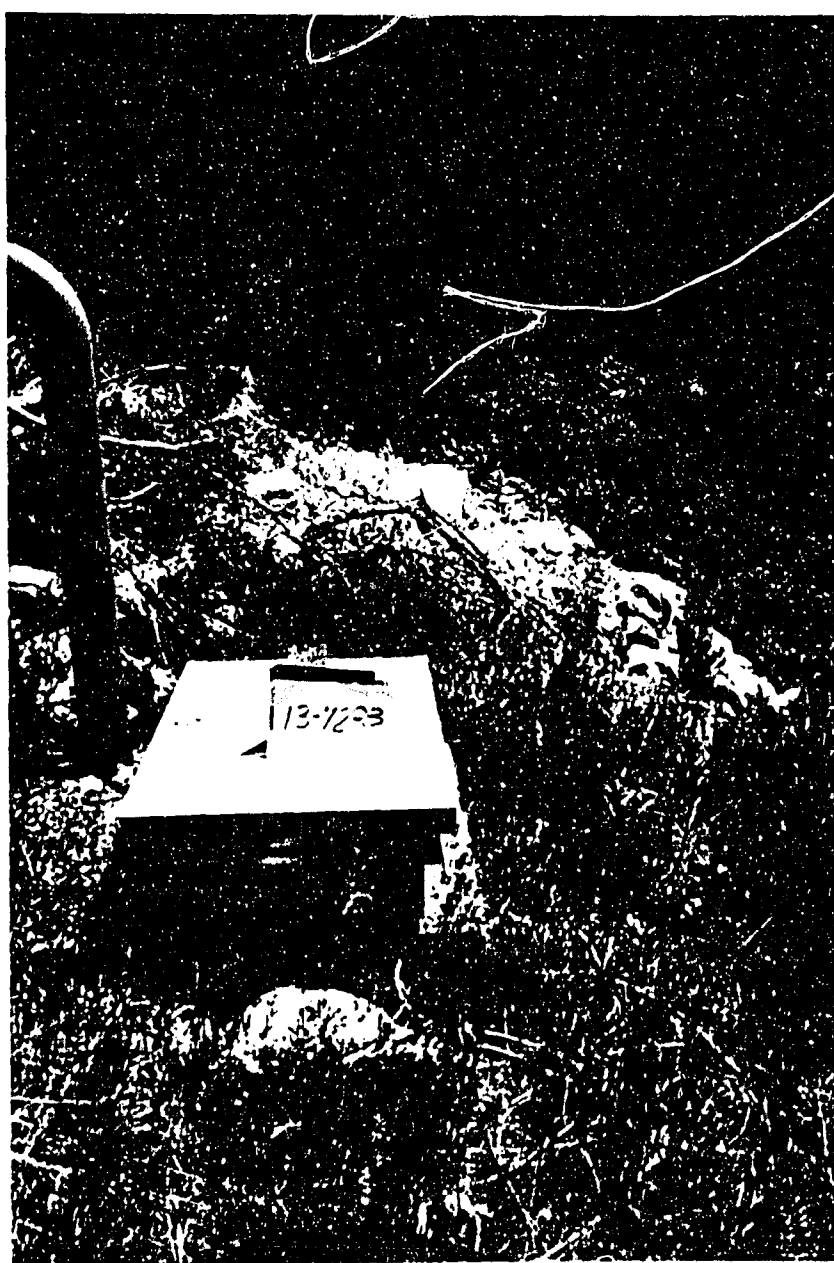








13-7283



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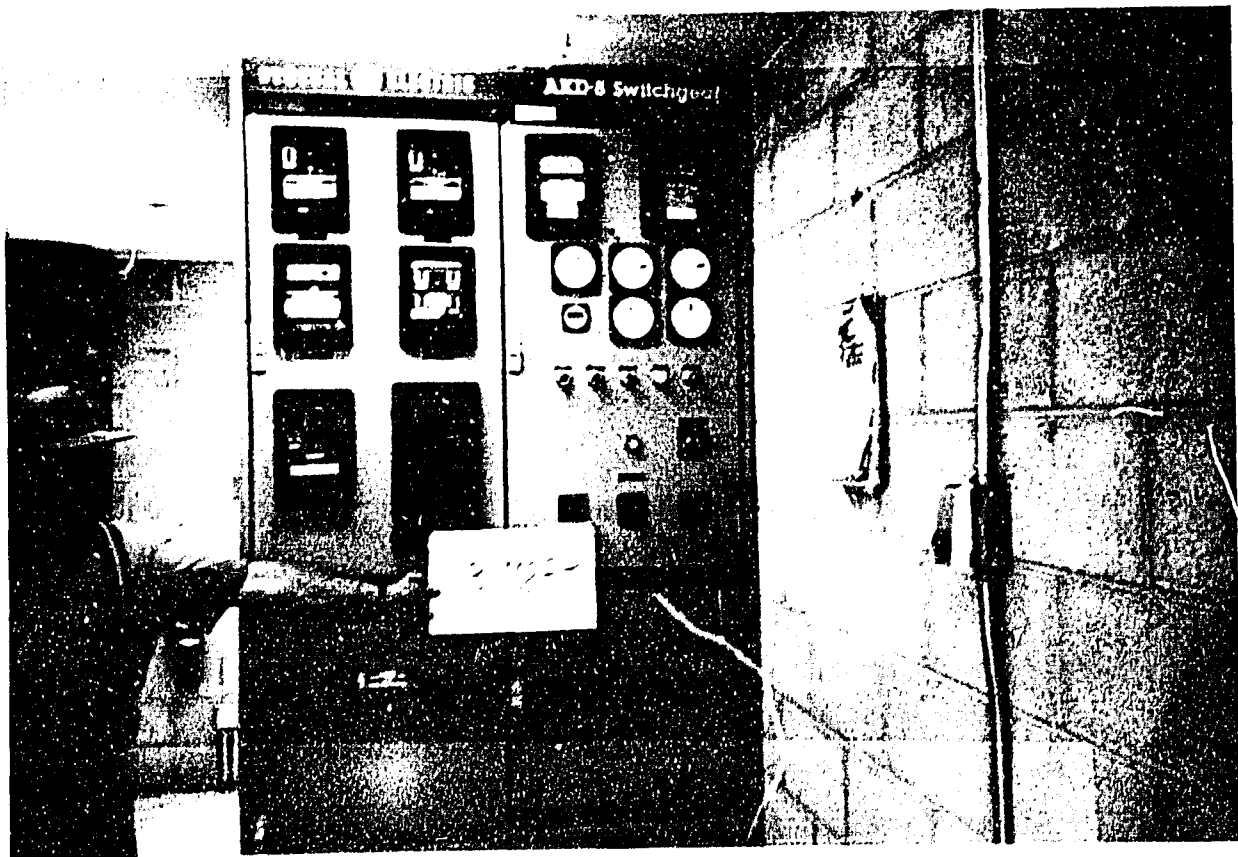
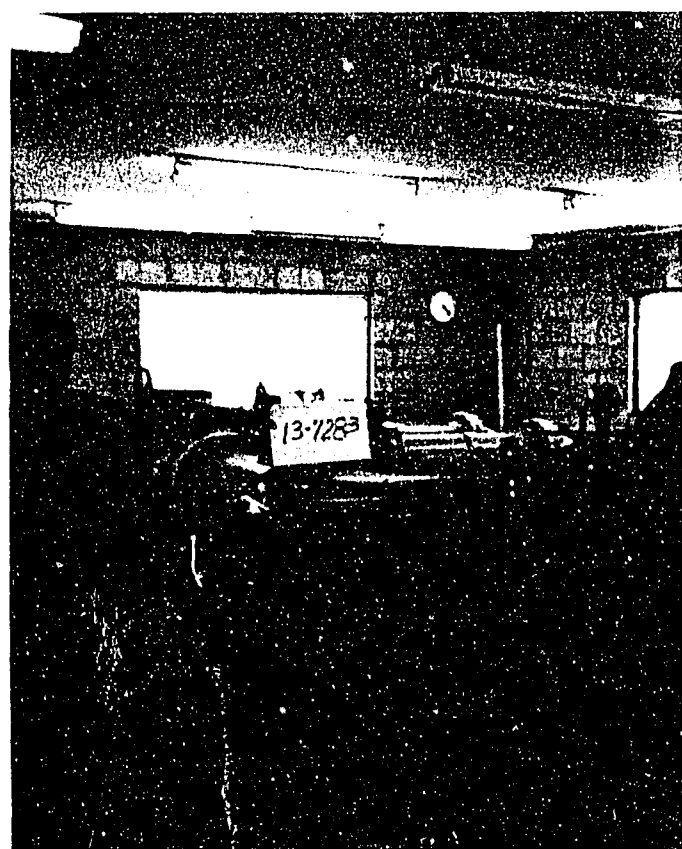
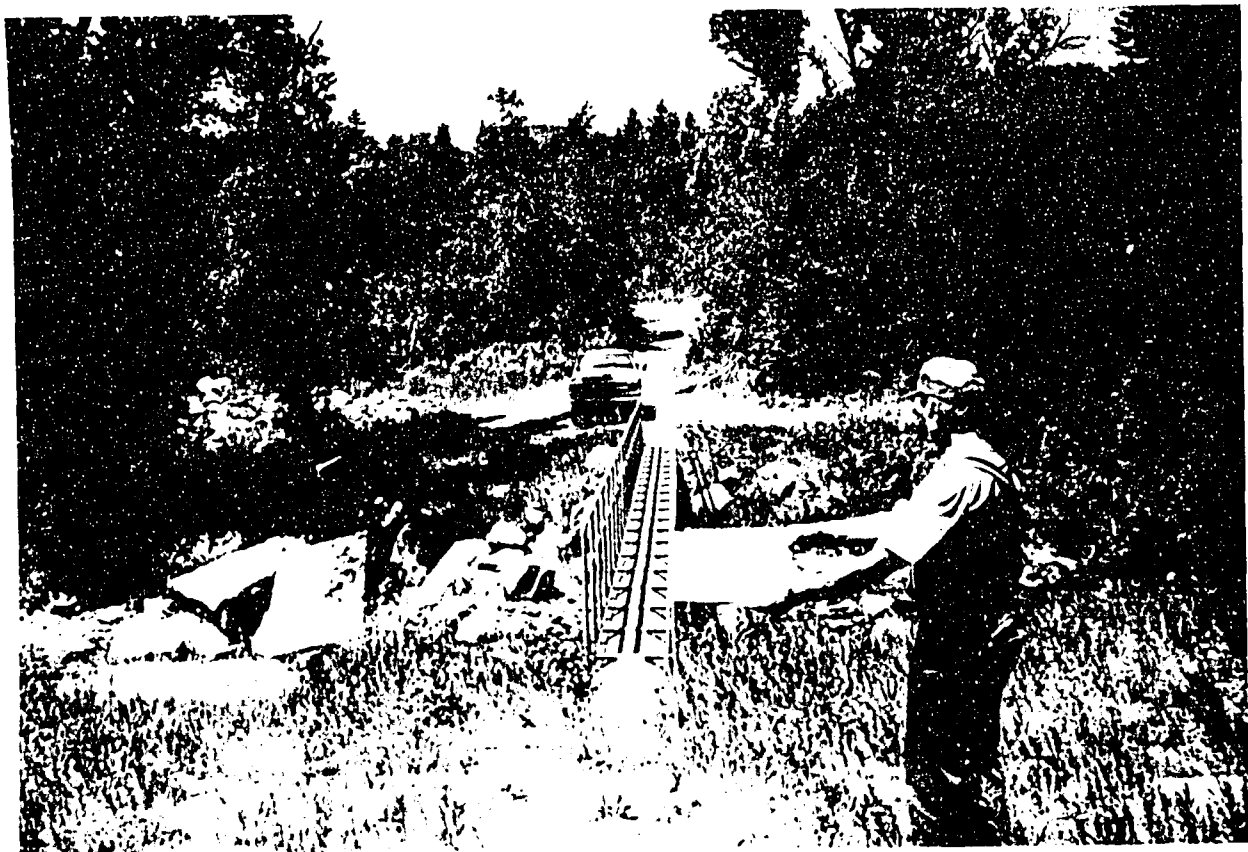


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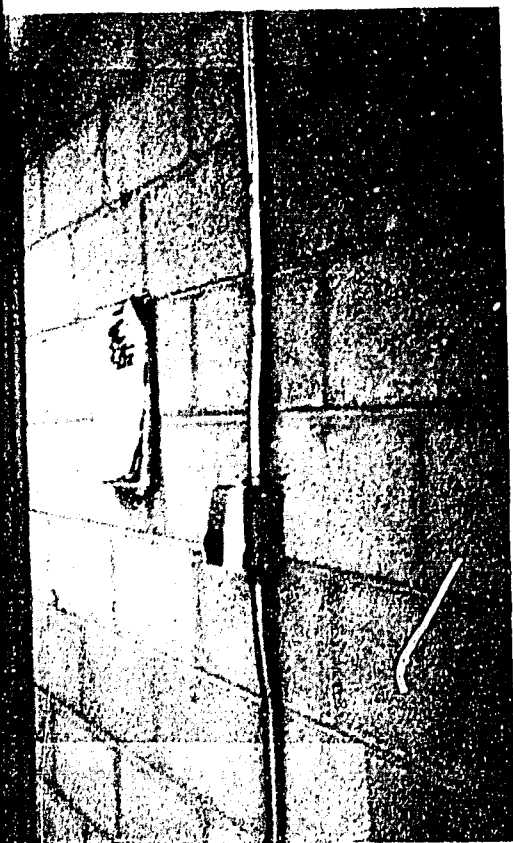


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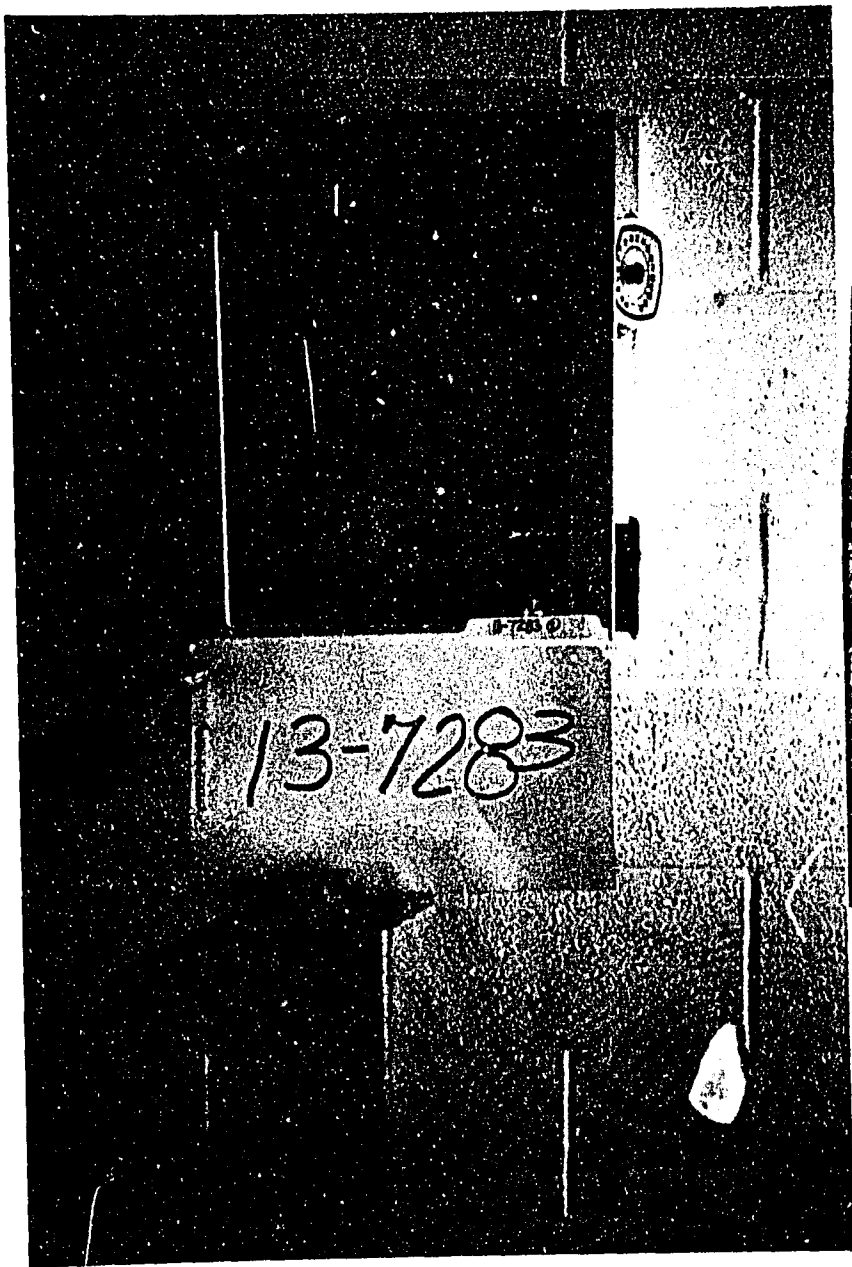
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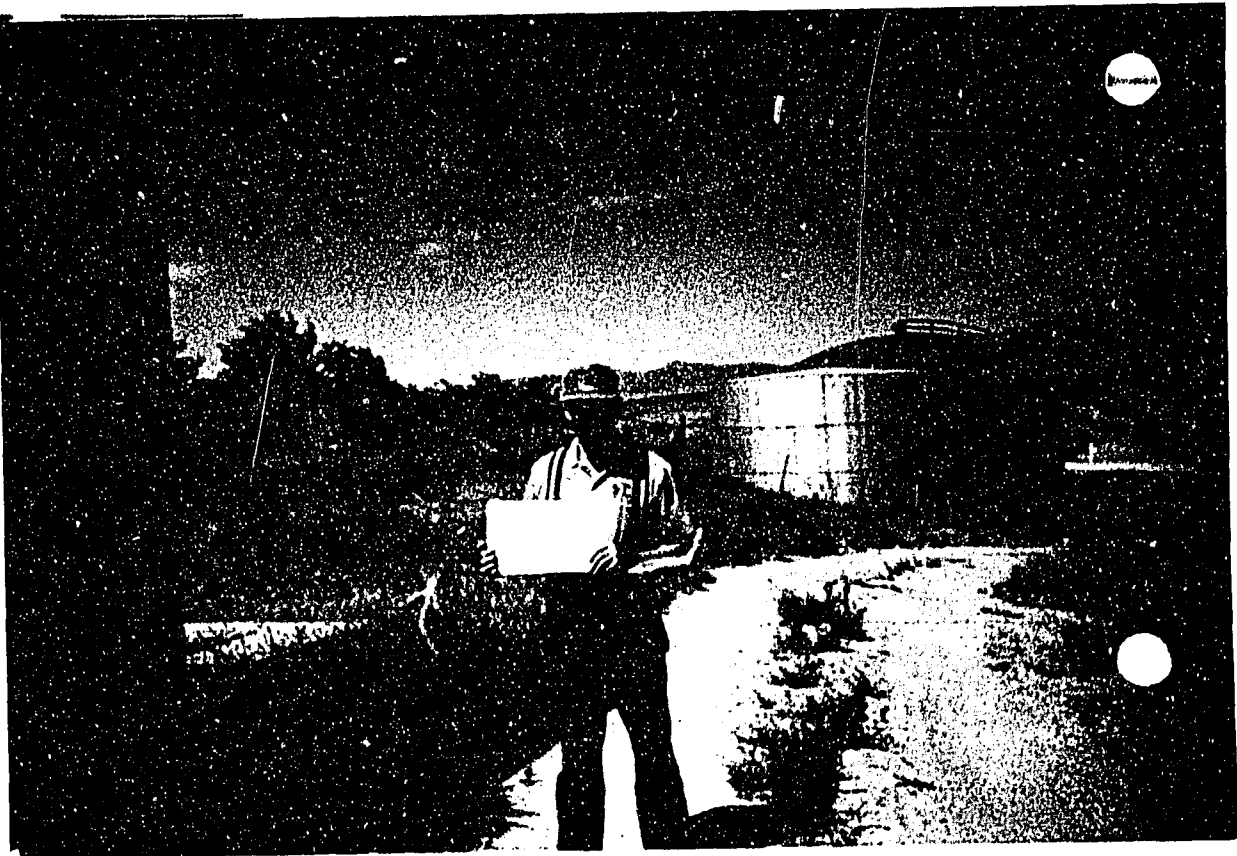
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13-7283



Access to main line will now be stopped here.

***FOR CLARITY
OF ANY
PHOTOGRAPHS
MICROFILMED,
SEE FILE.***

RECEIVED
JUL 03 1989

Department of Water Resources

26-Jun-1989

MEMO

From: Steve McCormick
To: Sharla Curtis

RE: License Exam No. 13-7283

I met with Conan Foster, Water Master of Cub River, Walter Ross Mayor of Preston and Angus Condie of Preston Whitney Canal Co. The meeting was held on June 16, 1989 at the canal companies office in Preston.

The the purpose of the meeting was to discuss the watermasters concerns about the measuring device for the City of Preston's diversion from Berquist Spring.

The measuring device is inadequate and it is very difficult for the watermaster to accurately regulate the diversion. Mr. Ross also agreed the device is inadequate and the system should be repaired. His concern is that the device must be installed when there is the least demand on the water supply. The mayor feels this can be done in October with the least impact on the system.

Conan Foster and Mayor Ross both agreed the work can be performed in October.

I recommend the Dept. stop processing of the license exam until the City of Preston installs the new device and the watermaster gives his approval.



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September 12, 1990

RE: Water Right No. 13-7283 (City of Preston)

Conan Foster
150 S. 2400 E.
Preston, ID 83263

Dear Mr. Foster:

In June of 1989 Steve McCormick of our Eastern Regional office notified us that issuance of a license on the above referenced water right should be postponed until a new measuring device was installed.

Steve had previously met with you and the Mayor of Preston concerning the measuring device that had been installed. In this meeting it was agreed that the current measuring device was inadequate and, therefore, it was very difficult for you as a watermaster to regulate the diversion. It was further agreed that a new device would be installed, probably in October, when the least impact would be made on the system.

Because of the above, we have withheld issuance of a license on this right until being notified that a new measuring device had been installed and you had given your approval of the device.

We have not received word from you as to whether the new installation has occurred. Please let us know at your earliest convenience whether or not the device has been installed and is satisfactory for your regulation of the system.

Sincerely,

SHARLA CURTIS
Technical Records Specialist

MEMORANDUM

TO: File 13-7283
FROM: Sharla *SC*
DATE: March 22, 1991
RE: Measuring Device

On this date, Skip Jones called to inform me that Conan Foster had contacted him about the City of Preston's new measuring device. Mr. Foster indicates that the measuring device has been installed and is satisfactory.

License review can be resumed for this right.

June 13, 1991

CITY OF PRESTON
70 W. ONEIDA
PRESTON, ID 83263

RE: WATER RIGHT NO. 13-07283

Dear Water Right Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

This right is currently being reviewed by this office for licensing. The enclosed preliminary copy is subject to change upon further administrative review.

We ask that you review the proposed license and if you do not concur with the information, please let us know within 10 days.

Sincerely,

SHARLA CURTIS
Technical Records Specialist

SC:blm

Enclosure

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

RECEIVED
JUN 21 1991

Department of Water Resources

JOSEPHINE BEEMAN
(208) 338-8233

June 21, 1991

Sharla Curtis
Technical Records Specialist
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

HAND-DELIVERED

Re: Water Right No. 13-07283

Dear Sharla:

This will confirm our telephone conversation regarding a letter from the City of Preston's attorney, Clyde Nelson, which I received today. Attached to the City's letter is a copy of a letter from you with a draft of the license proposed to be issued on Water Right No. 13-07283. Your letter is dated June 13, 1991, and requests that the City respond within ten (10) days if it does not concur with the information in the proposed license.

I understand that additional review of the proposed license can wait until the City has responded, even if that response occurs after June 23, 1991.

Thank you.

Sincerely,

DAVIS WRIGHT TREMAINE

Jo Beeman
Josephine P. Beeman

JPB:md

cc: Clyde G. Nelson

Fax: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

Sh...
DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

RECEIVED
AUG 20 1991

Department of Water Resources

JOSEPHINE BEEMAN
(208) 338-8233

August 16, 1991

Sharla Curtis
Technical Records Specialist
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Re: Water Right No. 13-07283

Dear Sharla:

This will confirm our telephone conversation on Tuesday, August 13, 1991, regarding the proposed hydropower license for the City of Preston.

The City is examining its records and has asked for additional engineering review of the proposed rate of diversion of 8.11 cfs for the license. It is believed that the meter for the hydropower facility does read more than 8.11 cfs. If this is confirmed by the City's current efforts, it will notify you and contact the Idaho Falls' regional office of Water Resources for a re-exam.

Thank you for your assistance.

Sincerely,

DAVIS WRIGHT TREMAINE

Jo Beeman
Josephine P. Beeman

JPB:md

cc: Clyde G. Nelson

FAX: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

City of Preston

70 West Cassida — Preston, Idaho 83263

August 29, 1991

Mr. Ronald D. Carlson
Regional Manager
Eastern Region
Idaho Department of Water Resources
150 Shoup
Idaho Falls, Idaho 83401

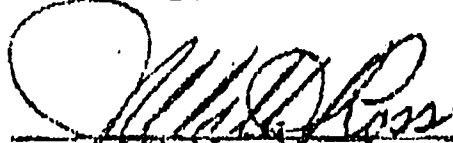
Re: Water Right No. 13-07283

Dear Mr. Carlson:

The City of Preston would like to request a re-examination of the rate of diversion listed in the City's proposed hydropower license 13-07283. A review of the meter readings from the City's Albert Mozer Campground meter shows flows exceeding the 8.1 cfs in the proposed license.

Kenneth L. Spiers, P.E., of James Montgomery Engineers in Salt Lake City, Utah, analyzed the meter readings from the City's Albert Mozer Campground meter and is familiar with the City's pipeline and hydroelectric plant. In addition, Elmer Oliverson, Public Works Director for the City of Preston, is familiar with fluctuations of water flows through the hydropower plant. We would appreciate coordinating with these two individuals for purposes of re-examining the rate of diversion proposed for the license on the hydropower water right.

Sincerely,


Mayor of Preston

cc: Shari - this - IDWR (Boise)



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

November 15, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

Conan Foster
Watermaster, Water District 13-A
1508 S. 2400 E.
Preston, ID 83263

Re: Watermaster's Term of Service and Delivery of Water Right No.s
13-0027 and 13-0028 owned by the City of Preston

Dear Conan:

This letter is being sent to you in response to questions which we received last week from you, the City of Preston and other water users within Water District 13-A. The questions we received concerned: 1) the watermaster's appointment and term of service, 2) the extent of regulation of rights 13-0027 and 13-0028 owned by the City of Preston, and 3) the status of pending transfer applications for water right no. 13-0026.

1) Watermasters Term of Service:

The certificate of watermaster appointment which was issued to you in 1994 specifically states that your term of service was limited to the end of the 1994 irrigation season. This officially means that you do not at this time have authority to regulate diversions within Water District 13-A. Department staff reviewed the minutes of the 1994 annual water users meeting and did not find any adopted resolution which called for the watermaster to serve throughout the year. Although Department staff did find that such a resolution was adopted in 1989, minutes of annual meetings from subsequent years were silent in regards to the watermaster's term of service. In order to be appointed as a full year watermaster each year, the water users must pass a resolution at each annual meeting which specifically calls for the watermaster to serve the full year.

While your 1994 term of service has ended, you should be aware that Section 42-608(5), Idaho Code does provide authority for the Director of the Department to extend the watermaster's term of service. This authority is contingent upon receipt of a petition requesting such an extension from the holder of a water right for the diversion of storage water during the time period for which the extension is sought and upon a determination of necessity by the Director. A copy of Section 42-608 is attached to this letter.

2) Regulation of Rights 13-0027 and 13-0028:

Water rights 13-0027 and 13-0028 were decreed to the City of Preston in McEwan vs. Franklin County Sugar Co., dated July 9, 1927. Right 13-0027 allowed for the diversion of 1 cfs from Ranger Spring at all times for municipal purposes. Right 13-0028 provided

for 'the use of all the waters of Birch Springs, at all times, to be diverted through the pipe line and diverting works operated and maintained by said City.' The Department approved water right transfer applications in 1991 which formally transferred these rights from their decreed sources to Bergquist Springs. The transfers were originally protested by Cub River Irrigation Co. and Preston Whitney Irrigation Co. and then later withdrawn on the grounds that the City of Preston install adequate measuring devices on Birch and Bergquist Springs. A letter submitted in support of the transfer applications from City of Preston attorney Clyde Nelson claims that under right 13-0028, the City is only entitled to divert from Bergquist Springs the amount of water which Birch Springs produces.

Based on our review of the records, the City is entitled to divert from Bergquist Springs 1 cfs of water under right 13-0027. The amount of water which the City can divert under right 13-0028 is limited to the measured flow of Birch Springs.

3) Status of Transfer Application for Right 13-0026:

The Department is aware that the City of Preston and Cub River Irrigation Company each have a pending transfer application on file for a portion of water right 13-0026. These transfers respectively seek to change 2.5 cfs and 2.82 cfs of right 13-0026 held by Cub River Irrigation Co. from the Cub River to Bergquist Springs. The basis of these transfers seem to stem from a contract between the City of Preston and Cub River Irrigation Co. which provides for the City's use of up to 2.5 cfs of one of the Cub River Irrigation Co. rights. This contract is referenced in the McEwan decree under the same paragraph which describes rights 13-0027 and 13-0028 owned by the City. Ranger Spring, tributary to the Cub River, is named in both the decree and the contract as the actual source of water for the 2.5 cfs to be used by the City.

The transfer applications are pending as a result of unresolved protests and amendments which were required by the Department. Given the recent attention concerning the City's Bergquist Springs diversion, the Department plans to hold a conference or hearing on these transfers as soon as possible. Since the applications are still pending, the City can not at this time divert any water under right 13-0026 from Bergquist Springs.

Department Direction to Watermaster:

Since your appointment as watermaster has officially ended, you are advised at this time to refrain from regulating any diversions on the Cub River or its tributaries, including Bergquist Springs. The Department will consider extending your term of service for the 1994-1995 non-irrigation season upon receiving a petition from a valid storage right holder.

If your term of service is extended, you will be directed to limit the City's municipal diversion from Bergquist Springs to 1 cfs plus

Page 3

the flow of Birch Springs. The City's hydropower diversion from Bergquist Springs under permit 13-7283, which authorizes diversion of up to 13 cfs, can be delivered as long as it does not interfere with the delivery of senior priority rights during the non-irrigation season.

If you have questions concerning this matter, please contact me directly at 327-7864.

Sincerely,



Tim Luke
Hydrologist, Water Allocations

cc: Clyde Nelson, Attorney, City of Preston
Carl Swainston, Preston Whitney Irrigation Company
Mervin Bodily, Cub River Irrigation Company
Angus Condle, Water District 12-A Secretary
Eastern Region, IDWR

APR 1965
U.S. DEPARTMENT OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

Permit No. 13-7283

Phone No. (208) 852-1817

Accompanied by: JAN SEAMONS

EXAM DATE: 1/24/95

Address: SAME

Phone No. *SAME*

Relationship to Permit Holder: MAINTENANCE FOREMAN

3. Source: BERGQUIST SPRING tributary to CHB RIVER

1. Other water rights with the same place of use: NONE

2. Other water rights with the same point of diversion: 13-00027 + 13-00028

1. Point(s) of Diversion:

[illegible]

Indicate Method of Determination U.S.G.S. TOPO MAP

[illegible]

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.d. as applicable. *SEE ATTACHMENTS*

Scale: 1" = _____

____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

____ Aerial Photo Attached (required for irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: *SONIC METEL - SEE ATTACHMENT*

PIPE OD: 12.82

PIPE THICKNESS: .525

E. NARRATIVE/REMARKS/COMMENTS

SEE ATTACHMENT.

Have conditions of permit approval been met? ☒ yes ☐ no

F. FLOW CALCULATIONS

Measured Method:

☒ Additional Computation Sheets Attached**G. VOLUME CALCULATIONS**

1. Volume Calculations for Irrigation:

 $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

Allow
~~PERMIT LIMITS TO 10 CFS PER TURBINE DESIGN~~
SPECIFICATIONS / GILKES INC.

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>POWER</u>	<u>1/1</u>	<u>12/31</u>	<u>10 CFS</u>	
Totals:			<u>10 CFS</u>	

2. 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

I. AUTHENTICATIONField Examiner's Name JIMPKINS Date 5/8/95Reviewer [Signature] Date 4-9-95

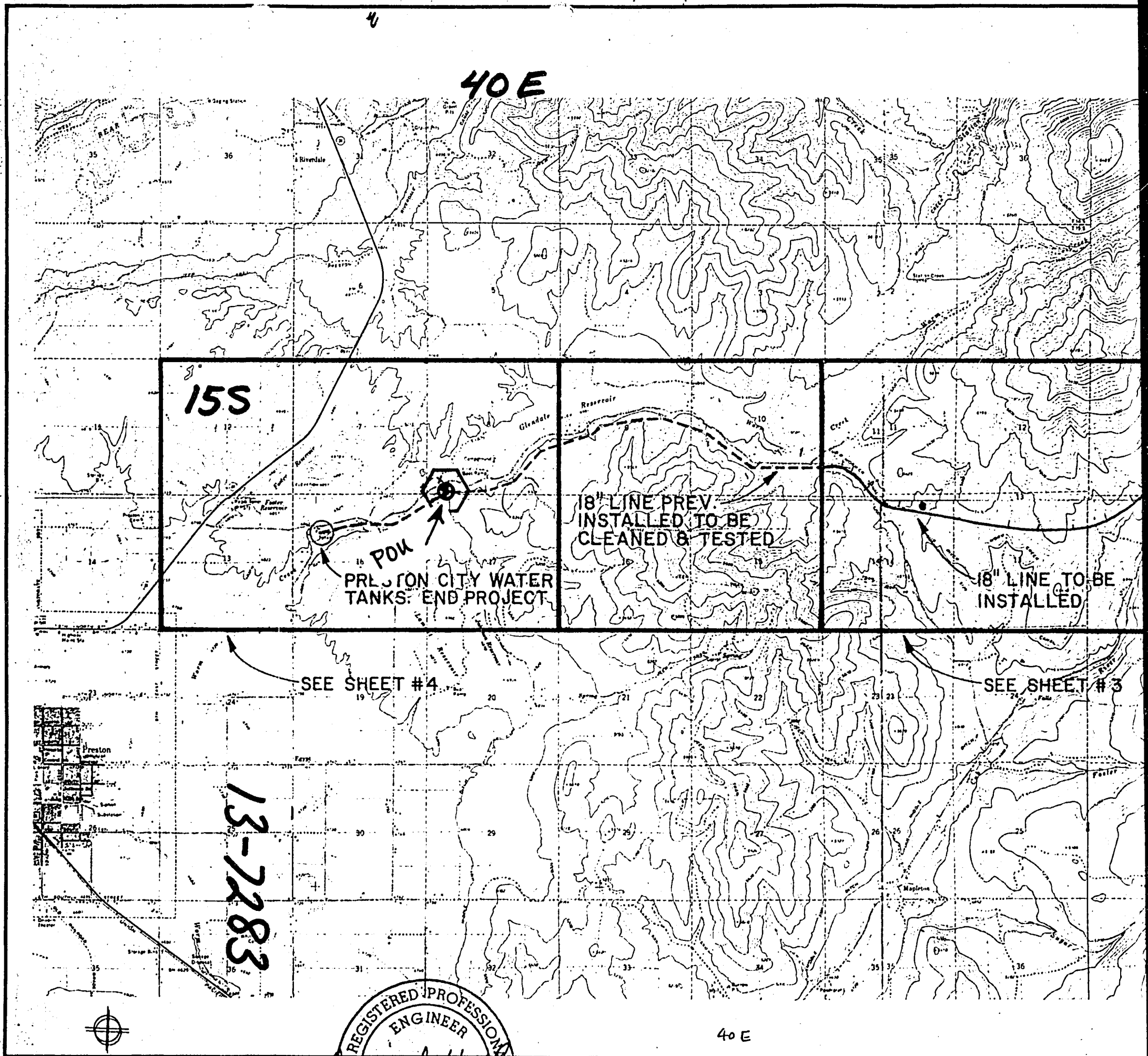
SEAL

CITY OF PRESTON

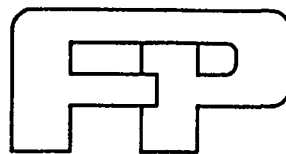
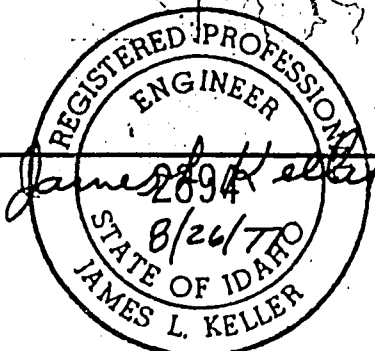
E. NARRATIVE

ON 1/24/95 A REEXAMINATION WAS CONDUCTED AT THE CITY OF PRESTON HYDRO PROJECT PLACE OF USE, FOR PERMIT # 13-07283; THIS IS A HYDRO POWER PERMIT. ALL DATA AND MATERIAL USED FOR THE EXAM WAS OBTAINED FROM PHONE CONVERSATIONS WITH GILKES INC. VICE PRESIDENT ALLAN DAVIES, ENGINEERING SPECIFICATIONS, FIELD INSPECTION AT PLACE OF USE AND INFORMATION GAINED FROM U.S.G.S. TOPOGRAPHICAL MAPS; NO POINT OF DIVERSION INSPECTION WAS CONDUCTED DUE TO INACCESSIBILITY.

WATER FROM BERQUIST SPRING IS COLLECTED AND PIPED APPROXIMATELY 9.6 MILES TO THE PLACE OF USE AT THE TURBINE FACILITY; HEAD IS APPROXIMATELY 625 FEET. MR. DAVIES INDICATED THAT THE TURBINE WOULD BE MAXED OUT AT 10.5 CFS BUT INDICATED THAT THIS RATE OF USE WOULD NOT BE NORMAL. A SONIC METER TEST WAS CONDUCTED PRIOR TO TURBINE INPUT WHICH OBTAINED A READING OF 9.284 CFS (due to system design and the placement of the sonic meter in relationship to valves, flanges and bypass pipes, the reading, even though a stable R was obtained, is questionable).

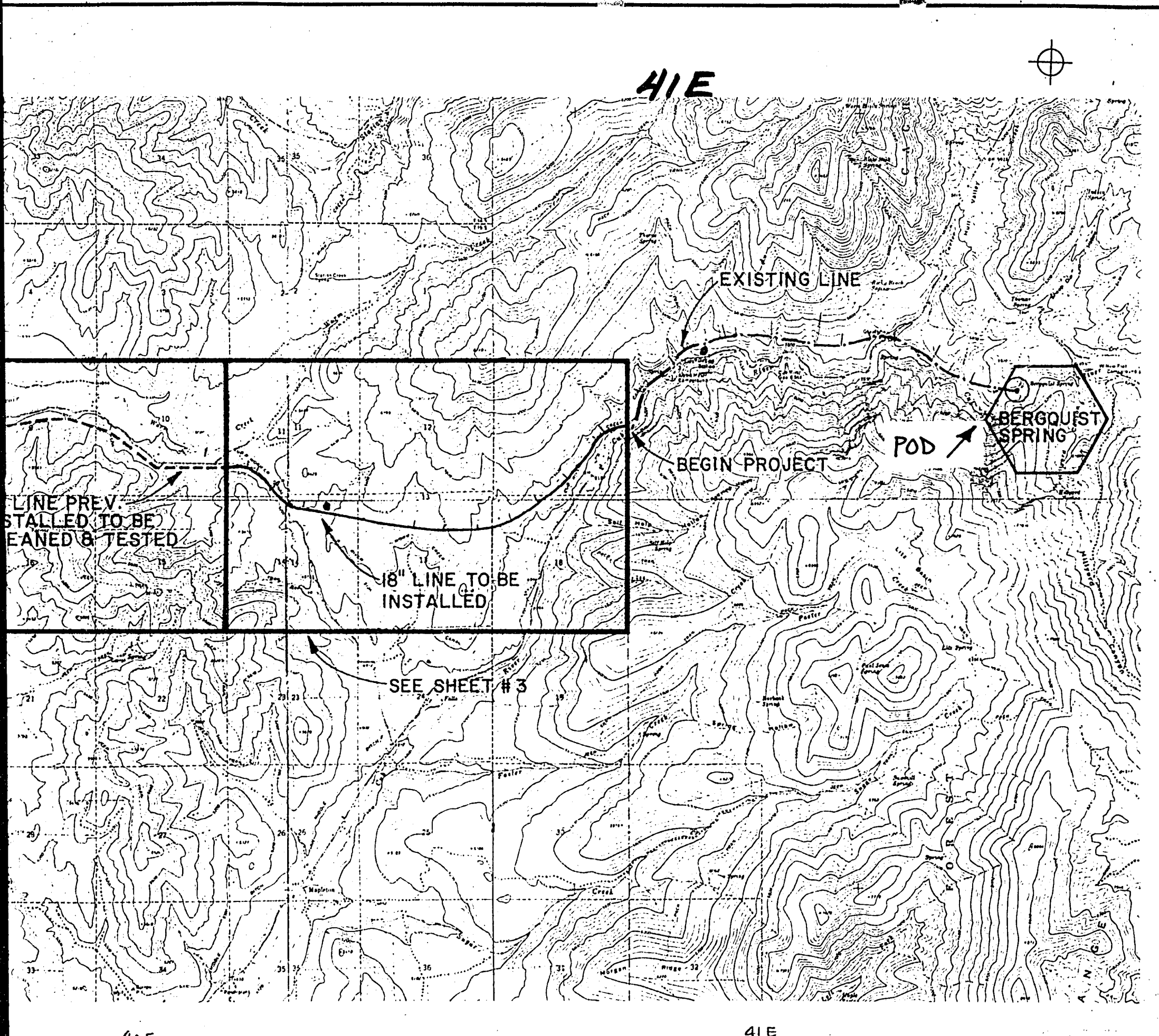


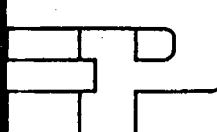
DESIGNED <i>CRF</i>	CHECKED
DRAWN <i>DAR</i>	ENG. DIV. APPROVAL <i>BAL</i>
DATE <i>JULY 77</i>	SCALE <i>DO NOT</i>
REVISION	DATE



FORSGREN, PERKINS and ASSOCIATES,
CONSULTING ENGINEERS
REXBURG · POCATELLO · PRESTON · SALT LAKE CITY

75148



 FORSGREN, PERKINS and ASSOCIATES, P.A. CONSULTING ENGINEERS REXBURG · POCATELLO · PRESTON · SALT LAKE CITY	PRESTON WATER LINE	PROJECT NO. 75148
	GENERAL VICINITY MAP	SHEET NO. 1

13-07283

01-24 14:5600 *R
+002.70 % AI2

0460.7 MMSEC
101.23 % T0

01-24 15:0000 *H
+002.60 % AI2

01-24 15:0100 *R
+ 2.489E 5GPH

01-24 15:0300 *R
+ 4.167E 3GPM

01-24 14:5600 *R
+002.70 % AI2

0460.7 MMSEC
101.23 % T0

01-24 15:0000 *H
+002.60 % AI2

01-24 15:0100 *R
+ 2.489E 5GPH

01-24 15:0300 *R
+ 4.167E 3GPM

13-7283

GENERAL  ELECTRIC

TURBINE GENERATOR EQUIPMENT

GILKES INC.
P.O. BOX 628
SEA BLOOM, TEXAS 77586
(713) 474-7622
VICE PRESIDENT ALLAN DAVIES

The basic rotating system selected for the Preston Hydroelectric Project consists of a Gilkes Turgo Impulse Water Turbine directly coupled to a General Electric induction generator. The system is a horizontal configuration, installed on an owner furnished foundation.

- TURBINE -

PRESTON TURBINE
HEAD 625'
MAXED AT 10.5 CFS

The Turgo Impulse Turbine is a simple, efficient impulse-jet type water turbine produced by Gilkes for almost fifty years. This design is well suited for the hydraulic conditions of this project. The principle of operation for the Turgo Impulse is illustrated on Page 9 of the attached brochure "Water Turbines Simply Explained." A photograph of a similar unit has also been included. The specific turbine for the Preston Hydroelectric Project is:

Model:	15.0 inch mean diameter standard Turgo Impulse Turbine complete with needle valve and jet deflector.	
Ratings:	Output at 10.0 cfs, 576' head	- 575 bhp
	Normal speed	- 1200 rpm
	Maximum Runaway Speed	- 2280 rpm
	Inlet Diameter	- 12 inches
	Shaft Attitude	- Horizontal
	Rotation	- CW viewed from generator
Runner:	BS 1400 AB2-C aluminium bronze cast, hand finished, statically balanced keyed to shaft. Aluminum bronze is offered as being completely satisfactory for the given water conditions.	
Shaft:	BS970 EN19 carbon steel. Machined all over and supported on two bearings.	
Case:	BS4360-43A carbon steel. Fabricated in two pieces split in horizontal plane through shaft center line. Bottom section includes pads for bearing mountings and extends into tailrace pit. Case provided with anchor bolts and suitable for mounting on prepared concrete foundations.	

13-7283

GILKES

STEPHEN F. KNOBEL
Senior Sales & Service Executive

GILKES INC.
P.O. Box 628, Seabrook, Texas 77586
Telephone 713-474-7622 Fax 713-474-5304

Vice President
~~John~~ Davies
ALLAN A

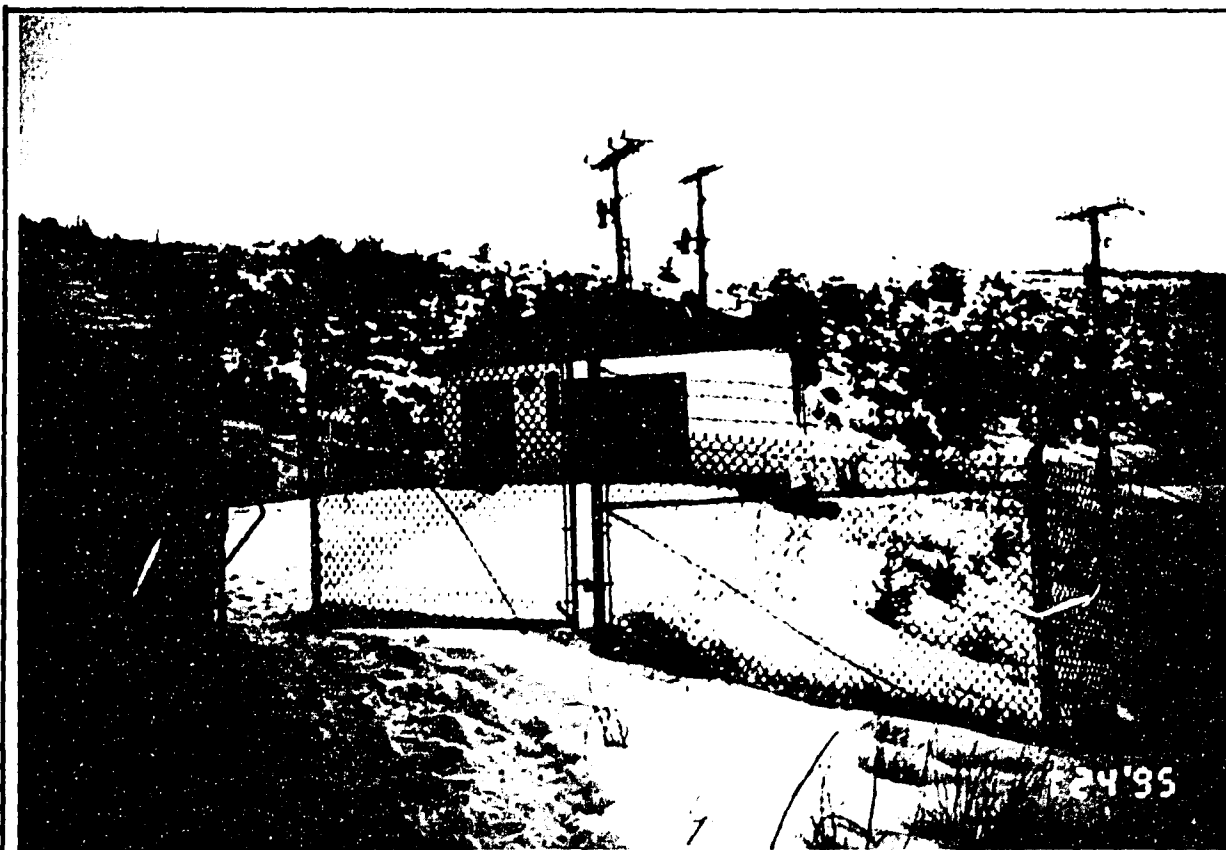
1/25/95 0830
1st HZ 625 HEAD
10 1/2 CFS 7 1/2" Hoped Opening.

Top side of Turbine at 13.5 cfs.
Fully open nozzles.

13-7283

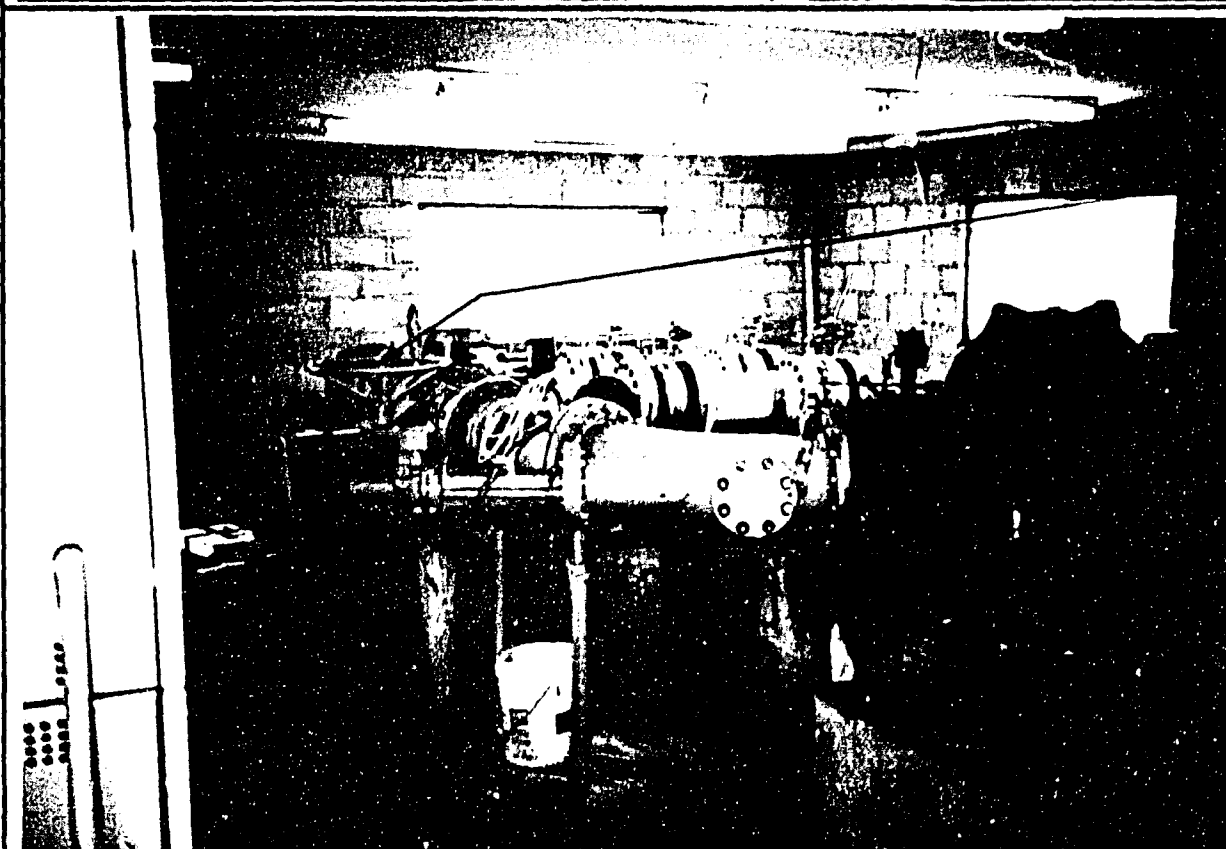
CITY OF PRESTON

1 of 2



HYDRO
TURBINE
BUILDING

WATER
ENTERS
FROM LEFT



TURBINE
ROOM

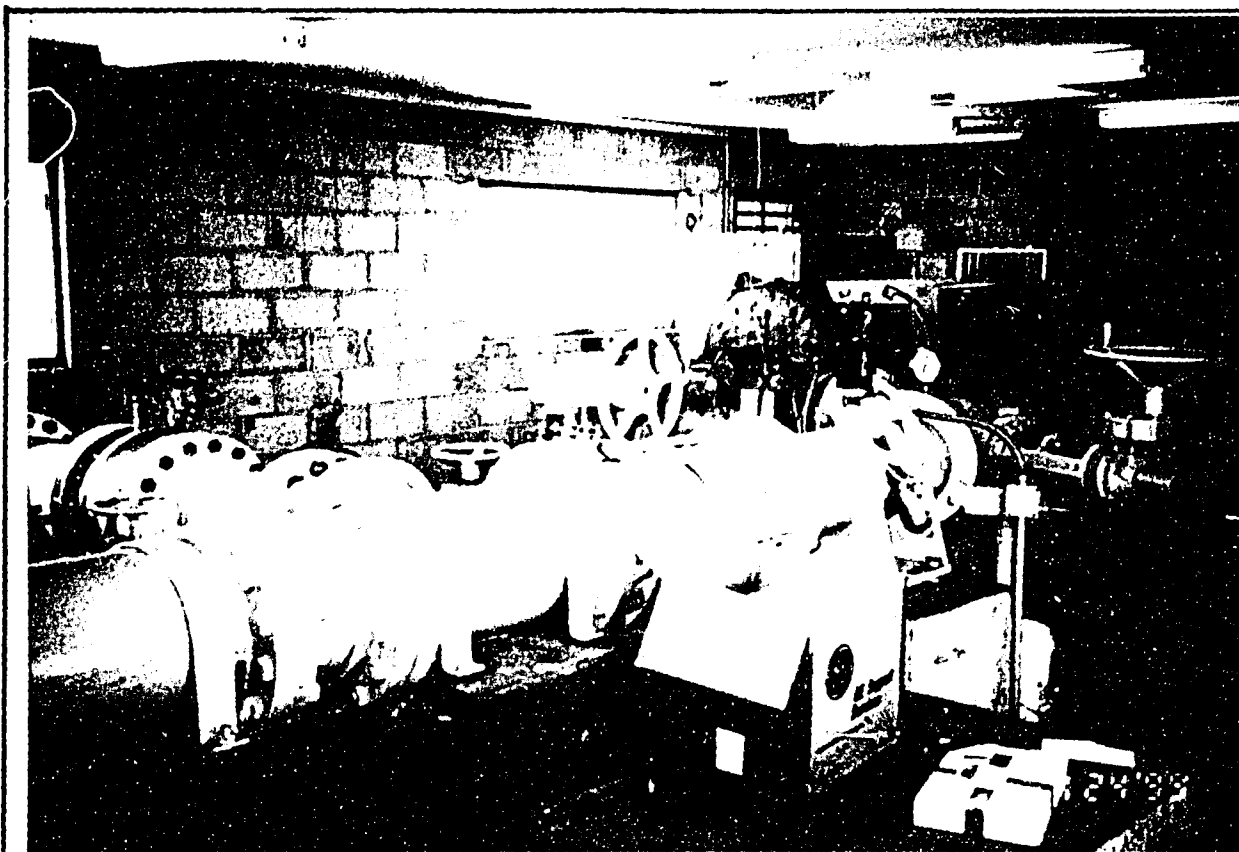
INLET
←

← WHITE
BY PASS
LINES

← TURBINE

13-7283

2/2



TURBINE
ROOM



FLOW
METER

13-7283

***FOR CLARITY
OF ANY
PHOTOGRAPHS
MICROFILMED,
SEE FILE.***

Hazen-Williams Equation for Closed Pipe Flow

Assumptions: Head Loss due to bends, couplings, & valves is negligible

$$Q_{cfs} = 1.318 C_h (\pi D^2/4) \times (D/4)^{0.63} \times (H/L)^{0.54}$$

Q = Discharge (cfs)

D = Pipe Diameter (ft) = (18") 1.5 ft

L = Pipe Length (ft) = 51,040 ft

H = Elevation Drop (ft) = 625 ft

C_h = Values for Types of Pipe = 135

150 -Plastic (PVC)	110 -Riveted Steel
140 -Very Smooth	100 -Old Cast Iron
130 -Cast Iron ← STEEL	80 -Badly Corroded Cast Iron
120 -Wood, Concrete	

$$Q_{cfs} = 1.318 \left(\frac{135}{C_h} \right) \left[\pi \left(\frac{1.5}{D} \right)^2 / 4 \right] \times \left(\frac{1.5}{D} / 4 \right)^{0.63} \times \left(\frac{625}{H} / \frac{51,040}{L} \right)^{0.54}$$

$$Q_{cfs} = \underline{15.727} \text{ cfs}$$

Permit # 13-7283

RECEIVED
DEC 05 1996

Department of Water Resources

DEC 11 PM 3 30

POWER PURCHASE AGREEMENT

BETWEEN

CITY OF PRESTON, IDAHO

AND

UTAH POWER & LIGHT COMPANY

THIS AGREEMENT is entered into this 24th day of February, 1982, by and between the CITY OF PRESTON, hereinafter referred to as "Seller," and UTAH POWER & LIGHT COMPANY, hereinafter referred to as "Buyer," a corporation organized and existing under the laws of the State of Utah. Seller and Buyer are sometimes referred to hereinafter collectively as "Parties" and individually as "Party."

WITNESSETH:

WHEREAS, Seller agrees to construct, own, operate and maintain a hydro-electric power plant with a capacity of 400 kilowatts, hereinafter referred to as Facility*; and

WHEREAS, Seller wishes to sell to Buyer and Buyer wishes to purchase all electric energy from the Facility.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

* Initial capitalization of words and phrases other than proper names indicates that these terms are defined in Appendix A hereof.

ARTICLE 1

TERM OF AGREEMENT

Subject to the terms and conditions hereof, this Agreement shall be binding upon execution and shall remain in effect for a term of thirty-five (35) years from the date energy is first delivered by Seller to Buyer. It is anticipated that testing of the Facility and in-service generation will commence in 1982.

ARTICLE 2

SALE OF POWER

A. Seller agrees to sell and deliver and Buyer agrees to purchase and accept all energy generated from the subject Facility in accordance with Appendix A.

B. Seller's proposed Facility shall be located on City's water line near Glendale Reservoir, Franklin County, Idaho, and shall provide energy as set forth herein.

ARTICLE 3

PURCHASE PRICE AND METHOD OF PAYMENT

A. Buyer shall pay Seller, for energy delivered at the point specified herein, the sum of:

1. A fixed rate of 37 mills per kilowatt-hour, reflecting a 1982 scheduled in-service date and a thirty-five (35) year term as shown in Appendix B. This rate shall not change due to a delay in completion of construction nor shall it be subject to escalation.

2. A variable rate of 12 mills per kilowatt-hour, updated annually, as specified in Appendix B, to reflect the current average price of coal to Buyer with the base at 1981 being 12 mills per kilowatt-hour.

B. Buyer's obligation to pay Seller for energy furnished to Buyer shall commence on the date Seller first delivers energy to Buyer from the Facility.

ARTICLE 4

APPENDICES

This Agreement includes Appendices A, B, C, D, E, and F, all of which are attached and incorporated herein by reference.

ARTICLE 5

NOTICES

All written notices shall be addressed as follows:

To Buyer: Secretary, Legal Department
Utah Power & Light Company
P.O. Box 899
Salt Lake City, Utah 84110

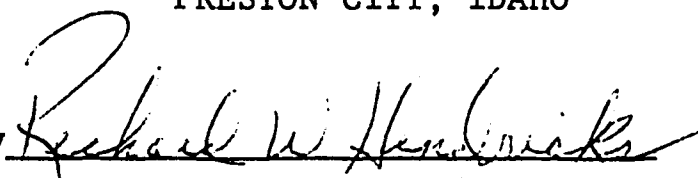
To Seller: Mayor, City of Preston
Preston, Idaho

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the first date hereinabove set forth.

SELLER:

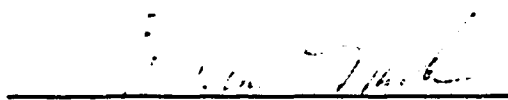
PRESTON CITY, IDAHO

By



Council President

ATTEST:

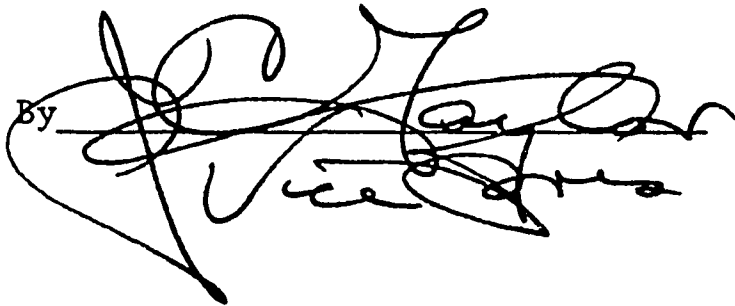


City Clerk

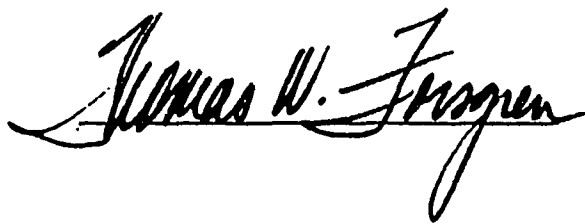
BUYER:

UTAH POWER & LIGHT COMPANY

By



ATTEST:



APPENDIX A

POWER PURCHASE GENERAL TERMS AND CONDITIONS

A. DEFINITIONS

Whenever used in this Agreement and/or Appendices, the following terms shall have the following meanings:

1. Buyer's Review and/or Acceptance - Buyer's review and/or acceptance, or failure to review or accept Seller's specifications and/or equipment shall not constitute nor be construed as approval or endorsement or as a warranty of safety, durability, strength, adequacy, or reliability thereof.
2. Designated Dispatch Facility - Buyer's System or local dispatching operators with whom all operating communications and required reports will be made by Seller.
3. Facility - The hydro-electric generation facility and appurtenant facilities constructed, owned, operated, and maintained by Seller.
4. Interconnection Facilities - All facilities required by Appendix D to be installed solely to interconnect and deliver power from Seller's Facility to Buyer's system.
5. Prudent Electrical Practices - The practices and methods, as changed from time to time, that are commonly used in the electrical industry to operate electric equipment lawfully and with safety and dependability.

6. Special Facilities - Facilities supplied, purchased, and owned by Buyer at Seller's request, or because such facilities are necessary additions and/or reinforcements to Buyer's system, all as set forth in Exhibit E.

B. CONSTRUCTION

1. Land Rights: Seller, at its sole expense, shall, for the term of this Agreement, grant to Buyer, or acquire instruments of grant for Buyer in recordable form, conveying all necessary rights of way and easements, both on and off Seller's real and personal property, to install, operate, maintain, replace and remove Buyer's Special Facilities.

2. Facility and Equipment Design and Construction: Except for Special Facilities, Seller shall design, construct, install, own, operate, and maintain the Facility and all equipment needed to generate and deliver energy in accordance with Appendix D. Seller agrees to meet the requirements established by Buyer in Appendix D for those portions of Seller's Facility and equipment producing or transmitting electrical power and such other equipment which directly or indirectly affect Buyer's system. To aid in determination of compliance with Buyer's requirements, Seller shall submit the Facility and equipment specifications to Buyer for review prior to Seller's purchase of equipment. Seller agrees to change, at Buyer's expense its Facility and

equipment as may be required by Buyer to meet changing requirements of Buyer's system except Seller, at its sole expense, will make those alterations to protective equipment as specified in Appendix D, Subpart B. 3. h.

Seller shall ensure that wave forms, voltage flicker, power factor, and inverter techniques conform with criteria established by Buyer as set forth in Appendix D.

C. OPERATION

1. Point of Delivery: Seller shall deliver the energy designated in Article 1 at the point of delivery as set forth in Appendix G.

2. Communications: Buyer and Seller shall maintain operating communications through Buyer's Designated Dispatch Facility in accordance with Appendix D.

3. Facility and Equipment Operations and Maintenance: Seller shall operate and maintain its Facility and equipment according to Prudent Electrical Practices.

Seller's scheduled outages shall be performed between March 1 and May 31 unless otherwise agreed to by Buyer.

Buyer shall not be obligated to accept, and Buyer may require Seller to curtail, interrupt or reduce deliveries of energy if Buyer determines that curtailment, interruption or reduction is necessary because of emergencies, operating conditions on its system or as otherwise required by Prudent Electrical Practices.

Except in case of emergency, in order not to interfere unreasonably with the other Party's operations, the curtailing, interrupting or reducing Party shall give the other Party reasonable prior notice of any curtailment, interruption or reduction, the reason for its occurrence and its probable duration. Seller shall notify Buyer within two hours of any Facility outage.

4. Meters: All meters used to determine the billing hereunder shall be as specified by Buyer and shall be sealed and the seals shall be broken only upon occasions when the meters are to be inspected, tested or adjusted.

Buyer shall, at Seller's expense inspect and test all meters upon their installation and at least once every two years thereafter. If requested to do so by Seller, Buyer shall inspect or test a meter more frequently than every two years, but the expense of such inspection or test shall be paid by Seller unless upon being inspected or tested the meter is found to register inaccurately by more than two percent of full scale, in which case Buyer shall pay the

expense of the test. Each Party shall give reasonable notice of the time when any inspection or test shall take place to the other Party, and that Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Seller's expense, in order to provide accurate metering.

If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent from the measurement made by the standard meter used in the test, adjustment shall be made correcting all measurements made by the inaccurate meter for:

a. the actual period during which inaccurate measurements were made, if the period can be determined, or if not,

b. the period immediately preceding the test of the meter equal to one-half the time from the date of the last previous test of the meter; provided, that the period covered by the correction shall not exceed six months.

Each Party, after reasonable notice to the other Party, shall have the right of access to all metering and related records.

D. BILLING

Buyer shall send a statement to the Seller on or after the 20th day of the monthly billing period showing the kilowatt-hours, kilovar-hours, the applicable rates for all energy received from Seller, the kilovar-hours received from Buyer, the expenses incurred pursuant to Appendix E, and the expected payment to Seller. If the statement is acceptable, Seller shall sign and return it to Buyer.

E. PAYMENT

Buyer shall make payment to Seller on or before the 15th day after the approved billing statement is received by Buyer. Where the 15th day falls on a Saturday, Sunday or holiday, the payment shall be due on the next following business day.

F. FORCE MAJEURE

The term "force majeure" as used herein, means unforeseeable causes beyond the reasonable control of, and without the fault or negligence of, the Party claiming force majeure. If either Party because of force majeure is rendered wholly or partly unable to perform its obligations under this Agreement, that Party shall be excused from whatever performance is affected by the force majeure to the extent so affected provided that:

-A7-

1. The non-performing Party, within two weeks after the occurrence of the force majeure, gives the other Party written notice describing particularly the nature of the occurrence;

2. The suspension of performance is of no greater scope and of no longer duration than is required by the force majeure;

3. No obligations of either Party which arose before the occurrence causing the suspension of performance are excused as a result of the occurrence; and

4. The non-performing Party uses its best efforts to remedy its inability to perform. This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgement of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved.

5. Failure, however, to remedy any event of force majeure within two (2) years after its occurrence shall constitute termination of this Agreement and the provisions of Appendix C, Subpart B shall apply.

G. INDEMNITY

Each Party shall indemnify the other Party, its officers, agents, and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation, or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs that may be incurred by the other Party in enforcing this indemnity clause.

H. SEVERAL OBLIGATIONS

Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

I. WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matter.

J. ASSIGNMENT

Neither Party shall voluntarily assign its rights nor delegate its duties under this Agreement, or any part of such rights or duties, without the written consent of the other Party, except in connection with the sale or merger of a substantial portion of its properties including Interconnection Facilities which it owns, and any such assignment or delegation made without such written consent shall be null and void. Consent for assignment shall not be withheld unreasonably.

K. CHOICE OF LAWS

This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

L. GOVERNMENTAL JURISDICTION AND AUTHORIZATION

This Agreement is subject to the approval of those governmental agencies having control over the Parties hereto and shall not become effective until all required authorizations and permits are first obtained. Further, this Agreement shall not become effective unless it is approved in its entirety by such governmental agencies without change in terms or conditions.

It is understood by and between the Parties that this Agreement is entered into and the rates paid for generation supplied to Buyer hereunder are based upon the Idaho Public Utility Commission Order No. _____ a copy of which is attached hereto as Appendix F. In the event this Order is subsequently amended or altered in any way, this Agreement shall terminate and the provisions of Appendix C, Subpart E shall apply.

APPENDIX B

SCHEDULE OF ENERGY PURCHASED RATES

Fixed Energy Rates

<u>Scheduled Commencement of Service</u>	<u>Term of Agreement</u>							
	<u>4 Yrs</u>	<u>6 Yrs</u>	<u>10 Yrs</u>	<u>15 Yrs</u>	<u>20 Yrs</u>	<u>25 Yrs</u>	<u>30 Yrs</u>	<u>35 Yrs</u>
1981-\$/kW-Yr	88	95	112	133	155	177	199	220
-Mills/kWh*	13	14	17	20	24	27	30	33
1982-\$/kW-Yr	96	105	123	146	171	195	219	242
-Mills/kWh*	15	16	19	22	26	30	33	37
1983-\$/kW-Yr	106	115	133	161	188	215	241	266
-Mills/kWh*	16	18	20	25	29	33	37	40

The fixed energy rate figures shall not be subject to escalation.

Variable Energy Rate

(Mills/kWh)

1981

12.0

The variable energy rate figure shall be updated annually to reflect the current average price of coal to Buyer with the base at 1981 being 12 Mills/kWh. This adjustment may be up or down.

*Based on a 75 percent capacity factor.

APPENDIX C

ADJUSTMENT OF PAYMENTS

IN THE EVENT OF TERMINATION

A. GENERAL PROVISIONS

1. The Parties understand and agree that the Seller may terminate this Agreement at any time. The Parties further understand and agree that the payment Buyer makes to Seller for power generated is based on Seller's performance during the full term of this Agreement and that in the event Seller does not perform during the full term:

a. Buyer shall be deemed damaged by reason thereof,

b. It would be impracticable or extremely difficult to fix the actual damages to Buyer resulting therefrom,

c. The refund and payments as provided in Appendix C, Subpart B. are in the nature of adjustments in power purchase prices and liquidated damages, and not a penalty, and are fair and reasonable, and

d. Such refunds and payments represent a reasonable endeavor by the Parties to estimate a fair compensation for the reasonable losses that result from such termination.

2. Seller shall be invoiced by Buyer for all refunds and payments due under this Appendix and shall pay such amounts to Buyer within 30 days after receipt of said invoice.

3. Buyer shall have the right to offset any amounts due it against any present or future payments due Seller.

B. ADJUSTMENT UPON TERMINATION OF CONTRACT

In the event this Agreement is terminated, Seller shall refund to Buyer an amount equal to one-half the difference between:

1. The sum of the fixed energy payments paid to Buyer pursuant to Article 3 to the date of termination, and;
2. The sum of the fixed energy payments which would have been paid by Buyer based on a term of agreement extending to the date of termination, as derived or interpolated from Appendix B.

Example

Assuming this Agreement was terminated at the end of ten (10) years, and the annual generation from the Facility had been 1000 kWh for each year of the ten-year period, then the refund to Buyer would be calculated as follows:

Total Ten Year Generation	=	10,000 kWh	
Total Payment to Seller	=	10,000 kWh x 37 Mills/kWh	= \$370
Total Payment if Seller had Contracted for Ten Years	=	10,000 kWh x 19 Mills/kWh*	= \$190
Refund to Buyer	=	$\frac{\$370 - \$190}{2}$	= \$ 90

*Rate from Appendix B for a Ten Year Contract Term in 1982.

APPENDIX D

Parallel Generation Interconnection Requirements for Single and Three Phase Generation

A. GENERAL REQUIREMENTS FOR ALL GENERATORS

1. All installations made for the purpose of interconnection with Buyer's system shall comply with Buyer's requirements, the National Electrical Code, and the National Electrical Safety Code.

2. Seller shall provide at its sole cost an accessible, visible, lockable disconnect switch in the generator circuit. This switch is to be identified by Seller as the Generator Disconnect switch. This switch may be locked in the open position by Buyer's personnel under the following conditions:

a. For the protection of line crews while doing any work on Buyer's lines or equipment.

b. If inspection of Seller's equipment reveals hazardous conditions or a lack of proper maintenance.

c. If Seller's generating equipment interferes with Buyer's customers, or with the operation or integrity of Buyer's system.

3. Seller's Protective System shall be designed to automatically disconnect from Buyer's system when Buyer's service is interrupted.

4. Seller shall maintain its equipment (generator, protective equipment, and other associated equipment) in good

working order. The equipment shall be subject to Buyer's inspection.

5. Seller's Facility shall be interconnected only after all legally required inspections and written approvals are completed and when such interconnection shall not reduce the integrity of Buyer's system. As a guide, total harmonic distortion introduced into Buyer's system shall not exceed five (5) percent with no single harmonic contribution of more than three (3) percent. However, in no case shall interconnection be allowed to produce abnormal voltages or voltage fluctuations, or harmonic content that would cause undue interference with Buyer's customer loads or Buyer's equipment.

6. Metering Equipment:

a. The Seller shall provide adequate space for Buyer's metering equipment including but not limited to billing meters, current and voltage transformers, test switches, and modems in accordance with Buyer's requirements.

b. Seller shall pay all costs of metering equipment in excess of those which would ordinarily be required to meter Seller's load; however, Seller shall have no ownership in meters, instrument transformers, and associated revenue metering equipment.

c. Metering will be installed to measure the reactive power and energy supplied from Buyer's system to the Facility. When the Facility is generating, Seller shall maintain a power factor of unity at all times. Any kilowatt-

hour or kilovar-hour input to Seller shall be paid for in accordance with the applicable rate schedule.

7. Seller shall provide adequate space to Buyer to install a third meter in the generator circuit for the measurement of the generator output for research studies as may be deemed necessary by Buyer.

8. Hydro Generation:

a. DC Generators with Synchronous Inverter:

1) The total harmonic distortion introduced onto Buyer's system by an inverter shall not be more than 5%.

2) No single harmonic produced by the inverter shall contribute more than 3% distortion onto Buyer's system.

b. Induction Generators:

1) The generators shall be equipped with an over frequency or speed relay set such that frequency cannot exceed 64 Hertz, and under voltage relays set no lower than 90% of nominal voltage and over voltage relays set no higher than 110% of nominal voltage in order to automatically disconnect the generator when Buyer's service is interrupted.

2) The generators shall be equipped with reverse current (or power) relays to prevent the generators from acting as a motor.

3) The generators shall be within + or - 5% of synchronous speed before being automatically connected onto the Buyer's system.

c. Synchronous Generators:

Synchronous generator installations shall require special approval by Buyer's Engineering and Relaying Departments due to the complexity of designing appropriate relaying and switching devices to automatically disconnect the generator from the utility system under all necessary conditions.

d. AC Generators with Static Frequency Changer:

1) Static frequency changers shall be of the type that utilizes Buyer's frequency to trigger the output frequency to insure frequency compatibility, and to insure no output when Buyer's system is out of service.

2) The total harmonic distortion introduction into Buyer's system by a static frequency changer shall be no more than 5%.

3) No single harmonic distortion by the static frequency changer shall contribute more than 3% distortion onto Buyer's system.

B. ADDITIONAL GENERAL REQUIREMENTS FOR THREE-PHASE GENERATORS

1. It is the sole responsibility of Seller to provide for the safe and effective operation of its generators even though most commercially available three-phase generators will be equipped with appropriate protection and governor control systems, and in the case of synchronous machines, proper

excitation and voltage control equipment. Buyer may require protection and control systems in addition to that supplied with the generators.

2. Prior to initial energizing of Seller's generating system, inspection and/or tests shall be jointly performed by both Seller and Buyer to verify the proper operation of such generators and related equipment.

3. Seller is fully responsible for the protection of all generators and all of their associated equipment. Protection shall be provided for Seller's own equipment failures and for fault and other disturbance on Buyer's system.

a. Each location's protection arrangements and design drawings shall be reviewed by Buyer's Engineering Department and accepted in writing prior to installation. The completed installation is subject to a final inspection and tests by Buyer personnel before commencement of parallel generation is permitted.

b. Seller shall provide automatic equipment suitable to Buyer to disconnect Seller's generators from Buyer's system in the event of a power outage or a fault on Buyer's system. The relays used to control the automatic disconnect device shall be so engineered, designed, and set that they can detect the loss of voltage or fault occurring on Buyer's system.

As a minimum requirement, the protective relays shall include over/under voltage and over/under frequency relays

for sensing abnormal voltage and/or system disturbances. Additions to the minimum requirement may be necessary for certain system arrangements and installations. Buyer reserves the right to determine the adequacy of relaying, and if additional relaying will be required. For synchronous machines a voltage restrained over current-type or impedance-type relay shall be provided to detect a phase fault and an over current or ground fault voltage detector relay for sensing a ground fault.

c. Recommended relay settings:

Over frequency:	64 Hertz	10 cycle time delay
Under frequency:	59 Hertz	10 cycle time delay
Over voltage:	110 Percent	No time delay
Under voltage:	90 Percent	No time delay

Fault detecting relay to be provided after consultation with Buyer's Engineering Department.

d. Seller understands that a phase unbalance disturbance on Buyer's system can result in over heating of the Seller's generators. A negative sequence-type relay (current or voltage) is necessary to initiate tripping under phase unbalanced conditions, and may also be used to block closing of the automatic disconnecting device if Buyer's system is single phased.

e. Seller shall be fully responsible for the routine maintenance of the generators and protecting equipment and the keeping of records of such maintenance. These records shall be available to Buyer for inspection at all times.

f. Seller is solely responsible for the protection of his equipment from transient surges initiated by lightning, switching or other system disturbances.

g. Any modification of Seller's equipment shall require an engineering review and written acceptance by Buyer's Engineering Department.

h. Seller, at its sole expense, shall modify existing protective equipment in the event such modifications are required by government or industry regulations and/or standards.

4. The generator nameplate voltage shall be the same as the nominal voltage supplied by Buyer. If generation occurs at voltages other than the nominal voltages supplied by Buyer, Seller shall supply a dedicated generator transformer to transform the total capacity of the generator to the nominal voltage supplied by Buyer. The transformer configuration shall be specified by Buyer. Connections shall be ungrounded Wye-Delta or Delta-Delta with the generator connected to the Delta side. (The grounded Wye-grounded Wye connection will allow generator harmonic currents to flow into Buyer's system which may cause interference with Buyer's customers and/or communications equipment.) The transformer connection shall provide for relay protection to Buyer's system.

C. SPECIFIC REQUIREMENTS FOR THREE-PHASE GENERATORS

1. Synchronous Generators

Seller shall provide either automatic synchronizing or manual synchronizing, supervised by a synchronism check relay.

2. Induction Generators

None

3. DC Generators with Inverters

The AC output of the synchronous inverter shall be compatible with Buyer's system voltage and frequency.

4. AC Generators with Static Frequency Changer

The AC output of the static frequency changer shall be compatible with Buyer's voltage and frequency.

APPENDIX E
SPECIAL FACILITIES

A. The Special Facilities Required under this Agreement are described as follows:

1. Approximately 11,270 feet of 12.5 kV three-phase distribution line.
2. One set of 12.5 kV fuse disconnects to be located at the point the above-described distribution connects with Buyer's existing facilities.

The cost of the aforementioned facilities including installation will be approximately \$35,042.

B. PAYMENT FOR SPECIAL FACILITIES

Seller shall reimburse Buyer, for the Special Facilities described herein, within thirty (30) days of receipt of bill from Buyer. Thereafter, Seller shall pay Buyer monthly, within fifteen (15) days of receipt of bill from Buyer, for all the annual expenses including but not limited to Operation and Maintenance, Advalorem Taxes, Administrative and General, and Working Capital expense.

However the annual expenses defined in the preceding paragraph will be applicable only on the first 1,500 feet of 12.5 kV three-phase distribution line beginning at the terminal pole of Seller's Facility, as shown on Appendix H.

-E2-

C. SALVAGE VALUE

Within 60 days of the termination of this Agreement, Buyer shall prepare and forward to Seller an estimate of the remaining value of the Special Facilities described in this Appendix, Subpart A., less the cost of removal and transfer to Buyer's nearest warehouse. Buyer shall then be invoiced by Seller for the net salvage value estimated by Buyer for the Special Facilities and shall pay such amount to Seller within 30 days after receipt of said invoice. Seller shall have the right to offset any amounts due it against any present or future payments due Buyer.

APPENDIX F

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF RULEMAKING :
PROCEEDINGS AS REQUIRED BY THE : MOTION
PUBLIC UTILITY REGULATORY ACT :
OF 1978 FOR THE CONSIDERATION :
OF CO-GENERATION AND SMALL : Case No. P-300-12
POWER PRODUCTION :

Comes now Utah Power & Light Company ("Utah Power")
and moves the Commission for an Order:

1. Approving that certain contract between Utah
Power & Light Company and the City of Preston, Idaho, a copy
of which is attached hereto and by this reference made a part
hereof;

2. Ordering that all costs Utah Power incurs in
connection with the Contract, together with all kilowatt hours
and capacity generated thereunder shall be assigned directly
to Utah Power's Idaho service territory for purposes of interstate
allocation; and

3. That for the purposes of interstate allocation
for the State of Idaho, the capacity contribution of a small
hydro plant in any month shall be the average kilowatt output
during "heavy load hours" in such month; provided that, in any
summer season such amount in any month shall not exceed the
amount determined for July of that summer season and the
amount in any winter month shall not exceed the amount determined
for December in that winter season. In such determination,
"heavy load hours" are defined as:

Those hours each day between 9:00 a.m.
and 9:00 p.m., Mountain Standard Time, except
Saturdays, Sundays and the following holidays:
January 1, Presidents Day, Memorial Day, July
4, July 24, Labor Day, Thanksgiving Day and
Christmas Day; provided, however, that in the
event any such holiday, except July 24, occurs
on Sunday, the following Monday will be considered
a holiday.

Summer season shall be defined as the months April
through September and winter season shall be defined as the
months October through March.

[Handwritten signature]

The capacity and energy contributions of such small hydro plant shall be subtracted from the Company's Idaho jurisdiction loads prior to the interstate allocation.

DATED this 30th day of March, 1982.


THOMAS W. FORSGREN
Attorney for Utah Power &
Light Company
1407 West North Temple
Salt Lake City, Utah 84116



BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF RULEMAKING)
PROCEEDINGS AS REQUIRED BY THE)
PUBLIC UTILITY REGULATORY ACT)
OF 1978 FOR THE CONSIDERATION)
OF COGENERATION AND SMALL)
POWER PRODUCTION.....)

CASE NO. P-300-12

ORDER NO. 17218

Based upon the Motion of Utah Power & Light Company and good cause appearing therefor, it is hereby ordered as follows:

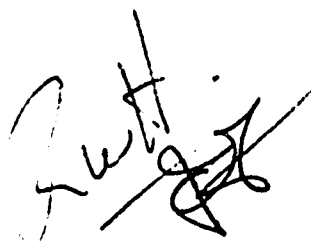
1. That certain Agreement between Utah Power & Light Company and the city of Preston, Idaho, is hereby approved.

2. That all costs Utah Power incurs in connection with the Contract, together with all kilowatt hours and capacity generated thereunder shall and hereby are assigned directly to Utah Power's Idaho service territory for purposes of interstate allocation.

3. That for the purposes of interstate allocation for the state of Idaho, the capacity contribution of the city of Preston's hydro plant in any month shall be the average kilowatt output during "heavy load hours" in such month; provided that, in any summer season such amount in any month shall not exceed the amount determined for July of that summer season and the amount in any winter month shall not exceed the amount determined for December in that winter season. In such determination, "heavy load hours" are defined as:

Those hours each day between 9:00 a.m. and 9:00 p.m., Mountain Time, except Saturdays, Sundays and the following holidays: January 1, Presidents Day, Memorial Day, July 4, July 24, Labor Day, Thanksgiving Day and Christmas Day; provided, however, that in the event any such holiday, except July 24, occurs on Sunday, the following Monday will be considered a holiday.

Summer season shall be defined as the months April through September and winter season shall be defined as the months October through March.



The capacity and energy contributions of said hydro plant shall be subtracted from the Company's Idaho jurisdiction loads prior to the interstate allocation.

The Commission notes that the parties to these contracts have made significant departures from the standard form contract approved and on file at this Commission. The parties, of course, have the right to make changes that are in their own interests and that are not adverse to the public interest. We do not consider such changes to be of precedential value as in any way modifying the approved contract that is available to all project sponsors.

Finally, we limit the effect of this Order to the facts of this case. The Company is instructed to present testimony during its direct case in Case No. U-1009-120 as to why the proposed formula properly states the capacity contribution of small hydro installations. The testimony should be prefiled one (1) week before presentation of the Company's direct case.

ANYONE having an interest in this Order shall have the right within twenty (20) days from the service date of this Order to apply for a rehearing in regard to any matter determined herein.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 5th day of April, 1982.

ATTEST:

Theresa J. Anderson
SECRETARY

vk2a

Perry S. Smith
PRESIDENT
William W. Ward
COMMISSIONER
Richard J. High
COMMISSIONER

Zut
RL

APPENDIX G
POINT OF DELIVERY

Seller shall deliver the energy designated in Article 1 at the point of delivery more specifically described as follows:

A parcel of land located in the Southwest Quarter of Section 8, Township 15 South, Range 40 East, Boise Meridian, more particularly described as follows:

Commencing at a point located East along the Section line 1379.71 feet and North 208.89 feet from the Southwest Corner of said Section 8; thence North 217.58 feet to the South right-of-way line of a county road; thence along said right-of-way line as follows: South 68°22'39" East 249.57 feet, South 85°06'12" East 165.55 feet and North 68°15'08" East 76.69 feet; thence South 85.90 feet to a fence line; thence along said fence line as follows: South 75° 32'15" West 78.09 feet, South 83°25'53" West 309.73 feet and North 8 21'59" West 85.00 feet; to the point of beginning.

Area = 1.37 acres

APPROVED PER COMMISSION
ORDER NO. 24253, CASE NO.
UPL-E-89-11.


MYRNA J. WALTERS
COMMISSION SECRETARY

AMENDMENT TO
POWER PURCHASE AGREEMENT

BETWEEN

CITY OF PRESTON, IDAHO

AND

UTAH POWER & LIGHT COMPANY

RECEIVED

DEC 05 1996

Department of Water Resources

This Amendment to Power Purchase Agreement is entered into this 05 day of December , 1992, by and between City of Preston, Idaho ("Seller") and Utah Power & Light Company ("Buyer") with respect to the Power Purchase Agreement between Seller and Buyer dated February 24, 1982 ("Power Purchase Agreement").

A. Pursuant to the Power Purchase Agreement, Seller agreed to construct, own, operate and maintain a hydro-electric power plant and sell the electrical energy from the Facility to Buyer, and Buyer agreed to purchase the electric energy from the Facility.

B. A dispute has arisen over the calculation of the variable energy rate to be paid by Buyer to Seller for energy delivered pursuant to the Power Purchase Agreement.

C. The Parties wish to resolve their dispute over the variable energy rate by amending the Power Purchase Agreement as specified herein.

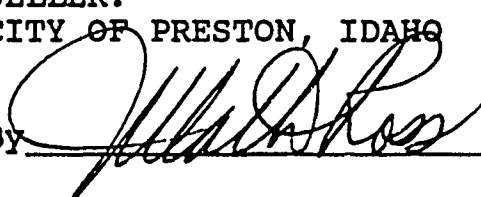
NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

1. Definitions. The terms used in this Amendment to Power Purchase Agreement shall have the same meaning as specified in the Power Purchase Agreement, including all Appendices.

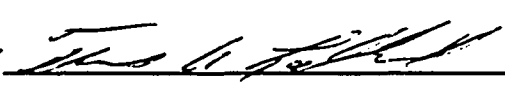
2. Appendix B. The Variable Energy Rate portion of Appendix B to the Power Purchase Agreement is hereby amended in its entirety to read as set forth in the Restated Appendix B which is attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the Parties have executed this Amendment to Power Purchase Agreement as of the date hereinabove set forth.

SELLER:
CITY OF PRESTON, IDAHO

By 

BUYER:
UTAH POWER & LIGHT COMPANY

By 

RESTATED APPENDIX B

SCHEDULE OF ENERGY PURCHASED RATES

Fixed Energy Rates

Scheduled Commencement of Service	Term of Agreement (Years)						
	4	6	10	15	20	25	30
1981-\$/kW-Yr	88	95	112	133	155	177	199
-Mills/kWh ¹	13	14	17	20	24	27	30
1982-\$/kW-Yr	96	105	123	146	171	195	219
-Mills/kWh	15	16	19	22	26	30	33
1983-\$/kW-Yr	106	115	133	161	188	215	241
-Mills/kWh	16	18	20	25	29	33	37

The fixed energy rate figure shall not be subject to escalation.

Variable Energy Rate

(Mills/kWh)

1981 12.00

1. Through June 30, 1992, the variable energy rate shall remain 12 mills per kWh.

2. Effective July 1, 1992 and continuing through June 30, 2003, the variable energy rate shall be 14 mills per kWh, which represents Buyer's estimated levelized variable fuel and operation and maintenance (O&M) cost during that time period.

3. Beginning July 1, 2003 and continuing throughout the Term of the Power Purchase Agreement, including any extensions, the variable energy rate shall be calculated in accordance with the following methodology:

(a) The variable energy rate shall be the sum of Buyer's fuel cost and variable O&M cost.

(b) Buyer's fuel cost shall be the average cost of fuel consumed in Buyer's Utah Division coal-fired generating stations, specifically the Carbon, Hale, Naughton, Huntington

¹ Based on a 75 percent capacity factor.

and Hunter generating plants. If any of the specified plants does not operate as a coal-fired power plant in any calendar year, such plant shall be excluded from the calculation of the average cost of fuel. The average cost of fuel shall be calculated using data reported in Buyer's FERC Form 1. For 1990, Buyer's fuel costs are reported at pages 402-403, lines 12 and 21 of the FERC Form 1. In the event that the FERC Form 1 ceases to include the cost of fuel or net generation data, comparable data based upon Buyer's normal accounting practices shall be used.

(c) Buyer's variable O&M cost shall be calculated using the methodology adopted by the Idaho Public Utilities Commission in Order No. 23738 for determining the variable avoided O&M cost of the Surrogate Avoidable Resource, excluding the State of Montana generation tax and the line loss adjustment. For example, Buyer's variable O&M cost for 1990 would be \$1.089 per MWh (based on Colstrip 1989 costs) and for 1991 would be \$1.401 per MWh (based on Colstrip 1990 costs).

(d) The variable energy rate shall be updated annually effective July 1 of each year based upon Buyer's fuel cost and variable O&M cost for the preceding calendar year. The adjustment to the variable energy rate may be up or down. Buyer shall notify Seller and the Idaho Public Utilities Commission of the updated variable energy rate on or before July 1 of each year.

MEMORANDUM

TO: File 13-07283

FROM: Sharla

DATE: December 9, 1996

RE: Recommendation Adjustment(s)

The final license recommendations for Right 13-07283 are based on the following.

H. RECOMMENDATIONS

Beneficial Use	Period of Use	Rate of Div	Annual Vol
Power	1/1 - 12/31	10.0 cfs	~~4907.4 af~~

The rate of diversion to be listed under this license is based upon the maximum turbine specifications. The sonic meter test conducted as part of the exm obtained a reading of 9.28 cfs, although the examiner indicated that due to system design the reading was questionable.

See memo dated 2/12/97
In the feasibility study conducted by Forsgren-Perkins Engineering, a flow of 4.5 cfs was stated as being a year-round constant flow through the city's pipeline. A chart included in this study shows the power usage (1977-1978) of the entity's who would be the main recipients of the power plant. The months of November through March are the heavier demand periods. Thus the annual volume was calculated based upon constant diversion of 10.0 cfs for this period and upon a constant diversion of 4.5 cfs for the remainder of the year ($10.0 \times 152 \text{ days} \times 1.98 = 3009.6 \text{ af} + 4.5 \times 213 \text{ days} \times 1.98 = 1897.8 \text{ af}$, total = 4907.4 af). These volumes coincide with the periods of the year when flows of the spring would also typically be fluctuating (increased flows during winter and spring, lower flows during summer).

This project was exempted from FERC licensing requirements in 1982. I contacted Karen Snider at IPUC for the expiration date of the power contract with Utah Power & Light for this site. A copy of the contract has been obtained and placed in the file. The contract began in 1982 and the standard term placed on the agreement was for 35 years. The agreement stated that anticipated testing and in-service generation would commence yet that year, 1982. The term limit will be set on the license for 35 years to match the power purchase contract. The term limit will be December 1, 2017.

Examiner: Don Simpkins
Exam date: March 8, 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 5, 1997

City of Preston
70 W. Oneida
Preston, ID 83263

RE: Water Right 13-07283

Dear Water Right Holder(s):

I'm in the process of reviewing your file for licensing. In order to complete this process I need to get from you copies of flow records for two or three years from the power plant on Bergquist Springs. The license will then be issued to reflect your actual use of water.

If you have any questions, please feel free to contact me at (208) 327-5452.

Sincerely,

Sharla Curtis
Water Resource Agent

MEMORANDUM

TO: File 13-07283

FROM: Sharla

DATE: February 12, 1997

RE: Telecon

On this date, the plant supervisor for this project called in response to my letter of 2/5. He stated that the only measuring device (meter) they have is the one replaced by request of the watermaster for better regulation of the diversion (correspondence dated 1989 - 1991 in this file documents this action). The device simply measures the diversion in gallons per minute; there is no totalizing device or other means of tabulating or recording accumulative flow.

He stated the meter was currently registering constant flow of 4400 gpm (minor fluctuations), and they divert it 24 hours a day, unless prevented by maintenance requirements or something of that nature. After the water leaves the power site, it's either dumped into the reservoir or sent on down to the city's system. He estimated what's sent to the city as approximately 1200 gpm in the winter and 2000-2500 gpm in the summer.

The annual volume for the license will be calculated on continuous flow of the rate 10.0 cfs (7227.0 af).



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

March 10, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

CITY OF PRESTON
70 W ONEIDA
PRESTON ID 83263

RE: WATER RIGHT NO. 13-07283

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of this order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review the preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The Department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight () days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen". The signature is written in dark ink and is positioned above the typed name.

Shelley W. Keen
Water Rights Supervisor

SK:ph

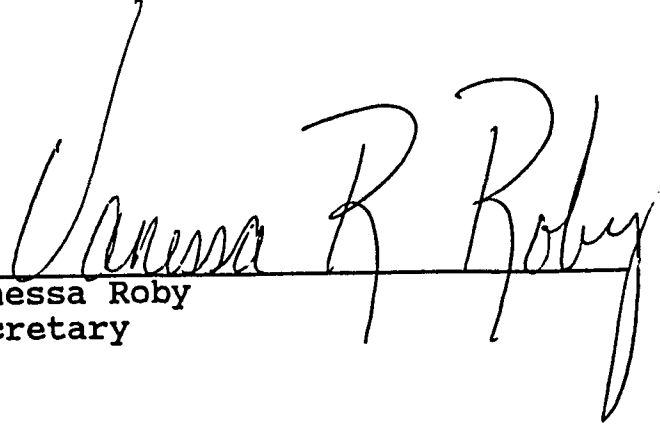
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of March, 1997, I mailed
a true and correct copy, postage prepaid, of the foregoing
PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 13-07283

CITY OF PRESTON
70 W ONEIDA
PRESTON ID 83263



Vanessa Roby
Secretary