Identification No. 13 7288

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT APPROVED

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

1. Name of applicant Last Chance Canal Co. Phone: 208-547-2186
   post office address Grace, Idaho, in care of Randall C. Budge, Attorney at Law, Soda Springs, Idaho
2. Source of water supply Bear River which is a tributary of Great Salt Lake
3. a. Location of point of diversion is SW ¼ of SE ¼ of Section 30 Township 9 S.
   Range 41 E. B.M. Caribou County; additional points of diversion if any: _____
   _____
   _____
   b. If water is not consumed, it will be discharged into Bear River at a point in SW ¼
   of NE ¼ of Section 31 Township 9 S. Range 41 E. B.M. Caribou County, Idaho
4. Water will be used for the following purposes:
   Amount 440 cfs (cfs or acre-feet per annum) for power purpose from Jan. 1 to Dec. 31 (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated:
   a. 440 cfs cubic feet per second and/or
   b. _____ acre feet per annum.
6. Proposed diverting works:
   a. Description of ditches, flumes, pumps, headgates, etc. rock crib dam fronted with lumber to permit diversion of water from Bear River through headgates into gravel canal and rock tunnel.
   _____
   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.
   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 3 years.
   b. Estimated construction cost is $500,000 .
8. Description of proposed uses:
   a. If water is **not** for irrigation:
   (1) Give the place of use of water: SW ¼ of NE ¼ of Section 31 Township 9S
   Range 41 E B.M.
   (2) Amount of power to be generated: 315 kw ~~XX~~ under 45 feet of head.
   (3) List number of each kind of livestock to be watered _____
   _____
   (4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.
   (5) If water is to be used for other purposes describe: _____
   _____
   _____

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. _____

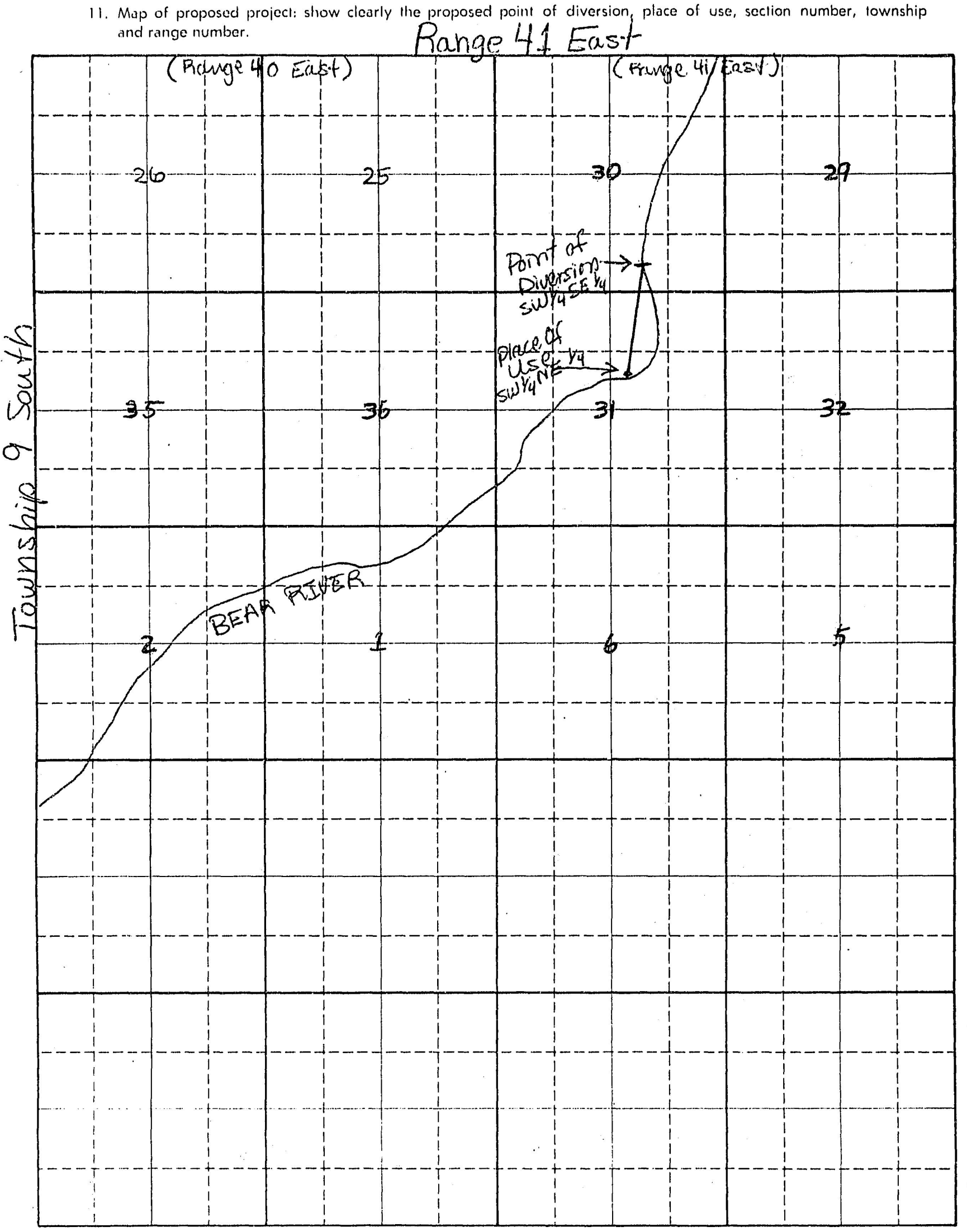
9. a. Who owns the property at the point of diversion Applicant - Last Chance Canal Co.

b. Who owns the land to be irrigated or place of use Applicant - Last Chance Canal Co.

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 The proposed use is non-consumptive. The diversion system described above is presently in existence having been constructed by the applicant in approximately 1918 and having been used continuously since that time for the purpose of diverting and using their irrigation waters as decreed in the case of Utah Power and Light Co. vs. Last Chance Canal Co., et al, Case No. 203 in the District Court of the United States for the District of Idaho, Eastern Division, dated July 11, 1920. The diversion system will be used to convey water from the Bear River to the existing canal and tunnel from which it will be dropped into hydro-electric generating turbines and returned to the Bear River at the place of use described above.

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



Scale: 2 inches equal 1 mile

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

LAST CHANCE CANAL CO.

By: Don W. Gilbert
(Applicant) Don W. Gilbert, President

Proposed Priority 5-30-1980

Received by kw Date 5/30/80 Time 11:45
Preliminary check by S/C Fee $ 1305.00
Receipted by kw Date 6/4/80 # 14851
Publication prepared by kw Date 6/5/80
Published in Caribou County Sun
Publication dates 6/12 & 6/19/80
Publication approved kw Date 7/16/80
Priority reduced to _____ Reason _____

Protests filed by: _____

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

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. 13-7288, 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 January 1, 19 84.

   c. Other: (1) A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works. (2) Use of water under this permit is subject to control by the watermaster of State Water District # 11, Bear River. (3) 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. (4) This project shall be operated in a manner that will not conflict or interfere with the future upstream diversion of water for irrigation or other beneficial consumption. (5) This permit does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.

Witness my hand this 18th day of December, 1980.

L. Glen Saxton
Chief, Operations Bur[illegible]

Individual Owner

AFFIDAVIT TO ESTABLISH RESIDENCE

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

/s/_____

Subscribed and sworn to before me this ___day of_____, 19____

/s/_____
Notary Public
Residence_____
My Commission expires_____

NOTE: This permit is issued subject to the provisions of S. L. 1937, Ch. 142; am. 1957, Ch. 66. (Idaho Code, Sections 42-205 to 42-210).

****

RECEIVED
OCT 3 1980
Department of Water Resources
Eastern District Office

X Corporation or Association

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

I, Orrin Harris of Grace County of Caribou
State of Idaho, being first duly sworn, depose and say:

That I am the designated statutory agent of the Last Chance Canal Company, that as such I am in charge of the registered office of the said Last Chance Canal Company, as provided by Section 30-143, Idaho Code, at Grace, Idaho, wherein are kept the records provided by Section 30-144, Idaho Code, and that Last Chance Canal Co. is a legal corporation qualified to do business in the State of Idaho under the laws of the State of Idaho.

/s/ Orrin Harris
Orrin Harris

Subscribed and sworn to before me this 8 day of August, 1980

/s/ Arlene Wilkin
Notary Public
Residence Grace, Idaho
My commission expires Lifetime

NOTE: This permit is issued subject to the provisions of S. L. 1937, Ch. 142; am. 1947, Ch. 66, (Idaho Code, Sections 42-205 to 42-210).

PUBLIC NOTICE

First Time Published

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:

11-7184 ok

PANTING, FARRELL B.
STAR RT., SODA SPRINGS, ID 83276
Source: FORMATION SPRING
Date Filed: 05-28-1980
Amount: 4.00 CFS
Diversion Point: NWSW Sec 27 T 08S R 42E, CARIBOU Co.
Use: IRRIGATION (4.00 CFS) from 05-01 to 10-01
Place of Use: SWSW SESW Sec 27 08S R 42E NENE SENE Sec 33 T 08S R 42E NWNW SWNW Sec 34 T 08S R 42E FOR 230 ACRES
Diversion Means: PUMP & PIPELINE

13-7288 ok

LAST CHANCE CANAL COMPANY
C/O RANDALL C. BUDGE, ATTORNEY, SODA SPRINGS, ID 83276
Source: BEAR RIVER tributary to GREAT SALT LAKE
Date Filed: 05-30-1980
Amount: 440.00 CFS
Diversion Point: SWSE Sec 30 T 09S R 41E, CARIBOU Co.
Use: POWER (440.00 CFS) from 01-01 to 12-31
Place of Use: SWNE Sec 31 T 09S R 41E
Diversion Means: DAM, HEADGATES & CANAL.

13-7289 ok

JORGENSEN, BILL E.
RT. 1 BOX 87, GRACE, ID 83241
Source: GROUNDWATER
Date Filed: 06-03-1980
Amount: 2.30 CFS.
Diversion Point: SWNE Sec 18 T 10S R 40E, CARIBOU Co.
Use: IRRIGATION (2.30 CFS) from 04-01 to 11-01
Place of Use: NENE SWNE SENE Sec 18 T 10S R 40E FOR 115 ACRES
Diversion Means: WELL, PUMP & SPRINKLER.

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 30, 1980.

C. STEPHEN ALLRED
Director

Published June 12 and 19, 1980 in the Caribou County Sun.

RECEIVED
JUL 16 1980
Department of Water Resources
Eastern District Office

KW 7/16/80

Affidavit of Publication

County of Caribou } ss.
State of Idaho }

Mark Steele

being first duly sworn on his oath, states:

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

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

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

12th day of

June, 19 80

The date of the last publication

being the 19th day of

June, 19 80

Subscribed and sworn to before me this 10th day

of July, 1980

Notary Public, residing at Soda Springs, Idaho

(SEAL)

My Commission expires the

1st day of March

19 84.

TRANSTRUM, BUDGE & LARSON
CHARTERED
ATTORNEYS AT LAW
240 South Main - P.O. Box 608
SODA SPRINGS, IDAHO 83276

Wallace M. Transtrum
Randall C. Budge
A. Bruce Larson

Soda Springs - (208) 547-2186
Montpelier - - (208) 847-1876

May 29, 1980

Idaho Dept. of Water Resources
Eastern Division
1515 Lincoln Rd.
Idaho Falls, Idaho 83401

Enclosed is an APPLICATION FOR PERMIT which we are submitting on behalf of Last Chance Canal Co. of Grace, Idaho. Also enclosed is their check in the amount of $1,305.00 for filing fees which represents $625.00 for the first 100 second feet and $2.00 per second foot thereafter.

Would you kindly file the claim, begin processing the same and direct any inquiries you may have to this office in care of the undersigned.

Very truly yours,

TRANSTRUM, BUDGE & LARSON, CHARTERED

Randall C. Budge

RCB:cls

Enclosures

cc: Orrin Harris, Secretary
Last Chance Canal Co.

RECEIVED
MAY 30 1980
Department of Water Resources
Eastern District Office

13-2288

LAST CHANCE CANAL COMPANY

C/O RANDALL C. BUDGE, ATTORNEY, SODA SPRINGS, ID 83276

Source: BEAR RIVER tributary to GREAT SALT LAKE

Date Filed: 05/30/1980

Amount: 440.00 CFS

Diversion Point: SWSE Sec 30 T 09S R 41E, CARIBOU Co.

Use: POWER (440.00 CFS) from 01/01 to 12/31

Place of Use: SWNE Sec 31 T 09S R 41E

Diversion Means: DAM, HEADGATES & CANAL.

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 30, 1980.

C. STEPHEN ALLRED

Director

Published 6/12 & 6/19/80.

June 11, 1980

RE: Application for Permit No. 13-7288
Last Chance Canal Company

Last Chance Canal Co.
c/o Randall C. Budge
Attorney at Law
P. O. Box 608
Soda Springs, ID 83276

Dear Mr. Budge:

Attached herewith is Departmental Receipt No. 14851 in the amount of $1305.00 for the above referenced application for permit in the name of Last Chance Canal Company.

Sincerely,

KAY WALKER
Secretary

COPY

June 13, 1980

RE: Application for Permit No. 13-7288 LAST CHANCE CANAL COMPANY

Federal Energy Regulatory Commission
333 Market Street, 6th Floor
San Francisco, CA 94105

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 30, 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

June 13, 1980

RE: Application for Permit No. 13-7288 LAST CHANCE CANAL CO.

Mr. William A. Scribner
Department of Lands
Statehouse
Boise, Idaho 83720

Dear Mr. Scribner:

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 30, 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

June 13, 1980

RE: Application for Permit No. 13-7288 LAST CHANCE CANAL CO.

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

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 30, 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

June 13, 1980

RE: Application for Permit No. 13-7288 LAST CHANCE CANAL CO.

Mr. Bill Davidson
Regional Supervisor
Department of Fish & Game
636 Pershing
Pocatello, Idaho 83201

Dear Mr. Davidson:

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 30, 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

June 18, 1980

RE: Application for Permit No. 13-7288 - Last Chance Canal Co.

Russell D. Stoker, Watermaster
379 E. 3rd North
Soda Springs, ID 83276

Dear Mr. Stoker:

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 30, 1980, and we are required to take final action shortly thereafter.

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

Very truly yours,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw
Enclosure

STATE OF IDAHO

DEPARTMENT OF LANDS
STATEHOUSE, BOISE, IDAHO 83720
GORDON C. TROMBLEY
DIRECTOR

STATE BOARD OF LAND COMMISSIONERS
JOHN V. EVANS
GOVERNOR AND PRESIDENT
PETE T. CENARRUSA
SECRETARY OF STATE
DAVID H. LEROY
ATTORNEY GENERAL
JOE R. WILLIAMS
STATE AUDITOR
JERRY L. EVANS
SUP'T OF PUBLIC INSTRUCTION

June 23, 1980

Department of Water Resources
Eastern Region
1515 Lincoln Road
Idaho Falls, ID 83401

RE: 13-7288
Last Chance Canal Co.

Gentlemen:

The work proposed in the above numbered application will not affect state land or a navigable stream. The Department of Lands has no objection to the work proposed.

A permit from this department will not be required. Thank you for the opportunity to review the application.

Very truly yours,

William A. Scribner

WILLIAM A. SCRIBNER, Chief
Bureau of Navigable Waters

WAS:bv

RECEIVED
JUN 24 1980
Department of Water Resources
Eastern District Office

EQUAL OPPORTUNITY EMPLOYER

STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

REGION 5
636 PERSHING, SUITE B
POCATELLO, IDAHO 83201

June 27, 1980

RECEIVED
JUN 30 1980
Department of Water Resources
Eastern District Office

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

Re: Application for Permit #13-7288 by the Last Chance Canal Company from the Bear River

Dear Mr. Carlson:

We have reviewed the application to divert 440 cubic feet per second of water from the Bear River at the Last Chance Dam for power production, and have the following comments:

The Last Chance Dam is an old diversion structure with some water leaking past it. Downstream from this diversion is a large pool and long riffle area where some fishing occurs. If this permit is granted, we are assuming this structure and flows downstream will remain as is and some fishing will continue. If this assumption is correct, then we would not object to the issuance of this water right permit. However, if flows from the present Last Chance Dam to the Grace Reservoir are dramatically reduced as the result of this project it will seriously affect fishing in this approximate one-half mile of river section and would be of concern to us.

As plans become developed on this proposed project we would like to be included in the review process so that its impacts on fish and wildlife can be minimized.

Thank you for the opportunity to review this application.

SINCERELY,

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

John T. Heimer

John T. Heimer,
Acting Regional Supervisor
Region 5

JTH:dk

EQUAL OPPORTUNITY EMPLOYER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

July 1, 1980

RE: Application for Permit No. 13-7288 LAST CHANCE CANAL CO.

Randall C. Budge
Attorney at Law
P.O. Box 608
Soda Springs, Idaho 83276

Dear Mr. Budge:

We are forwarding to you a copy of a letter from the Idaho Fish and Game Department in reference to the above numbered application. This letter is not an official protest and only forwarded for your information.

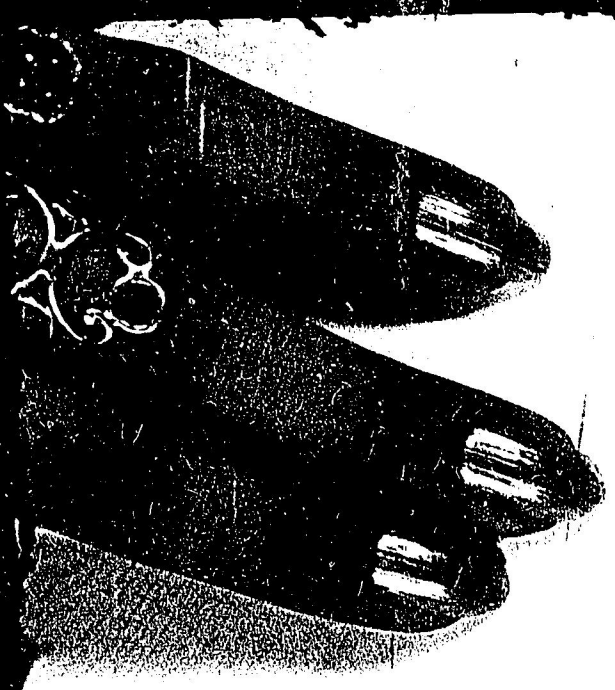
If you have any questions concerning this matter, please feel free to contact this office.

Very truly yours,

ERNEST M. CARLSEN
Sr. Resource Analyst

EMC:CW

Enclosure



FEDERAL ENERGY REGULATORY COMMISSION

REGIONAL OFFICE

819 Taylor Street, Room 9A05
Fort Worth, Texas 76102

July 1, 1980

In reply refer to:
OEPR-FW

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

Dear Mr. Carlsen:

This is in response to your June 13, 1980, letter forwarding a copy of the Last Chance Canal Co.'s (Company) application for a permit (No. 13-7288) to appropriate public waters for their proposed 315-kW hydroelectric project.

Hydroelectric projects proposed by non-Federal entities must be licensed by the Federal Energy Regulatory Commission (Commission) if they either: (1) occupy Federal lands; (2) are situated on a navigable waterway of the United States; (3) affect interstate or foreign commerce; or (4) utilize surplus water or water power from a Federal dam. The authority of the Federal government to regulate certain aspects of hydroelectric development is contained in the Federal Power Act.

Based on the information contained in the Company's application, we are unable to ascertain if the Company's proposed project should be licensed by the Commission. Therefore, it is necessary that the Company, prior to construction, file a declaration of intention with the Commission in accordance with Section 23 (copy enclosed) of the Federal Power Act and as per Part 24 - Declaration of Intention (copy enclosed) of the Commission's regulations.

Upon receipt of the declaration and review of the information contained therein, the Commission will determine if a license is required for the project.

RECEIVED
JUL 7 1980
Department of Water Resources
Eastern District Office

Thank you for forwarding the Company's application for our review. If you have any questions or desire additional information, please contact this office at 817/334-2631.

Sincerely yours,

Lenard B. Young

Lenard B. Young
Regional Engineer

Enclosures:
Section 23, Federal Power Act
Part 24, Commission regulations

cc: Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

Last Chance Oil Co.
c/o Randall C. Budge
Attorney at Law
Soda Springs, Idaho 83276

courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds $3,000.

[¶ 5222]

[Contract to Furnish Power Extending Beyond Period of Licensee—Obligations of New Licensee]

Sec. 22. That whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the Commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public-service commission, then upon the approval of the Commission, and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts.

[¶ 5223]

[Preservation of Rights Vested Prior to June 10, 1920]

Sec. 23. (a) The provisions of this Part shall not be construed as affecting any permit or valid existing right-of-way heretofore granted or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality holding or possessing such permit, right-of-way, or authority may apply for a license hereunder, and upon such application the Commission may issue to any such applicant a license in accordance with the provisions of this Part and in such case the provisions of this Act shall apply to such applicant as a licensee hereunder: *Provided,* That when application is made for a license this section for a project or projects already constructed the fair value of said project or projects determined as provided in this section, shall for the purposes of this Part and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value shall be determined by the Commission after notice and opportunity for hearing.

(b) It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States, or upon any part of the public lands or reservations of the United States (including the Territories), or utilize the surplus water or water power from any Government dam, except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this Act. Any person, association, corporation, State, or municipality intending to construct a dam or other project works across,

along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this Act. If the Commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws.

.01 Act of June 10, 1920 as amended by the Act of August 26, 1935.

[¶ 5224]

[Public Lands Included in Project—Reservation of Lands from Entry]

Sec. 24. Any lands of the United States included in any proposed project under the provisions of this Part shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this Part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Part upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in

[¶ 13,200]

PART 24—DECLARATION OF INTENTION

§ 24.1 Filing.

An original and ten conformed copies of each declaration of intention under the provisions of section 23(b) of the Act shall be filed. The declaration shall give the name and post office address of the person to whom correspondence in regard to it shall be addressed, and shall be accompanied by:

(a) A brief description of the proposed project and its purposes, including such data as maximum height of the dams, a storage capacity curve of the reservoir or reservoirs showing the maximum, average, and minimum operating pool levels, the initial and ultimate installed capacity of the project, the rated horsepower and head on the turbines, and a curve of turbine discharge versus output at average and minimum operating heads.

(b) (1) A general map (one tracing and three prints) of any convenient size and scale, showing the stream or streams to be utilized and the approximate location and the general plan of the project.

(2) Also a detailed map of the proposed project area showing all Federal lands, and lands owned by States, if any, occupied by the project.

(3) A profile of the river within the vicinity of the project showing the location of the proposed project and any existing improvements in the river.

(4) A duration curve and hydrograph for the natural and proposed regulated flows at the dam site. Furnish references to the published stream flow records used and submit copies of any unpublished records used in preparation of these curves.

(c) (1) A definite statement of the proposed method of utilizing storage or pondage seasonally, weekly and daily, during periods of low and normal flows after the plant is in operation and the system load has grown to the extent that the capacity of the plant is required to meet the load. For example, furnish:

(i) Hydrographs covering a 10-day low water period showing the natural flow of the stream and the effect thereon caused by operations of the proposed power plant;

(ii) Similar hydrographs covering a 10-day period during which the discharge of the stream approximates average recorded yearly flow, and

(iii) Similar hydrographs covering a low water year using average monthly flows.

(2) A system load curve, both daily and monthly, and the position on the load curve that the proposed project would have occupied had it been in operation.

(3) A proposed annual rule of operation for the storage reservoir or reservoirs.

(Sec. 23, 309, 49 Stat. 841, 858; 16 U.S.C. 816 817, 825b) [Order 175, 19 F.R. 5217, Aug. 18, 1954, as amended by Order 260, 28 F.R. 315, Jan. 11, 1963]

[Part 25 begins on page 11,115.]

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEER
BUILDING 602, CITY-COUNTY AIRPORT
WALLA WALLA, WASHINGTON 99362

REPLY TO
ATTENTION OF:
NPWOP-NF

7 July 1980

Last Chance Canal Company
% Randall C. Budge, Attorney
Soda Springs, ID 83276

RECEIVED
JUL 9 1980
Department of Water Resources
Eastern District Office

Gentlemen:

Your application for a State of Idaho Stream Alteration Permit, No. 13-7288, has been forwarded to this office for review. This action is one element of the cooperation agreement between the State of Idaho and the Corps of Engineers in the implementation of the permit program under Section 404 of the Clean Water Act.

The work described in your stream alteration permit application is located in the Corps of Engineers' Sacramento District. Since your proposal may require a Corps permit, I am inclosing an application pamphlet entitled "U.S. Army Corps of Engineers Permit Program, A Guide for Applicants" with permit application and drawing forms for your use as required. Any further questions you may have with regard to your application should be referred to the Sacramento office, telephone (916) 440-2327. A copy of this letter and your stream alteration permit application have been sent to that office at the address indicated below.

The information provided here is applicable only to Department of the Army Permits administered by the Corps of Engineers and in no way relieves you of the responsibility to obtain an Idaho Stream Alteration Permit. In addition, this information does not relieve you of the responsibility to meet designated floodplain uses and other requirements of the community, county, or State.

Sincerely,

1 Incl
As stated

CLARENCE L. VAN SCOTTER
Chief, Navigation and Flood
Control Branch

Copies furnished:
✓ Idaho Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, ID 83401

District Engineer
Sacramento District, Corps of
Engineers
650 Capitol Mall
Sacramento, CA 95814

July 17, 1980

RE: Application for Transfer No. 11-0559 ROPER
" " " No. 13-2312 LLOYD

Application for Permit No. 13-7288 LAST CHANCE CANAL
" " " No. 13-7289 JORGENSEN

Caribbu County Sun
P.O. Box 615
Soda Springs, Idaho 83276

Gentlemen:

Would you please submit affidavits of publication and certified bills in connection with the above referenced application(s). The legal notices was to have been published in your paper on June 12 and 19, 1980.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

KAY WALKER
Secretary

CW:kw



TRANSTRUM, BUDGE & LARSON
CHARTERED
ATTORNEYS AT LAW
240 South Main - P.O. Box 608
SODA SPRINGS, IDAHO 83276

Wallace M. Transtrum
Randall C. Budge
A. Bruce Larson

Soda Springs - (208) 547-2186
Montpelier - - (208) 847-1876

July 21, 1980

District Engineer
Sacramento District,
Corps of Engineers
650 Capitol Mall
Sacramento, California 95814

Attention: NPWOP-NF

RE: LAST CHANCE CANAL COMPANY - APPLICATION FOR PERMIT TO APPROPRIATE WATER-NO. 13-7288 IDAHO DEPARTMENT OF WATER RESOURCES

RECEIVED
JUL 22
Department of Water Resources
Eastern District Office

Gentlemen:

As attorneys for the Last Chance Canal Company of Grace, Idaho, I am writing to respond to a letter dated July 7, 1980 from Mr. Clarence L. Van Scotter, Chief, Navigation and Flood Control Branch, regarding the possible requirement of Last Chance Canal Company to obtain a U.S. Army Corps of Engineers permit under Section 404 of the Clean Water Act.

Mr. Van Scotter's indication that Last Chance Canal Company had applied with the State of Idaho for an "Idaho Stream Alteration Permit" is in error; although no alteration permit was filed an "Application for Permit to Appropriate Water" was in fact filed with the State of Idaho Department of Water Resources.

The purpose of the application is to obtain a permit to enable appropriation of water for power generation purposes. If obtained,a study will be made to determine the feasibility of the proposed project. It is not contemplated that there would be any construction, structures, excavation or discharge of dredged or fill materials in waters of the United States or the State of Idaho. If the proposed project proved feasible and was pursued, the diversion of water would be accomplished from existing diversion facilities which were constructed in approximately 1918 and have been used continuously since that time for diversion of water used for irrigational purposes during the summer irrigation season. The proposed project would simply utilize the same diversion facilities and canals in existence and permit use of the waters for power generation during those periods that it is not needed for irrigation purposes. As such, following a review of the "U.S. Army Corps of Engineers Permit Program, a Guide to Applicants" Pamphlet No. EP 1145-2-1, an application would not appear to be required.

If you make a determination that a stream alteration permit is required

to be obtained from the State of Idaho or the Army Corps of Engineers, kindly provide me with the basis for such determination and we will proceed to obtain the appropriate permit.

Very truly yours,

TRANSTRUM, BUDGE & LARSON, CHARTERED

Randall C. Budge

RCB/ms

cc: Idaho Department of Water Resources
Idaho Falls

Mr. Clarence L. Van Scotter
Corps of Engineers
Walla Walla, Washington

July 28, 1980

Randall C. Budge
Attorney at Law
P. O. Box 608
Soda Springs, ID 83276

Dear Mr. Budge:

Our Eastern Regional Office has completed the initial processing of your client's, Last Chance Canal Company's, Application No. 13-7288 for a permit to appropriate water form the Bear River for power generation. However, prior to forwarding the application to our State Office for final action we request that enclosed Affidavit to Establish Residence form be completed and returned to this office. Your prompt attention in this matter would be appreciated.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw
Enclosure

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEER
BUILDING 602, CITY-COUNTY AIRPORT
WALLA WALLA, WASHINGTON 99362

REPLY TO
ATTENTION OF:
NPWOP-NF

7 August 1980

Mr. Randall C. Budge
Transtrum, Budge, and Larson
240 South Main Street
Soda Springs, ID 83276

RECEIVED
AUG 11 1980
Department of Water Resources
Eastern District Office

Dear Mr. Budge:

This is in response to your 21 July 1980 letter regarding the Last Chance Canal Company's permit application No. 13-7288 to appropriate water from the Bear River in Caribou County, Idaho for the purpose of hydroelectric generation.

We concur that our 7 July 1980 letter to the Last Chance Canal Company was inappropriate in that the Idaho Application for Permit to Appropriate Public Waters was incorrectly referred to as a State of Idaho Stream Alteration Permit Application. Contact should be made with the Idaho Department of Water Resources in Idaho Falls regarding the requirement for a Stream Alteration Permit.

You are advised that the Federal Energy Regulatory Commission (FERC) should be contacted regarding their permit requirements for the proposed project. Mr. William Wakefield, South Idaho Representative, Washington, D.C., telephone (202) 357-8145, is the FERC contact for your area. If you have any further questions regarding a Department of the Army Permit for the above project, please write or call Mr. Art Champ at the Sacramento District Office, telephone (916) 440-2327.

If we can be of any further assistance, please write or call Jim Hanbey or Dean Hilliard at telephone (509) 525-5500, extension 619 or 636, respectively.

Sincerely,

CLARENCE L. VAN SCOTTER
Chief, Navigation and Flood
Control Branch

Copies furnished:
— ✓Idaho Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, ID 83401

District Engineer,
Sacramento District
Corps of Engineers
650 Capitol Hill
Sacramento, CA 95814

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED
CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
D. JAMES MANNING
W. MARCUS W. NYE
GARY L. COOPER

WM. BRECK SEINIGER, JR.
THOMAS J. HOLMES

TELEPHONE
AREA CODE 208
232-6101

2 October 1980

Idaho Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Attention: Ernest Carlson
Senior Resource Analyst

Re: Last Chance Canal Company
Application No. 13-7288

Dear Ernest:

Enclosed please find a completed Affidavit to Establish Residence to permit forwarding the Application to your State Office for final action.

I apolgize for delaying getting the Affidavit back to you. As you will note from the letterhead, I have taken a position with a new firm in Pocatello and did leave my Soda Springs law firm on August 1, 1980. Since that time, Last Chance made a request that I continue to handle their legal affairs and I only recently received their files from the Soda Springs office and discovered that the Affidavit which was signed back on August 8, 1980, had not been forwarded to you. I would like to please request that action on this Application be handled as expeditiously as possible as Last Chance has already hired J-U-B Engineering and commenced a feasibility study on this project as it was assumed that the Application would be forthcoming since no objections were filed.

Very truly yours,

RANDALL C. BUDGE

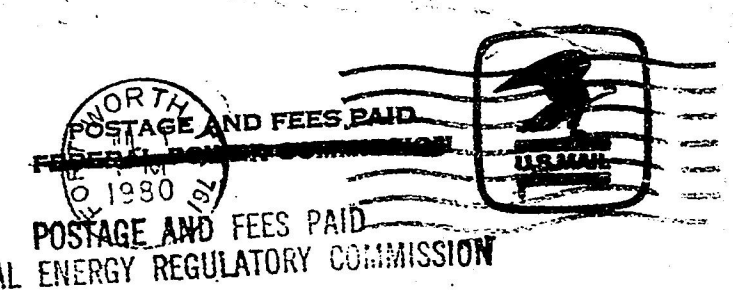
RCB:sn
cc: Don Gilbert, President
Orrin Harris, Secretary
Enc.

RECEIVED
OCT 3 1980
Department of Water Resources
Eastern District Office

819 TAYLOR STREET
FORT WORTH, TEXAS 76102

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

FEDERAL ENERGY REGULATORY COMMISSION
FORT WORTH REGIONAL OFFICE
819 TAYLOR STREET, ROOM 9A05
FORT WORTH, TEXAS 76102



POSTAGE AND FEES PAID
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Water Resources Board
Statehouse
Boise, Idaho 83720





RECEIVED
JUL 7 1980
Department of Water Resources

FEDERAL ENERGY REGULATORY COMMISSION
REGIONAL OFFICE
819 Taylor Street, Room 9A05
Fort Worth, Texas 76102

July 1, 1980

In reply refer to:
OEPR-FW

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

Dear Mr. Carlsen:

This is in response to your June 13, 1980, letter forwarding a copy of the Last Chance Canal Co.'s (Company) application for a permit (No. 13-7288) to appropriate public waters for their proposed 315-kW hydroelectric project.

Hydroelectric projects proposed by non-Federal entities must be licensed by the Federal Energy Regulatory Commission (Commission) if they either: (1) occupy Federal lands; (2) are situated on a navigable waterway of the United States; (3) affect interstate or foreign commerce; or (4) utilize surplus water or water power from a Federal dam. The authority of the Federal government to regulate certain aspects of hydroelectric development is contained in the Federal Power Act.

Based on the information contained in the Company's application, we are unable to ascertain if the Company's proposed project should be licensed by the Commission. Therefore, it is necessary that the Company, prior to construction, file a declaration of intention with the Commission in accordance with Section 23 (copy enclosed) of the Federal Power Act and as per Part 24 - Declaration of Intention (copy enclosed) of the Commission's regulations.

Upon receipt of the declaration and review of the information contained therein, the Commission will determine if a license is required for the project.

Thank you for forwarding the Company's application for our review. If you have any questions or desire additional information, please contact this office at 817/334-2631.

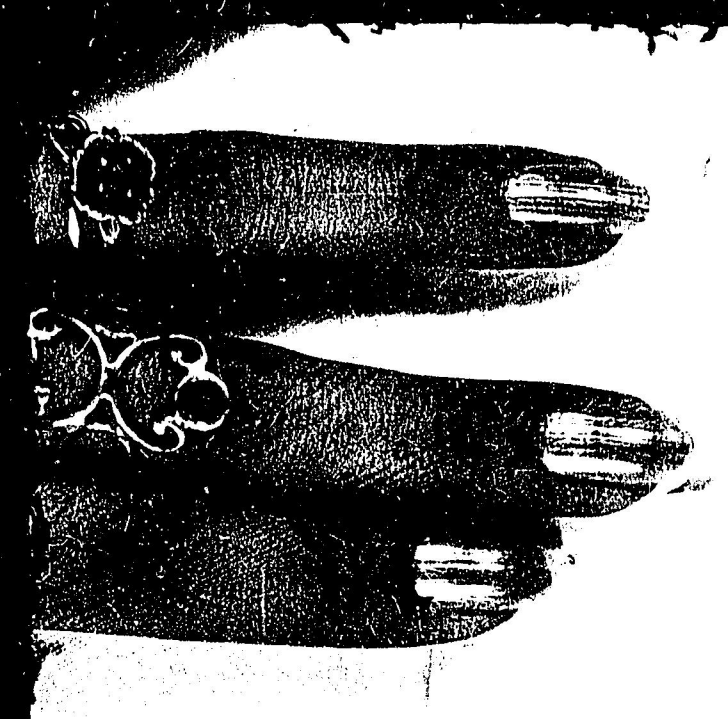
Sincerely yours,

Lenard B. Young
Regional Engineer

Enclosures:
Section 23, Federal Power Act
Part 24, Commission regulations

cc: Idaho Water Resource Board ✓
Statehouse
Boise, Idaho 83720

Last Chance Oil Co.
c/o Randall C. Budge
Attorney at Law
Soda Springs, Idaho 83276



courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds $3,000.

[¶ 5222]

[Contract to Furnish Power Extending Beyond Period of Licensee—Obligations of New Licensee]

Sec. 22. That whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the Commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public-service commission, then upon the approval of the Commission, and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts.

[¶ 5223]

[Preservation of Rights Vested Prior to June 10, 1920]

Sec. 23. (a) The provisions of this Part shall not be construed as affecting any permit or valid existing right-of-way heretofore granted or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality holding or possessing such permit, right-of-way, or authority may apply for a license hereunder, and upon such application the Commission may issue to any such applicant a license in accordance with the provisions of this Part and in such case the provisions of this Act shall apply to such applicant as a licensee hereunder: *Provided,* That when application is made for a license this section for a project or projects already constructed the fair value of said project or projects determined as provided in this section, shall for the purposes of this Part and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value shall be determined by the Commission after notice and opportunity for hearing.

(b) It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States, or upon any part of the public lands or reservations of the United States (including the Territories), or utilize the surplus water or water power from any Government dam, except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this Act. Any person, association, corporation, State, or municipality intending to construct a dam or other project works across,

along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this Act. If the Commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws.

.01 Act of June 10, 1920 as amended by the Act of August 26, 1935.

[¶ 5224]

[Public Lands Included in Project—Reservation of Lands from Entry]

Sec. 24. Any lands of the United States included in any proposed project under the provisions of this Part shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this Part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Part upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in

[¶ 13,200]

PART 24—DECLARATION OF INTENTION

§ 24.1 Filing.

An original and ten conformed copies of each declaration of intention under the provisions of section 23(b) of the Act shall be filed. The declaration shall give the name and post office address of the person to whom correspondence in regard to it shall be addressed, and shall be accompanied by:

(a) A brief description of the proposed project and its purposes, including such data as maximum height of the dams, a storage capacity curve of the reservoir or reservoirs showing the maximum, average, and minimum operating pool levels, the initial and ultimate installed capacity of the project, the rated horsepower and head on the turbines, and a curve of turbine discharge versus output at average and minimum operating heads.

(b) (1) A general map (one tracing and three prints) of any convenient size and scale, showing the stream or streams to be utilized and the approximate location and the general plan of the project.

(2) Also a detailed map of the proposed project area showing all Federal lands, and lands owned by States, if any, occupied by the project.

(3) A profile of the river within the vicinity of the project showing the location of the proposed project and any existing improvements in the river.

(4) A duration curve and hydrograph for the natural and proposed regulated flows at the dam site. Furnish references to the published stream flow records used and submit copies of any unpublished records used in preparation of these curves.

(c) (1) A definite statement of the proposed method of utilizing storage or pondage seasonally, weekly and daily, during periods of low and normal flows after the plant is in operation and the system load has grown to the extent that the capacity of the plant is required to meet the load. For example, furnish:

(i) Hydrographs covering a 10-day low water period showing the natural flow of the stream and the effect thereon caused by operations of the proposed power plant;

(ii) Similar hydrographs covering a 10-day period during which the discharge of the stream approximates average recorded yearly flow, and

(iii) Similar hydrographs covering a low water year using average monthly flows.

(2) A system load curve, both daily and monthly, and the position on the load curve that the proposed project would have occupied had it been in operation.

(3) A proposed annual rule of operation for the storage reservoir or reservoirs.

(Sec. 23, 309, 49 Stat. 841, 858; 16 U.S.C. 816, 817, 825h) [Order 175, 19 F.R. 5217, Aug. 18, 1954, as amended by Order 260, 28 F.R. 315, Jan. 11, 1963]

[Part 25 begins on page 11,115.]

Form No. 202a
2/79

State of Idaho

Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: Steve McCormick APPLICATION NUMBER: 13 7288
13-7288

CHECK:

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

Field check by: _____
Date: _____
Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

✓ - letter requesting applicant to establish purpose. July 28, 1980.

SEND COPIES TO: Power Generation

	Copies sent by:	Date:
☐ Idaho State Health Department.		
☒ Idaho Fish and Game Department.	EW	6/17
☒ Idaho Department of Lands.	EW	6/17
☐ U.S. Bureau of Land Management.		
☐ U.S. Forest Service.		
☒ Other ND 11 EW 6/18/80 X Corps X Bureau of Recl.	EW	6/17

PROCESSING:

- ☐ Yes ☐ No Platted by: SM. Map No. 95-41E
- ☐ Yes ☒ No Other rights on same place of use. None.
- ☒ Yes ☐ No* In form for advertising. Final date for protests: June 30 ✓
- ☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 7-16-1980 ✓
- ☒ 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. Cond 01
- ☐ Yes ☒ No Access port required.
- ☒ Yes ☐ No Will water be delivered by watermaster? If yes, what district? 11 Cond 05
- 5-30-1980 Date of priority recommended.

Special conditions of approval or cover letter. _____

Condition Code 08 A, 17

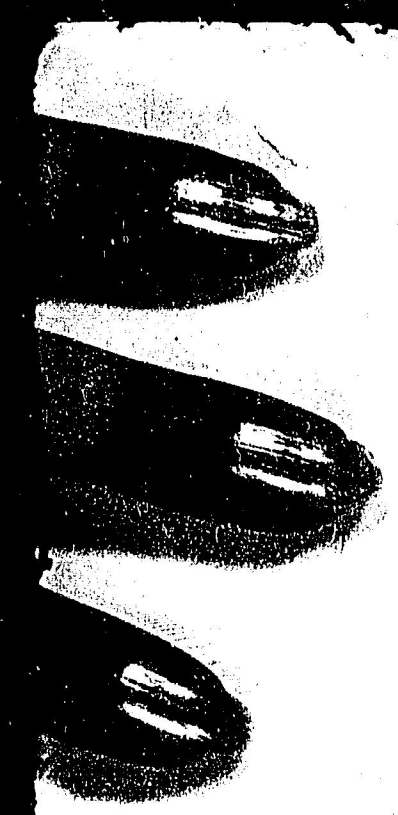
By: Grant Carlson Date: 7-25-1980

STATE OFFICE REVIEW:

SLW/L02 01, 05 (11 Boise River), 08 11, 17 ✓ - use condition above

☐ See attached sheet for more information.

By: _____ Date: 10/16/80



* This permit does not constitute Idaho Public Utilities Commission or FEDERAL ENERGY REGULATORY Commission approval that may be required.

October 21, 1980

Last Chance Canal Company
% Randall C. Budge, Attorney
P. O. Box 608
Soda Springs, Idaho 83276

RE: Application for Permit No. 13-7288, Power Use.

Gentlemen:

We have completed a preliminary review of the above referenced application. This review has included advertising by the regional office and a verification of legal descriptions.

At this time we can see no reason to indicate that the application will not be approved. However, for power projects that require licensure with the Federal Energy Regulatory Commission (FERC) we withhold approval pending their preliminary approval by FERC.

Based on the FERC letter dated July 1, 1980 concerning this application, of which you should have received a carbon copy, you will need to file a Declaration of Intent with FERC if you have not done so already. Please keep this office informed of your further progress with FERC so that we can act on your water right application at the earliest possible opportunity.

Sincerely,

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

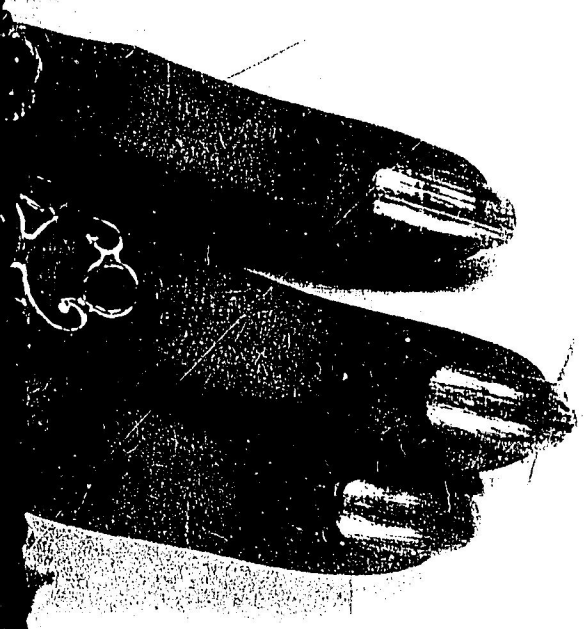
DRT:jg

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

POCATELLO, IDA 832
PM
27 OCT
1989

USA 15c
THE HOME OF THE BRAVE

Mr. DAvid R. Tuthill Jr.
Supervisor, Water Allocation Section
Department of Water Resources
Statehouse
Boise, Idaho 83720



LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED
CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER

THOMAS J. HOLMES
RANDALL C. BUDGE
JOHN A. BAILEY

TELEPHONE
AREA CODE 208
232-6101

Opt 72 2 am
11/12

October 27, 1980

Mr. DAvid R. Tuthill Jr.
Supervisor, Water Allocation Section
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Application for Permit No. 13-7288, Power Use.
Last Chance Canal Company

Dear Mr. Tuthill:

Thank you for your letter of October 21, 1980, regarding the above-captioned matter. You indicated that the IDWR was withholding approval on power project application requiring licensing with the Federal Energy Regulatory Commission (FERC) until preliminary approval by FERC has been received.

This proposed power project is for less than 5,000 kw and therefore FERC licensing is not required. The Public Untilities Regulatory Policy Act of 1978 at 16 USC 2708 (1) was amended on June 19, 1980 by the Federal Energy Security Act which added subsection (D) to Section 2708(1) of the 1978 act to exempt small hydro projects of 5,000 kw or less from the licensing requirements of FERC.

We are informed that FERC is in the process of developing the regulations to implement this amendment which should be available in January of 1981. As soon as these regulations have been made available, JUB Engineering who is handling the feasibility study of this project will submit a formal request to FERC for exemption under this new subsection mentioned above. Therefore, no application for preliminary approval or a license from FERC will be necessary or pursued.

Accordingly we would request that the Department act on the water right application at this time. We see no reason why the application could not issue at this time, and would have no objection if it is issued subject to obtaining the FERC exemption which we will supply at a later date. Last Chance Canal Company is continuing to undertake

RECEIVED
OCT 28 1980
Department of Water Resources

considerable expense in pursuing with the feasibility study and development of this project which involves many facets. Therefore it is highly important that we receive an approved permit at this time insuring that the water will be available for use.

If you have any questions or if I can be of further assistance to expedite this matter, please contact me.

Very truly yours,

Randall C. Budge

CC: Bob Murphy

S T T E O F I D A H O

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

LAST CHANCE CANAL COMPANY
C/O RANDALL C. BUDGE, ATTORNEY
SODA SPRINGS, ID 83276

DECEMBER 31, 1980

RE: PERMIT NO. 13-7288

DEAR PERMIT HOLDER:

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

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

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

SINCERELY,

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

ENCLOSURE

Affidavit of Publication

County of Caribou
State of Idaho } ss.

Mark Steele

being first duly sworn on his oath, states:

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

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

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

5th day of March, 1981

The date of the last publication being the 12th day of March, 1981

Subscribed and sworn to before me this 13th day of March, 1981

Notary Public, residing at Soda Springs, Idaho
(SEAL)

My Commission expires the 1st day of March 1984.

PUBLIC NOTICE

OK BLS

First Time Published

NOTICE OF PROPOSED AMENDING OF WATER PERMIT

Notice is hereby given that Permit No. 13-7288 in the name of Last Chance Canal Company was issued for the diversion of 440.0 cfs of water from the Bear River tributary of Great Salt Lake with the point of diversion within the SW¼SE¼, Sec. 30, Twp. 9S, Rge. 41E, Caribou County; to be used for power generation from Jan. 1 to Dec. 31 within the SW¼NE¼, Sec. 31, Twp. 9S, Rge. 41E.

The permit holder now proposes to amend Permit No. 13-7288, changing the place of use to within the NE¼NE¼, Sec. 31, Twp. 9S, Rge. 41E.

Any protest to the proposed amending of the permit must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, Idaho, 83401 on or before March 23, 1981.

C. STEPHEN ALLRED
Director

Published in the Caribou County Sun March 5 and 12, 1981.

RECEIVED
APR 9 1981
Department of Water Resources
Eastern District Office

Form 211
5/78

Ident. No. 13-7288

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

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

Comes now Last Chance Canal Co. Ltd.

of (address) Grace, ID. in care of Randall C. Budge
P.O. Box 1391, Pocatello
, and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 13-7288, and requests that the permit and permit map be changed as follows:
NO CHANGE

1. Point of diversion: _____ ¼ _____ ¼, Section _____, Township _____, Range _____, B.M., County of _____. Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)
NO CHANGE

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)

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

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	41E	31	X																

Total number of acres to be irrigated = _____

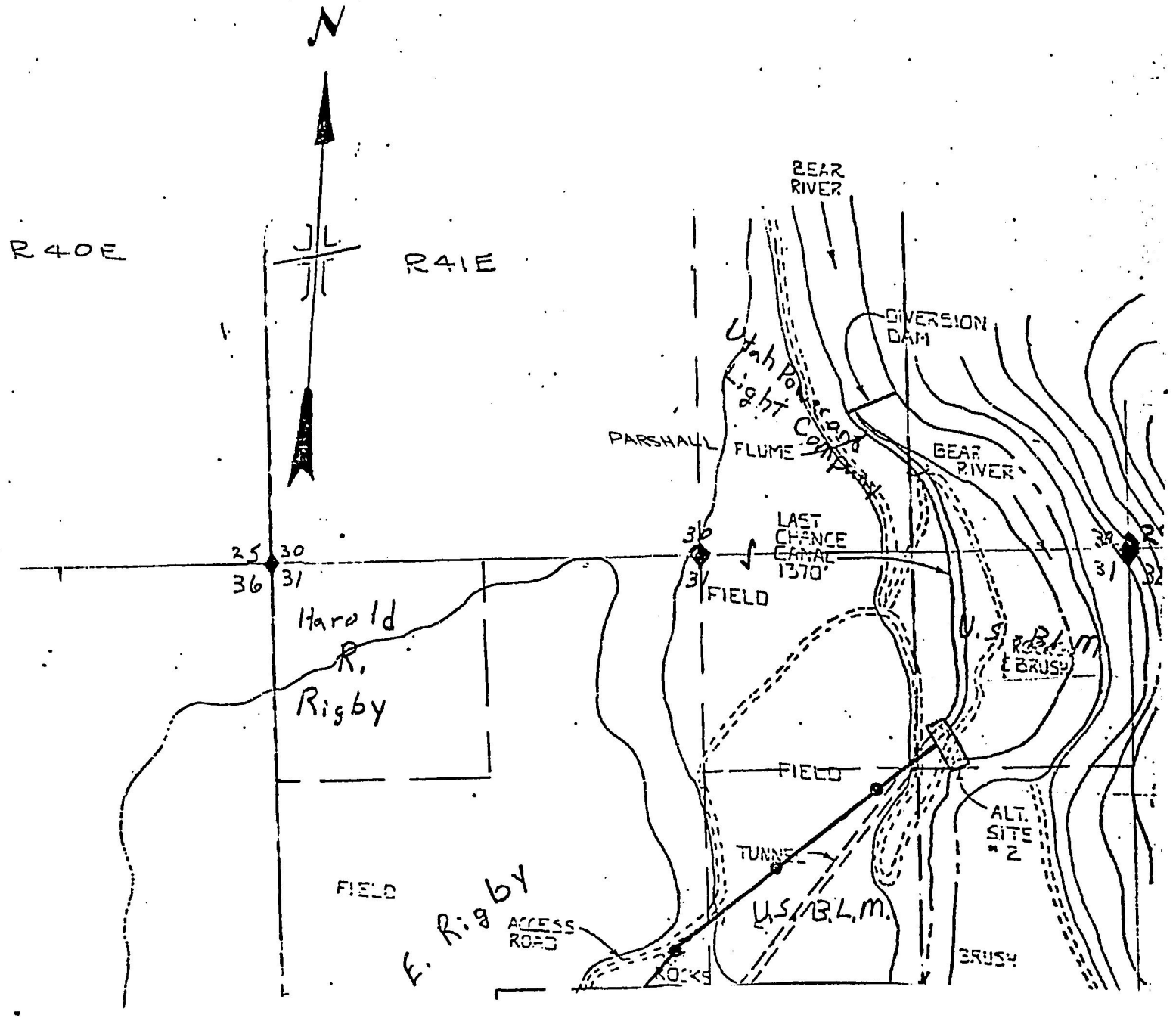
4. a. Who owns the property at the point of diversion? Last Chance Canal Co. Ltd.

b. Who owns the land to be irrigated or the place of use? Bureau of Land Management

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Permanent right-of-way easement on file. (as per telecon 2/23/81 HWJ)

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.



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

Signed at Grace, Idaho, this 20th day of February, 19 81.

x Don W. Gilbert
(Signature)
Don W. Gilbert, President
Last Chance Canal Co. Ltd.

FOR DEPARTMENT USE ONLY

Preliminary check by HWJ Fee = $20.00 rec'd 2/23/81 kw Receipted by kw Date 2/24/81 #17057

Publication prepared by kw Date 3/26/81 Published in Caribou County Sun

Publication dates 3/5 & 3/12/81

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, L. GLEN SAXTON Chief, Operations Bureau of the Department of Water Resources hereby APPROVE the above referenced Amendment for Permit No. 13-7288.

Witness my hand this 22nd day of April, 19 81.

L. Glen Saxton
Chief, Operations Bureau

RECEIVED
JUL 29 1981
Department of Water Resources

OK to Pro[illegible] RC 7/29/81

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMITS

THE LAST CHANCE CANAL COMPANY, LTD., an Idaho non-profit corporation, with its principal place of business in Grace, Idaho, does hereby assign to LAST CHANCE HYDRO ELECTRIC COMPANY, an Idaho corporation, with its principal place of business as 911 South Main, Grace, ID 83241, ~~all~~ of its right, title, and interest in and to Permit No. 13-7288 (approved 12/18/80, priority 5/30/80), and to Permit No. 13-7297 (approved 6/23/81, priority 2/11/81), to appropriate the public waters of the State of Idaho.

Said Permits were approved by, and are on file with the State of Idaho, Department of Water Resources, State Office, 450 West State Street, Boise, ID.

Made this 27th day of July, 1981.

PERMIT HOLDER, ASSIGNOR
LAST CHANCE CANAL COMPANY, LTD.

By: Don W. Gilbert
Don W. Gilbert, President

ATTEST: (Seal)

Orrin Harris
Orrin Harris, Secretary

STATE OF IDAHO,)
SS
County of Caribou.)

On this 27th day of July, 1981, personally appeared before me, DON W. GILBERT and ORRIN HARRIS, the president and secretary respectively of LAST CHANCE CANAL COMPANY, LTD., who duly acknowledge to me that they executed the same.

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

Randall C. Budge
Notary Public for the State of Idaho
Residing at Pocatello, ID
My Commission Expires: 10/15/84

(Seal)

WATER RIGHT SPLIT

SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT C.F.S.
~~App. for Permit~~	~~13-7288~~	~~Last Chance Canal Co.~~	~~440 cfs~~
Assignment	13-7288	Last Chance Hydro Electric Co.	4440

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED
CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER

THOMAS J. HOLMES
RANDALL C. BUDGE
JOHN A. BAILEY

TELEPHONE
AREA CODE 208
232-6101

February ,1981

Mr. Harold W. Jones
Department of WaterResources
Eastern Region
150 Shoup Ave.
Idaho Falls, Idaho 83401

Re: Application for Amendment of Permit #13-7288
Last Chance Canal Co. Ltd.

Dear Harold:

I am resubmitting herewith the Application for Amendment of a Permit which has been signed by Don W. Gilbert as President, together with $20.00 check for filing fees. I certainly appreciate your assistance in this matter. Kindly begin processing it.

Very truly yours,

Randall C. Budge

RCB/pb
En.

NOTICE OF PROPOSED AMENDING OF WATER PERMIT

Notice is hereby given that Permit No. 13-7288 in the name of Last Chance Canal Company was issued for the diversion of 440.0 cfs of water from the Bear River tributary of Great Salt Lake with the point of diversion within the SW¼SE¼, Sec. 30, Twp. 9S, Rge. 41E, Caribou County; to be used for power generation from Jan. 1 to Dec. 31 within the SW¼NE¼, Sec. 31, Twp. 9S, Rge. 41E.

The permit holder now proposes to amend Permit No. 13-7288, changing the place of use to within the NE¼NE¼, Sec. 31, Twp. 9S, Rge. 41E.

Any protest to the proposed amending of the permit must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, Idaho, 83401 on or before March 23, 1981.

C. STEPHEN ALLRED

Director

Published in the Caribou County Sun 3/05 and 3/12/1981.

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

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

FEBRUARY 26, 1981

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

Gentlemen:

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

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

Please send the affidavit of publication and publication billing to this office before MARCH 23, 1981.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

150 Shoup Ave. _____

_____
525-7161

February 27, 1981

RE: Application for Amendment of Permit No. 13-7288

Last Chance Canal Company, Ltd.
c/o Randall C. Budge
P.O. Box 1391
Pocatello, ID 83201

Dear Sirs:

Attached herewith is Departmental Receipt No. 17057 in the amount of $20.00 for the above referenced application. We are currently processing the amendment. Please feel free to contact us should you have any questions.

Sincerely,

KAY WALKER
Secretary

KW:k
Attachment

March 24, 1981

RE: Application for Amendment No. 13-7288 LAST CHANCE CANAL CO.

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

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on March 5 and 12, 1981.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

KAY WALKER
Secretary

CW:kw

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

150 Shoup Ave. ~~1515 Lincoln Road~~
Idaho Falls, Idaho 83401
(208) ~~523-7160~~ 525-7161

April 6, 1981

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

Gentlemen:

As per my letter of March 24, 1981, I am still awaiting the affidavit of publication for an Application for Amendment of Permit No. 13-7288. Our office has completed the processing of this application but we cannot forward it to Boise for approval until the affidavit of publication is placed in the file. Your cooperation in this matter will be greatly appreciated.

Sincerely,

KAY WALKER
Secretary

P.S. The notice was to be published on March 5 and 12, 1981.

File.

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED
CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER

THOMAS J. HOLMES
RANDALL C. BUDGE
JOHN A. BAILEY

TELEPHONE
AREA CODE 208
232-6101

April 3, 1981

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

Re: Last Chance Canal Company Application Nos.
13 7288 and 13 7297

Dear Mr. Carlson:

I have talked with Mr. Thomas W. Forsgren, attorney for Utah Power and Light Company regarding the captioned matter, and am in receipt of a copy of his letter to you under date of March 31, 1981.

It is Last Chance's position that these permits would be issued subject to all prior water rights, including the decreed rights of Utah Power and Light Company. The water rights Last Chance desires to utilize in the proposed hydro project will be as set forth in Permit No. 13 7288 which has been issued and Permit No. 13 7297, which is now being processed. It is not necessary, nor is it intended by Last Chance to use these waters for the hydro project in any manner that would interfere with Utah Power's exising water rights or their management and operation thereof on the Bear River.

Please contact me if you have any questions regarding the foregoing.

Very truly yours,

Randall C. Budge

RCB/pb
CC: Thomas W. Forsgren

RECEIVED
APR 9 1981
Department of Water Resources
Eastern District Office

File.

UTAH POWER & LIGHT COMPANY

P. O. BOX 899
SALT LAKE CITY, UTAH 84110

March 31, 1981

RECEIVED
APR 3 1981
Department of Water Resources
Eastern District Office

LEGAL OFFICES

SYDNEY G. BAUCOM
EXECUTIVE VICE PRESIDENT
AND
GENERAL COUNSEL

ROBERT GORDON
VICE PRESIDENT
535-4258

VERL R. TOPHAM
ASSOCIATE GENERAL COUNCIL
535-4259

THOMAS W. FORSGREN
535-4261

SAM F. CHAMBERLAIN
535-4265

RALPH L. JERMAN
535-4253

ROSEMARY RICHARDSON
535-4263

HELEN J. EDWARDS
535-4255

DAVID LLOYD
535-2585

MARY STIRK
LEGAL ASSISTANT
535-4256

STEVE D. WHITE
CLAIMS SPECIALIST
535-4027

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

Re: Last Chance Canal Company Application Nos.
13 7288 and 13 7297

Dear Mr. Carlson:

Utah Power & Light Company (Utah Power) holds water rights decreed in the matter of Utah Power & Light Company vs. The Last Chance Canal Company, Limited, et al., and Utah Power & Light Company vs. Richmond Irrigation Company, et al., as well as other water rights in the Bear River. The Company is concerned that these water rights not be interferred with or impaired in any manner or way, but it is not adverse to Last Chance Canal Company developing Bear River water for its proposed project so long as such development does not adversely affect Utah Power's water rights.

I have talked to Randall C. Budge, Attorney for the Last Chance Canal Company, and he indicates that the proposed use is nonconsumptive, that the waters used for Last Chance generation are those to which the Canal Company is otherwise entitled, that the waters involved are not Bear Lake stored waters or direct flow waters to which Utah Power has right. Based upon these representations, Utah Power has not filed protests in these matters but we want our position regarding these application to be clear and would appreciate your considering the statements contained herein in your deliberations concerning awarding the subject water rights to Last Chance Canal Company.

If you have questions regarding the above, please so advise.

Very truly yours,

THOMAS W. FORSGREN

TWF:ckb
cc: Randall C. Budge

Form No. 211a
11/78

State of Idaho
Department of Water Resources

AMENDMENT ANALYSIS SHEET

INITIAL REVIEW BY: HWJ

Right Number 13-7288 Applicant Last chance Canal

Purpose of Amendment: ☐ Change point of diversion. ☐ Add diversion point(s).
☐ Increase amount. ☒ Change place of use. ☐ Other _____

CHECK:

NA Description of amended point(s) of diversion.
NA Amount, nature and period of use. If increased, delay date of priority.
☑ Description of amended places of use. If expanded, delay date of priority.
☑ Ownership of point of diversion and place of use.
☑ Map.
☑ Signature (must be permit holder).
☑ Fee.
☑ Existing water rights from the same source, amended place of use.
☐ Right number(s) _____
☑ Yes ☐ No Should amendment be advertised? POU in diff. quarter
☐ Yes ☑ No Should date of priority be delayed? If yes, to what date? _____

FINAL REGIONAL PROCESSING REVIEW:

3/23

☑ Affidavit of publication received.
☑ Amendment published correctly.
☐ Protests processed.
☑ Approve.
☐ Deny.
Conditions _____

By EMC Date April 14, 1981.

STATE OFFICE PROCESSING:

☑ Amendment correct and complete. By _____ Date 4/14/81
☐ Approved copy sent to applicant and to Region. By _____ Date _____

A. KENNETH DUNN
XXXXXXXXXXX

April 22, 1981

Last Chance Canal Co., Ltd.
% Randall C. Budge
P.O. Box 1391
Pocatello, Idaho 83201

Dear Mr. Budge,

RE: Permit No. 13-7288

Enclosed is a copy of the approved application for amendment submitted in connection with the above referenced permit.

We have not to-date received information regarding the approval of an exemption from the Federal Energy Regulatory Commission. Please forward the information to this office at your earliest convenience.

If you have any questions concerning this matter, please contact us.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:mr
Enclosure

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER

THOMAS J. HOLMES
RANDALL C. BUDGE
JOHN A. BAILEY

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED
CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

TELEPHONE
AREA CODE 208
232-6101

RECEIVED
JUL 6 1981
Department of Water Resources

July 1, 1981

Mr. David R. Tuthill, Jr., P.E.
State of Idaho
Department of Water Resources
Statehouse
Boise, ID 83720

Re: Permit No. 13-7297 (Approved 6/23/81)
Permit No. 13-72-88 (Approved 12/18/80)
(Amendment approved 4/22/81)

Dear Mr. Tuthill:

Thank you for your review and approval of Permit No. 13-7297.

Both of the captioned permits are in the name of the Last Chance Canal Company, Ltd., who has now formed a wholly owned subsidiary corporation under the name of Last Chance Hydro Electric Co. for the purpose of construction, owning and operating the hydro electric generating plant to utilize these water rights.

Please advise whether or not you feel it is necessary to transfer each of these permits over to the wholly owned subsidiary, Last Chance Hydro Electric Co. If a transfer is deemed necessary, would you kindly advise me of the necessary procedure and provide the appropriate forms.

Thank you for your time and cooperation in this regard. Please contact me if you have any questions.

Very truly yours,

Randall C. Budge

RCB/cn

July 9, 1981

Racine, Huntley & Olson
P. O. Box 1391
Pocatello, Idaho 83201

RE: Permits 13-7297 and 13-7288

Dear Mr. Budge:

In response to your letter dated July 1, 1981, an assignment of the above referenced permits from the Last Chance Canal Company, LTD. to Last Chance Hydro Electric Company is appropriate.

Please find enclosed two assignment forms.

Sincerely,

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

DRT:jg

Enclosure

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

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

August 7, 1981

Last Chance Hydro Electric Company
911 South Main
Grace, Idaho 83241
13-7288 Permit #

Dear Gentlemen:

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

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

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

Sincerely,

Jim Johnson

JIM JOHNSON
Water Distribution Supervisor

JJ:jg

Enclosure

Filing and Service of Responsive Documents - Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for exemption for Project No. 4580. Any comments, notices of intent, competing application, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary; Federal Energy Regulatory Commission; 825 North Capitol Street, N. E.; Washington, D. C. 20426. An additional copy must be sent to: Fred E. Springer, Chief; Applications Branch; Division of Hydropower Licensing; Federal Energy Regulatory Commisison; Room 208, 400 First Street, N. W., Washington, D. C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb
Secretary

Route To		Date	Initial
	Director		
	Deputy Dir.		
	Reso. Adm.		
	Reso. Analysis		
	Oper. Bureau		
	Proj. Stud. Bu.		
	Reg. Off. Bu.		
	Tech. Serv. Bu.		
	File:		

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P-4580

State of Idaho
Dept of Water Resources
State House
Boise, Idaho 83720

RECEIVED

JUL 27 1981

Department of Water Resources

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Last Chance Canal Company) Project No. 4580-000

NOTICE OF APPLICATION FOR EXEMPTION FROM LICENSING
OF A SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS
(July 21, 1981)

Take notice that the Last Chance Canal Company filed with the Federal Energy Regulatory Commission on April 23, 1981, an application for exemption for the Last Chance Canal Project No. 4580 from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 subpart K (1980) implementing in part section 408 of the Energy Security Act of 1980. 1/ The proposed project would be located on the Bear River in Caribou County, Idaho. Correspondence with the Applicant should be directed to: Mr. Orrin Harris; Last Chance Canal Company; Grace, Idaho 83241.

Project Description - The proposed project would consist of: (1) an existing rock-over-wood cribbing dam, 15 feet high and 175 feet long; (2) a reservoir of negligible storage capacity; (3) the Last Chance Canal, 1,370 feet long; ending at (4) a concrete diversion structure containing radial control gates; and (5) appurtenant facilities.

Applicant proposes to install: (1) an intake structure adjacent to the diversion structure with 5 electrically operated vertical slide gates; (2) 5-42 inch diameter penstocks, 100 feet long; (3) a powerhouse containing new generators, 4 units at 350 kW and 1 unit at 255 kW for a total generating capacity of 1,655 kW; (4) a 12.5 kV transmission line 3/4 mile long; (5) electric controls on the existing diversion radial control gates; and (6) appurtenant works. The Applicant estimates that the average annual energy output would be 8,204,000 kWh.

1/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).

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

Agency Comments - Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for exemption. (A copy of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of an exemption and consistent with the purpose of an exemption as described in this notice. No other formal requests for comments will be made. If an agency does not file comments within 60 days of the date of issuance of this notice, it will be presumed to have no comments.

Competing Applications - Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 8, 1981, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than January 6, 1982. Applications for a preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 C.F.R. §4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. §4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene - Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. §1.8 or §1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in §1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be received on or before September 8, 1981.

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

November 5, 1981

RE: Permit No. 65-7744

Merle L. & Claudie R. Newell
1756 Monte Vista
Pocatello, ID 83201

Dear Mr. and Mrs. Newell:

Thank you for responding to our letter of September 30, 1981 by submitting a request for an extension of time in which to submit proof to beneficial use of water under Permit No. 65-7744.

However, Idaho Code, allows the Director to approve requests for extension of time if the permit holder can show that he has made reasonable diligence toward permit development; you indicated on your request form that no work had been done. Therefore, based upon this information rather than officially acting on your request, we are returning your $15.00 Check No. 2216, 92-111/1241 with the suggestion if you still plan to develop the water as intended you refile for a new permit.

If you have additional information concerning this permit or wish us to act officially on your extension request, please return the form with the check on or before December 1, 1981.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosures: Extension Form
Check

8. This grant is subject to periodic review at the end of the twentieth year and at regular intervals thereafter not to exceed ten years.

9. All power poles shall have an approved raptor-safe pole configuration.

10. Permittee shall hold surface disturbance to that area required for egress and ingress and construction of the hydroelectric facilities.

11. Permittee shall keep the area free of litter and debris at all times. The facilities and grounds shall be maintained and kept in an orderly fashion.

12. If any new or additional improvements, other than those listed in the plan of development, should be considered for the proposed area, permittee shall first submit the construction plan to the Bureau of Land Management for approval.

LAST CHANCE HYDRO ELECTRIC. CO.

Accepted by Howard W. Gelbert
Signature

Pres.
Title

10-12-81
Date

RECEIVED
BUREAU OF LAND MANAGEMENT
Oct 21 9 46 AM 1981
BOISE, IDAHO 83705
IDAHO LAND OFFICE

EXHIBIT A

STIPULATIONS
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY I-17418

OCT 17 9 45 AM
IDAHO FALLS DISTRICT
BUREAU OF LAND MANAGEMENT

1. The permittee shall comply with the applicable Federal and State laws and regulations concerning the use of pesticides (i.e., insecticides, herbicides, fungicides, rodenticides, and other similar substances) in all activities/operations under this permit. The permittee shall obtain from the Authorized Officer approval of a written plan prior to the use of such substances. The plan must provide the type and quantity of material to be used; the pest, insect, fungus, etc. to be controlled; the method of application; the location for storage and disposal of containers; and other information that the Authorized Officer may require. The plan should be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year. Emergency use of pesticides may occur. The use of substances on or near the right-of-way shall be in accordance with the approved plan. A pesticide shall not be used if the Secretary of the Interior has prohibited its use. A pesticide shall be used only in accordance with its registered uses and within other limitations if the Secretary has imposed limitations. Pesticides shall not be permanently stored on public lands authorized for use under this grant.

2. Permittee shall survey and clearly mark the exterior limits of the right-of-way. All activities directly or indirectly associated with the construction or maintenance of the hydroelectric plant site, power-line, and road must be conducted within the limits of the right-of-way.

3. There is reserved to the Secretary of the Interior, or his lawful delegate, the right to grant additional rights-of-way or permits for compatible uses on, over, under, or adjacent to the land involved in this grant.

4. This right-of-way may be renewed. If renewed, the right-of-way will be subject to regulations existing at the time of renewal and such other terms and conditions deemed necessary to protect the public interest.

5. This right-of-way is subject to all applicable regulations in 43 CFR Part 2800 which are hereby incorporated in and made a part of this grant.

6. There is reserved to the United States a continuing right of access onto the public lands covered by the right-of-way grant, and upon reasonable notice to the holder, access and entry to any facility constructed on the right-of-way or permit area.

7. The permittee, by accepting this right-of-way grant, agrees and consents to comply with and be bound by the following terms and conditions:

   (a) To the extent practicable, all State and Federal laws applicable to the authorized use and such additional State and Federal laws along with the implementing regulations, that may be enacted and issued during the term of the grant or permit.

   (b) That in the construction, operation, maintenance and termination of the authorized use, there shall be no discrimination against any employee or applicant for employment because of race, creed, color, sex or national origin and all subcontracts shall include an identical provision.

   (c) To rebuild and repair roads, fences, and established trails that may be destroyed or damaged by construction, operation or maintenance of the project and to build and maintain suitable crossings for existing roads and significant trails that intersect the project.

   (d) To do everything reasonably within his or her power, both independently and upon request of the Authorized Officer, to prevent and suppress fires on or in the immediate vicinity of the right-of-way or permit area. This includes making available such construction and maintenance forces as may be reasonably obtained for the suppression of fires.

(October 1980)

In reply refer to:
I-17418(943)

UNITED STATED
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho State Office
Federal Building, Box 042
550 West Fort Street
Boise, Idaho 83724

DECISION

:

:

RIGHT-OF-WAY GRANTED

Details of Grant

Serial Number of Grant: I-17418

Name of Grantee: Last Chance Hydro Electric Company

Map showing the location and dimensions of grant:

Map designations: Proposed Powerline Right-of-Way - Last Chance Canal Co.

Date filed: March 20, 1981

Permitted use by grantee: Penstock diversion structure, penstocks, turbine building, access road, powerline, and related hydroelectric generating equipment within the NE¼NE¼ and SW¼NE¼ Sec. 31, T. 9 S., R. 41 E., B.M., Idaho.

Authority for grant: P.L. 94-579 (October 21, 1976) Title V, 90 Stat. 2743

Regulations applicable to grant:

Code reference: 43 CFR 2800

Date of Grant: OCT 23 1981

Expiration of Grant: 30 years from date of issuance

Rental:

Amount: $25 per five-year period subject to adjustment pursuant to 43 CFR 2803.1-2(d)
When payable: On or before the first day of each five-year period.

Terms and Conditions of Grant

Pursuant to the authority vested in the undersigned by Order No. 701 of the Associate Director, Bureau of Land Management, dated July 23, 1964 (29 F.R. 10526), as amended, a right-of-way, the details of which are shown above, is hereby granted subject to the following terms and conditions:

1. All valid existing rights existing on the date of grant.
2. All regulations specified above.
3. Filing of a detailed survey map of the right-of-way within 60 days of completion of construction.
4. Further terms and conditions as follows:
   (a) Pursuant to 43 CFR 2801 the District Manager of the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho, has the authority to conduct all business with the grantee with respect to use of lands and disposition of resources, and the grantee is requested to contact the above-designated official prior to the beginning of construction.
   (b) Stipulations of Exhibit A attached hereto and made a part hereof.

Eugene E. Babin

Eugene E. Babin, Acting Chief
Branch of L&M Operations

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Last Chance Canal Company) Project No. 4580-000

NOTICE OF APPLICATION FOR EXEMPTION FROM LICENSING
OF A SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS
(July 21, 1981)

Take notice that the Last Chance Canal Company filed with the Federal Energy Regulatory Commission on April 21, 1981, an application for exemption for the Last Chance Canal Project No. 4580 from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 subpart K (1980) implementing in part section 408 of the Energy Security Act of 1980. 1/ The proposed project would be located on the Bear River in Caribou County, Idaho. Correspondence with the Applicant should be directed to: Mr. Orrin Harris; Last Chance Canal Company; Grace, Idaho 83241.

Project Description - The proposed project would consist of: (1) an existing rock-over-wood cribbing dam, 15 feet high and 175 feet long; (2) a reservoir of negligible storage capacity; (3) the Last Chance Canal, 1,370 feet long; ending at (4) a concrete diversion structure containing radial control gates; and (5) appurtenant facilities.

Applicant proposes to install: (1) an intake structure adjacent to the diversion structure with 5 electrically operated vertical slide gates; (2) 5-42 inch diameter penstocks, 100 feet long; (3) a powerhouse containing new generators, 4 units at 350 kW and 1 unit at 255 kW for a total generating capacity of 1,455 kW; (4) a 12.5 kV transmission line 3/4 mile long; (5) electric controls on the existing diversion radial control gates; and (6) appurtenant works. The Applicant estimates that the average annual energy output would be 8,204,000 kWh.

1/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 434 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2791).

DC-81-31

Project No. 4580-000 -1-

Filing and Service of Responsive Documents - Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for exemption for Project No. 4580. Any comments, notices of intent, competing application, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary; Federal Energy Regulatory Commission; 825 North Capitol Street, N. E.; Washington, D. C. 20426. An additional copy must be sent to: Fred E. Springer, Chief; Applications Branch; Division of Hydropower Licensing; Federal Energy Regulatory Commission; Room 208, 400 First Street, N. W., Washington, D. C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb
Secretary

Project No. 4580-000 -2-

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

Agency Comments - Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for exemption. (A copy of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of an exemption and consistent with the purpose of an exemption as described in this notice. No other formal requests for comments will be made. If an agency does not file comments within 60 days of the date of issuance of this notice, it will be presumed to have no comments.

Competing Applications - Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 8, 1981, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than January 6, 1982. Applications for a preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 C.F.R. §4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. §4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene - Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. §1.8 or §1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in §1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be received on or before September 8, 1981.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426
EQUAL OPPORTUNITY EMPLOYER

POSTAGE AND FEES PAID
FEDERAL ENERGY REGULATORY COMMISSION
FERC-361
FIRST CLASS MAIL

Orrin Harris
Last Chance Canal Company
Grace, Idaho 83241

P-4580

17 FERC ¶62,042

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Last Chance Hydroelectric Company) Project No. 4580-000

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

(Issued October 15, 1981)

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

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U. S. Fish and Wildlife Service and the state fish and wildlife agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has an 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/ Last Chance Hydroelectric Company, Project No. 4580, filed April 23, 1981.

2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).

3/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. §375.308 (1980), as amended by 46 Fed. Reg. 14119 (1981).

DC-A-18

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) Last Chance Canal Project No. 4580 as described and designated in Last Chance Hydroelectric Company's application filed on April 23, 1981, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106 of the Commission's regulations, 18 C.F.R. §4.106 45 Fed. Reg. 76115 (November 18, 1980).

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

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

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER

THOMAS J. HOLMES
RANDALL C. BUDGE
JOHN A. BAILEY

LAW OFFICES OF
RACINE, HUNTLEY, OLSON
NYE & COOPER
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204

TELEPHONE
AREA CODE 208
232-6101

October 29, 1981

RECEIVED
NOV 1 1981
Department of Water Resources

State of Idaho
Department of Water Rescources
450 W. State Street
Boise, ID 87420

Attention: Mr. David R. Tuthill, Jr.

Re: Permits 13-7297 and 13-7288
Last Chance Hydro Electric Company

Dear Mr. Tuthill:

To suppliment your file on the captioned permits, I enclose herewith of the Federal Energy Regulatory Commissions Order Granting Exemption From Licensing issued October 15, 1981, together with a copy of the Bureau of Land Managment Right of Way Grant issued October 23, 1981.

Very truly yours,

Randall C. Budge

RCB/jw

Enclosures

cc: Orrin Harris

Record in Caribou County, Idaho.
Return to the SBC, Spokane, Washington.

BC 11-1 (Rev. 1980)

SECURITY AGREEMENT AND

MORTGAGE

THIS MORTGAGE, made and entered into this 21st day of October, 1981,

by LAST CHANCE HYDRO ELECTRIC CO.,

whose address is 911 South Main, Grace, Idaho 83241

(hereinafter referred to as "Mortgagor,") and SPOKANE BANK FOR COOPERATIVES, a corporation organized and existing under the laws of the United States of America, located at W. 705 First Avenue, Post Office Box TAF-C2, Spokane, Washington 99220, County of Spokane, State of Washington (hereinafter referred to as "Mortgagee"),

WITNESSETH:

This document is intended as a mortgage to secure performance of the covenants and agreements herein contained and contained in any loan agreement, security agreement or other agreement between Mortgagor and Mortgagee, and to secure payment of a loan or loans applied for by Mortgagor and approved by Mortgagee in the sum of One Million Five Hundred Forty Thousand and no/100---------- Dollars ($ 1,540,000.00) evidenced by the following described promissory note(s) from Mortgagor to Mortgagee:

Date of Note	Amount	Maturity Date
October 21, 1981	$1,540,000.00	April 1, 1997

together with interest payable on the unpaid balances thereof at the rate(s) specified in said loan agreement or supplements thereto or at such other rate(s) prescribed from time to time by Mortgagee in accordance with law and agreement with Mortgagor, any and all renewals or extensions thereof, any and all future loans and advances, any and all Class C stock investments in Mortgagee, and all other indebtedness of whatsoever kind or character and howsoever evidenced, which may now or hereafter during the continuance of this Mortgage be due, owing or existing from Mortgagor to Mortgagee, its successors or assigns.

In consideration therefore and for value received by Mortgagor from Mortgagee, Mortgagor does hereby mortgage, grant, bargain, sell and convey unto Mortgagee, its successors and assigns, the following-described real property, situate in the County(ies) of Caribou, State of Idaho, to-wit:

State of Idaho, Department of Water Resources, applications for permit to appropriate public waters of the State of Idaho as follows:

I. Application No. 13-7288

A. Applicant: THE LAST CHANCE CANAL COMPANY, LIMITED, now assigned to LAST CHANCE HYDRO ELECTRIC CO.

B. Source: Bear River

C. Use: 440 CFS for power purposes - January 1 through December 31

D. Point of Diversion:

Southwest ¼ of the Southeast ¼ of Section 30, Township 9 South, Range 41 East, B.M., Caribou County, Idaho.

E. Place of Use:

Northeast ¼ of the Northeast ¼, Section 31, Township 9 South, Range 41 East, B.M., Caribou County, Idaho.

F. Approval: December 18, 1980

Amendment Approved: April 22, 1981

G. Priority: May 30, 1980

(continued on next page)

II. Application No. 13-7297

A. Applicant: THE LAST CHANCE CANAL COMPANY, LIMITED, now assigned to LAST CHANCE HYDRO ELECTRIC CO.

B. Source: Bear River

C. Use: 220 CFS for power purposes - January 1 through December 31

D. Point of Diversion:

Southwest ¼ of the Southeast ¼ of Section 30, Township 9 South, Range 41 East, B.M., Caribou County, Idaho.

E. Place of Use:

Northeast ¼ of the Northeast ¼, Section 31, Township 9 South, Range 41 East, B.M., Caribou County, Idaho.

F. Approval: June 23, 1981

G. Priority: February 11, 1981

* * * * * * * * *

United States Department of the Interior, Bureau of Land Management, Right-of-Way Grant No. 1-17418 dated October 23, 1981.

Grantee: LAST CHANCE HYDRO ELECTRIC CO.

Permitted Use by Grantee:

Penstock diversion structure, penstocks, turbine building, access road, powerline, and related hydroelectric generating equipment within the Northeast ¼ of the Northeast ¼ and Southwest ¼ of the Northeast ¼, Section 31, Township 9 South, Range 41 East, B.M., Caribou County Idaho.

TOGETHER WITH the interests of the Mortgagor and Debtor in and to all improvements to the hydroelectric project site, including, but not limited to, the following:

HYDROELECTRIC EQUIPMENT:

Turbine/Generator
Switchgear
Control and Data Logging Equipment
Transformer
Utility Tie Equipment
Transmission Line Extension

MECHANICAL EQUIPMENT:

Radial Control Gates
Control Gate Structure
Penstock Slide Gates
Flow Measuring Equipment

STRUCTURES AND PENSTOCKS:

Turbine House
Turbine House Substructure
Penstocks
Penstock Diversion Structure
Emergency Bypass Structure

(continued on next page)

MISCELLANEOUS CONSTRUCTION AND IMPROVEMENTS:

Rock Excavation
Embankment
Existing Parshall Flume Improvements
Retrofit Existing Gates
Access Road

together with the tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anywise appertaining, and all the rents, issues and profits arising or to arise therefrom, inclusive of all the estate, right, title, interest and claim whatsoever, at law or in equity, which Mortgagor now has or may hereafter acquire in or to the described real property and each and every part and parcel thereof, inclusive of all structures, improvements, appurtenances, fixtures, easements, rights and privileges now or hereafter acquired, erected on, or used in connection with the above-described real property, all of which are hereby declared to be appurtenant to the land; all structures, improvements and fixtures now or hereafter acquired and placed, located, installed in, or used on or about any premises owned, leased or operated by Mortgagor, including without limitation the described premises, and after-acquired title to any of the described real property resulting from purchase or the exercise of an option to purchase, and to any streets or other public roadways abutting the described real property resulting from any vacation by operation of law or conveyance, all of which shall be deemed and construed as part of the realty. All property subject to this Mortgage is hereinafter referred to as "the mortgaged premises."

TO HAVE AND TO HOLD the mortgaged premises unto Mortgagee, its successors and assigns.

IT IS HEREBY AGREED that all covenants and stipulations in these presents contained shall bind the successors and assigns of Mortgagor and shall inure to the benefit of the successors and assigns or Mortgagee.

Mortgagor covenants and agrees:

1. At the time of the execution and delivery of this Mortgage, Mortgagor is well seized of the mortgaged premises in fee simple, has good right and authority to mortgage the same as herein provided, and the mortgaged premises are free and clear of liens and encumbrances, except

2. Mortgagor will pay, when due, the indebtedness hereby secured in accordance with the terms thereof.

3. Mortgagor will pay all taxes, assessments, water and other charges for utility services that may be levied, assessed or charged upon or against the mortgaged premises, or any part thereof, before the same become past due according to law, and will promptly pay and satisfy any mechanic's lien or other encumbrances that might by operation of law or otherwise become a lien upon the mortgaged premises whether or not superior to the lien of this Mortgage, all premiums upon insurance policies on the mortgaged property, all licenses or fees legally owing by it, all rentals or other charges for the use of any leased ground or premises upon which any of the mortgaged premises may be located, all taxes or assessments which now are or which may hereafter be levied or assessed and which are or are to become a lien upon the mortgaged premises and property, or any part thereof, or upon this Mortgage or the debt secured thereby, or upon the interest payable thereon, and amounts for investment in bank stock as may be required. In case of default in payment of any of the foregoing, Mortgagee, its successors or assigns, may at its option pay said insurance premiums, or reinsure the mortgaged premises and pay all premiums therefor, and pay licenses, fees, rentals, charges, taxes and/or assessments due or claimed to be due under any legislative power or authority or under any valid contract; and any amounts so paid by Mortgagee, and any amount required for investment in bank stock as aforesaid shall become part of the principal debt; and amounts so paid by Mortgagee shall bear interest from the date of payment.

4. Mortgagor (i) will keep all improvements erected on the mortgaged premises in good order and repair, (ii) will not permit waste of the mortgaged premises or do or suffer anything to be done to depreciate or impair the value of the mortgaged premises during the life of this Mortgage, (iii) will not make any changes in or alterations to the improvements on the mortgaged premises which will materially decrease the value of the same, and (iv) will not remove or permit to be removed any improvements from the mortgaged premises, without the prior written consent of Mortgagee.

5. Mortgagor will keep the building improvements now erected, or which may hereafter be erected, on the mortgaged premises insured against loss or damage by fire with extended coverage endorsement, written by a responsible insurance company or insurance companies satisfactory to Mortgagee in an amount satisfactory to Mortgagee, naming Mortgagor and Mortgagee insured parties as their interests may appear, and will cause to be executed and attached to all policies of insurance issued thereon a clause in form satisfactory to Mortgagee, making loss payable to Mortgagee as its interests may appear, said policy or policies of insurance to be delivered to Mortgagee. Any insurance funds paid to Mortgagee as a result of damage or loss to the mortgaged premises covered may at the option of Mortgagee be released to Mortgagor to be expended in the repair, restoration, or replacement of the mortgaged premises so damaged or lost, or be retained by Mortgagee and be applied toward the payment of all or such of the items of indebtedness secured hereby as Mortgagee may elect. Mortgagor hereby appoints Mortgagee agent to collect all amounts payable under said policies to Mortgagor, and such amounts received after the cost of collection shall be applied to the payment of the principal sum and interest thereon, and other sums secured hereby.

6. Should Mortgagor fail to pay any taxes, assessments, fire insurance premiums or other charges payable by Mortgagor hereunder, before the same shall be past due, Mortgagee may, at its option, make payment thereof, and the amounts so paid with interest thereon at the rate then payable on the indebtedness secured hereby shall be added to and become a part of the debt secured by this Mortgage and shall be repaid to Mortgagee forthwith, without waiver of any right arising from breach of any of the covenants, and for such payments with interest the mortgaged premises as well as Mortgagor shall be bound to the same extent as bound for the payment of the indebtedness herein specifically described. Should Mortgagee make such payment or payments at its option as set forth in the foregoing sentence, such act shall not constitute a waiver by Mortgagee of any other rights it may have arising from Mortgagor's failure as aforesaid, including but not limited to Mortgagee's rights under paragraph 8 of this Mortgage.

7. Mortgagor hereby assigns and transfers unto Mortgagee the issues and profits, together with full power and authority to demand, sue for and collect the same in the name of Mortgagor, or in its own name, and to take possession of and manage the mortgaged premises or to cause a receiver to be appointed for such purpose and apply the income therefrom, after the costs of collection and management, to the reduction of the indebtedness secured hereby; provided, however, that the right to collection and management shall not apply as long as this Mortgage is in good standing.

8. If any of the following shall occur, the entire unpaid balance of principal and accrued interest secured by this Mortgage shall become immediately due and payable at the option of Mortgagee and foreclosure proceedings may be commenced forthwith:

(a) Default in the timely payment of any indebtedness to Mortgagee promptly when due.

(b) Failure of Mortgagor to perform or observe all the provisions of this Mortgage, or the happening of an event of default under any other agreement or security instrument between Mortgagor and Mortgagee.

(c) Discovery of any misrepresentation, breach of warranty or material falsity of any certificate, schedule or statement made or furnished by Mortgagor to Mortgagee, whether or not in connection with this Mortgage.

(d) Mortgagee, in good faith, deems or has reasonable cause to deem itself insecure, or in the event of change in the condition of affairs, financial or otherwise, of Mortgagor or of any endorser, guarantor or surety for the liability of Mortgagor to Mortgagee, which, in the reasonable opinion of Mortgagee, impairs or decreases Mortgagee's security.

(e) If Mortgagor becomes insolvent or unable to pay its debts as they mature or makes an assignment for the benefit of creditors or files a voluntary petition in bankruptcy, or a voluntary petition seeking reorganization, or to effect a plan or other arrangement with creditors, or shall file an answer consenting to or takes any other action indicating acquiescence in any involuntary petition pursuant to, or purporting to be pursuant to, any bankruptcy, reorganization or insolvency laws of any jurisdiction, or shall be adjudged bankrupt or insolvent by any court of competent jurisdiction or a receiver is appointed for any substantial portion of Mortgagor's property.

(f) Loss or destruction of or substantial damage to any of the mortgaged premises.

(g) Sale or other transfer of the mortgaged premises or any part thereof without the prior written consent of Mortgagee;

The failure of Mortgagee to exercise the option given hereunder shall not be taken or deemed a waiver of its right to exercise such option as to any such past or subsequent violation of any of said covenants or stipulations.

9. In the event suit or action is begun to foreclose this Mortgage, Mortgagor will pay in addition to the costs and disbursements allowed by law such sum as the court may adjudge reasonable attorneys' fees in such suit or action, or any appeal therefrom, and such sum as the court may adjudge reasonable for the necessary examination and search of the public records respecting the title to the mortgaged premises, and the plaintiff in such suit or action may take judgement therein for such sums. Mortgagor will pay to Mortgagee all sums, including costs, expenses and reasonable agents' and attorneys' fees, which it may expend or become obligated for in any proceedings, legal or otherwise, involving the title to the mortgaged premises, or to establish, protect or sustain the lien of this Mortgage, or its priority, or in defending against liens, claims, rights, estates, easements, or restrictions, or for evidences of title to the mortgaged premises, or for expenses and attorneys' fees incurred; together, always, with interest on all sums at the rate then payable on the indebtedness secured hereby; and for payment of said sums and interest this Mortgage shall stand as security in like manner and effect as for payment of said debt.

10. If the mortgaged premises, or any part thereof, be condemned under any power of eminent domain or acquired for public use, the damages, proceeds, and the consideration for such acquisition, to the extent of the full amount of the indebtedness secured by this Mortgage, including any expenses and attorneys' fees incurred by Mortgagee on account of such condemnation, are hereby assigned by Mortgagor to Mortgagee and shall be paid forthwith to Mortgagee to be applied by it to the payment of such expenses and attorneys' fees and any balance on account of the last maturing portion of the indebtedness secured hereby.

11. As further security for the payment of all indebtedness herein mentioned, all Mortgagor's rents and profits of the mortgaged premises and the right, title and interest of Mortgagor in and under all leases now or hereafter affecting the mortgaged premises, are hereby assigned and transferred to Mortgagee. So long as no default shall exist in compliance with any requirement hereof or of any other agreement or security instrument now or at any time executed between Mortgagor and Mortgagee, Mortgagor may collect assigned rents and profits as the same fall due, but upon the occurrence of any such default, or at such later time as Mortgagee in its sole discretion may fix by written notice, all right of Mortgagor to collect or receive rents or profits shall wholly terminate. No lease of the whole or any part of the mortgaged premises involving an initial term of more than three years shall be modified or terminated without the written consent of Mortgagee, nor shall the surrender of any such lease be accepted nor any rental thereunder be collected for more than two months in advance without like written consent. In the event of any default hereunder and the exercise by Mortgagee of its rights hereby granted, Mortgagor agrees that payments made by tenants or occupants to Mortgagee shall, as to such tenants, be considered as though made to Mortgagor and in discharge of tenants' obligations as such to Mortgagor. Nothing herein contained shall be construed as obliging Mortgagee to perform any of Mortgagor's covenants under any lease or rental agreement. Mortgagor shall execute and deliver to Mortgagee upon demand any further or supplemental assignments necessary to effectuate the intentions of this paragraph and upon failure of Mortgagor so to comply, Mortgagee may, in addition to any other right or remedy it has, declare the entire unpaid balance of principal and interest secured by this Mortgage immediately due and payable.

12. The word "Mortgagor" and the language of this instrument shall, where there is more than one mortgagor, be construed as plural and be binding jointly and severally upon all mortgagors and the word "Mortgagee" shall apply to any holder of this Mortgage. All of the covenants of Mortgagor shall be binding upon its successors and assigns and inure to the benefit of the successors and assigns of Mortgagee. In the event of the transfer of the mortgaged premises or any part thereof or any interest therein, whether voluntary or involuntary or by operation of law, Mortgagee may, without notice to Mortgagor or any one else, once or often, extend the time of payment or grant renewals of indebtedness hereby secured for any term, execute releases or partial releases from the lien of this Mortgage or in any other respect modify the terms hereof without thereby affecting the personal primary liability of Mortgagor for the payment of the indebtedness hereby secured. No condition of this Mortgage shall be deemed waived unless the same be expressly waived in writing by Mortgagee. Whenever any notice, demand, or request is required by the terms hereof or by any law now in existence or hereafter enacted, such notice, demand or request shall be sufficient if enclosed in a postpaid envelope addressed to Mortgagor at the last address actually furnished to Mortgagee or at the mortgaged premises and deposited in any post office, station or letter box.

13. Mortgagor will, at all times during the existence of any part of the lien herein provided for, maintain its corporate existence and operate its business as a cooperative association qualified under the Farm Credit Act of 1971 and any amendment thereto, and under applicable statutes of the state.

14. This Mortgage, without affecting its validity as a real estate mortgage, is also executed and shall be construed as a "Security Agreement" under the Uniform Commercial Code granting to Mortgagee a security interest in all personal property mentioned herein and in addition to the rights and remedies provided herein Mortgagee shall have all the rights and remedies granted by such Uniform Commercial Code; and reasonable notice, when notice is required, shall be ten (10) days.

IN WITNESS WHEREOF, Mortgagor has caused these presents to be signed and sealed by its duly authorized officer on the date first hereinabove written.

LAST CHANCE HYDRO ELECTRIC CO.

By x Don W. Gilbert

Its PRESIDENT

STATE OF IDAHO

County of Caribou ss

I DO HEREBY CERTIFY, That on this 23rd day of November, 19 81, before me, the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared Don W. Gilbert, to me known to be the PRESIDENT of the corporation that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and that said person is authorized to execute the said instrument.

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

(Seal)

Randall C. Ridge

Notary Public in and for the State of Idaho

Residing at ~~Grace~~ Pocatello

My commission expires 10/15/85

LOUIS F. RACINE, JR.
ROBERT C. HUNTLEY, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER

THOMAS J. HOLMES
RANDALL C. BUDGE
JOHN A. BAILEY

LAW OFFICES OF
RACINE, HUNTLEY, OLSON
NYE & COOPER
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204

RECEIVED
DEC 4 1981
Department of Water Resources

TELEPHONE
AREA CODE 208
232-6101

December 1, 1981

Mr. A. Kenneth Dunn, Director
State of Idaho
Department of Water Resources
State House
Boise, ID 83720

Re: Permits No. 13-7288 and 13-7297
Last Chance Hydro Electric Co.

Dear Mr. Dunn:

Last Chance Hydro Electric Company, a wholly owned subsidiary of the Last Chance Canal Company, Limited, of Grace, Idaho obtained approval of the captioned permits on 5-30-80 and 6-23-81 respectively for the appropriation of 660 CFS on Bear River for Hydro Electric purposes. The applicant is in the process of constructing a small power generation plant for use in conjunction with their existing canal system used for irrigation purposes.

We have recently supplimented your file on these permits with copies of the Federal Energy Regulatory Commissions Order granting exemtion from licensing issued October 15, 1981 and also a copy of the Bureau of Land Management Right of Way grant issued October 23, 1981.

The project cost, estimated at $1.5 million is being financed by the Spokane Bank for Cooperatives of Spokane, Washington. In compliance with Idaho Code 42-207 I am enclosing herewith a copy of the Security Agreement and Mortgage executed by Last Chance Hydro Electric Company in favor of the Spokane Bank for Cooperatives which has been filed for record in the Caribou County Recorder's office as security for the Construction Loan. The initial phases of construction are underway and the plant is expected to be completed during the up-coming year with a completion date in the Fall months of 1982 after which the power produced will be sold to Utah Power and Light Company pursuant to

contract.

Would you kindly provide us with a letter acknowledging receipt of a copy of the Security Agreement and compliance with Idaho Code 42-207. Please contact me if you have any questions or require additional information.

Thank you for your time and cooperation.

Very truly yours,

Randall C. Budge

RCB/jw

Enclosures

December 14, 1981

Randall C. Budge
RACINE, HUNTLEY,OOLSON, NYE & COOPER
P.O. Box 1391
Pocatello, ID 83201

Dear Randy:

Per your request in your letter dated December 1, 1981, I hereby acknowledge the receipt of a copy of a Security Agreement and Mortgage between Last Chance Hydro Electric Company and Spokane Bank for Cooperatives. A copy of the above has been placed in both Permit Nos. 13-7297 and 13-7288.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw

November 1, 1983

CERTIFIED MAIL
138114

Last Chance Hydro Electric Co.
c/o Randall C. Budge
RACINE, HUNTLEY, COLSON, NYE & COOPER
P. O. Box 1391
Pocatello, ID 83201

Gentlemen:

Re: Permit No. 13-7288

PROOF DUE NOTICE

One of the conditions of approval of your water permit No. 13-7288 was that proof of the extent of your beneficial use must be submitted to this office on or before January 1, 1984. (See last page of your approved permit or your last approved extension request). Enclosed is a postcard which may be used to submit the required proof.

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

Either the beneficial use postcard or a request for an extension of time must be received by this department on or before the above-described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

RITA FLECK
Secretary/Records Manager

Enclosures

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE

JOHN A. BAILEY
WILLIAM F. BACON
JOHN R. GOODELL *
JOHN B. INGELSTROM
PATRICK J. OSHIE **

* ALSO MEMBER ILL. BAR
** ALSO MEMBER UT. BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204

Telephone
Area Code 208
232-6101

RECEIVED
NOV 8 1983
Department of Water Resources

November 7, 1983

Ms. Rita Fleck
DEPARTMENT OF WATER RESOURCES
450 W. State Street
Boise, Idaho 83720

Re: Permit No. 13-7288 -- Approved December 18, 1980
Permit No. 13-7297 -- Approved June 23, 1981

Dear Ms. Fleck:

We represent Last Chance Hydro Electric Co. and have received your "Proof Due Notice" dated November 1, 1983, relating to Permit No. 13-7288. I have completed and am returning herewith your card as a statement that Last Chance Hydro Electric Co. has completed the development of their hydro electric project on the Bear River in Caribou County, Idaho, to the full extent shown by both Permit No. 13-7288 and also Permit No. 13-7297. The construction of the power generation plant was completed on or about January 15, 1983, at which time the applicant began using the claimed water rights in their entirety as set forth in the applications.

If any additional information is required to permit the department to issue a license on these rights or if you have any questions, please advise.

Very truly yours,

Randall C. Budge

RCB:cw

enclosure

c: Orrin Harris
Don Gilbert

DEPARTMENT OF WATER RESOURCES

Both
13-7297
13-7288.

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

Name(s) of Permit Holder: Last Chance Hydro Electric Co.

Post Office Address: 911 South Main Grace, Idaho

Tel. No. 425-3331

Source of Water: Bear River — Caribou Co., Id.

Extent of Use:
- ☐ Domestic _____ (number of households)
- ☐ Stockwater _____ (number and type of stock)
- ☐ Irrigation _____ (acres)
- ☒ Other Power Generation - 660 c.f.s. - use began 1/15/83

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

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

November 4th, 1983
Date

Randall C. Budge, Attorney For
Signature of Permit Holder

CE
13 CENT
STAMP
HERE

RECEIVED

NOV 8 1983

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07288

Priority: May 30, 1980 Maximum Diversion Rate: 440.00 CFS

This is to certify, that LAST CHANCE CANAL CO. LTD.
911 S. MAIN
GRACE, ID 83241 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 30, 1980; and has submitted Proof of Beneficial Use on November 8, 1983. An examination indicates that the works have a diversion capacity of 660.000 cfs of water from:

BEAR RIVER tributary to **GREAT SALT LAKE**

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
POWER	01/01 to 12/31	440.00 CFS	

LOCATION OF POINT(S) OF DIVERSION: SWSE , Sec. 30, Township 09S, Range 41E
CARIBOU County

PLACE OF USE: POWER

TWN	RGE	SEC	
09S	41E	31	NENE

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of water under this water right is subject to control by the watermaster of State Water District No. 11
5. The water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this license.
6. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07288

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 24 TH day of NOVEMBER, 1989.

Acting for R. Keith Higginson, Director

Harold Jones and I have discussed the method of determination of the amount of water flow proposed to be given to Utah Power & Light in the Beneficial Use Field Report. The flow rate was calculated from information given by UP&L regarding the design electrical generating capacity of the system, and is not based on any actual measurement of Kilowatt production or water flow.

The concern that I have is that the recommended flow rates have no relationship to any measurement of actual available water. In addition, the system may never produce the amount of electricity set forth in the design specifications which were used to calculate recommended flows.

Gary Spackman

Form 219A
2/84

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JAN 13 1986
Department of Water Resources

BENEFICIAL USE FIELD REPORT

1. Owner: Utah Power + Light P.O. Box 899 c/o Carly Burton SLC, Utah Permit No. ~~53-7297~~ 53-7288
   Current Address: (Rt. 1 Box 180 Grace, ID 83241) Grace Plant Phone No. 425-3511

2. Accompanied by: Kelly Holt EXAM. DATE: 8-02-84
   Address: Phone No. 425-3511
   Relationship to Permit Holder: Foreman - Grace Power Plant

3. Source: Bear River tributary to Great Salt Lake

4. GENERATORS

~~Well~~/Diversion* No.	~~Motor~~ Make	~~HP~~	Motor Serial No.	~~Pump~~ Make	~~Pump~~ Serial No. or Discharge Size
	Westinghouse #1	248 KW	15-82-06	Ingersoll Rand Turbine	#03897 - 43,050 gpm capacity
Motors & Generators					
in power plant	Westinghouse #2	528 KW	15-82-08	" "	#038283 - 91,480 gpm capacity
	Westinghouse #3	958 KW	N.A.	" "	#04827 - 161,580 gpm capacity

*Code with points of diversion, system diagram & photos on reverse side. Disregard if only one.

5. System Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)
Intake at last Chance canal Dam & headgate (Capacity of canal approx 1025 cfs) thru 1/4 mile of canal to plant site. Flow splits into powerhouse & thru gates for Last Chance Canal irrigation water. At plant Computer linked sensor regulates powerhouse intake & insures canal of its alloted flow of irrigation water. Depending on power demand from one to three generators can be put on line. Power generation flows return to river below plant site.

6.

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

7. Measurements cfs calculated from ☐ Additional data/computation sheets attached
formula below;

$$cfs = \frac{kw \times 11.8}{head \times efficiency}$$

See licensing Report

Power generation systems should reflect capacity of system - generators are rated in kw produced rather than measuring flow

8. Point(s) of Diversion: Indicate Method of Determination USGS Map

Ident #	1/4	1/4	1/4	Sec.	Twp.	Rge.	Survey Information from Known Corner	County	Remarks
		SW	SE	30	9S	41E		Carbon	

9. Place(s) of Use: Irrigation - give acres served by system at time of exam.
Indicate Method of Determination USGS Map

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
9S	41E	31	X																
			P																

Total Acres _____

Form 219B
5/84

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

LICENSING REPORT

RECEIVED
JAN 13 1986
Department of Water Resources

13-7288
Permit No.

1. **Measurement Calculations**

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

Capacity of generator system calculated by; $cfs = \frac{kw \times 11.8}{head \times efficiency}$

	Motor efficiency supplied by Utah Power	~~Pump~~ capacity
(248kw) #1	.875	43,050 gpm
(528kw) #2	.888	91,480 gpm
(958 kw) #3	.888	161,580 gpm
	(at 35' of head)	

#1; $cfs = \frac{248kw \times 11.8}{35' \times .875} = 95.6 cfs$

#2; $cfs = \frac{528kw \times 11.8}{35' \times .888} = 200.5 cfs$

#3; $cfs = \frac{958kw \times 11.8}{35' \times .888} = 363.7 cfs$

total - 659.8 cfs capacity

USE: 660

b) Volume Calculations for Irrigation:

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

c) Volume Calculations for Other Uses:

permit asks for 440 cfs: 440 cfs x 365 days x 1.9835 = 318,550.1 afa

2. **Overlap Review**

a) Other water rights with same place of use: 13-7297 (Power)

b) Other water rights with same point of diversion: 13-7297 (Power) - 11-0258 & 11-0259 (Irrigation)

c) Analysis: Need assignment to Utah Power & Light

RECOMMENDED AMOUNTS

3.

Permit No.	Priority	Amount	App. Date	Date Proof Submitted	System Capacity

4. Permit Holder: _____

   Address: _____

5. Source: _____ tributary to _____

6.

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Power	1-1	12-31	440	~~318,550~~

   Allowable Maximums: _____

7. Point(s) of Diversion:

No.	Govt. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County

8. Place(s) of Use

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
Total Acres _____																			

9. Recommended Conditions/Remarks: _____

10. 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 _____

11. Examiner's Signature H W Jones Date 9-19-85

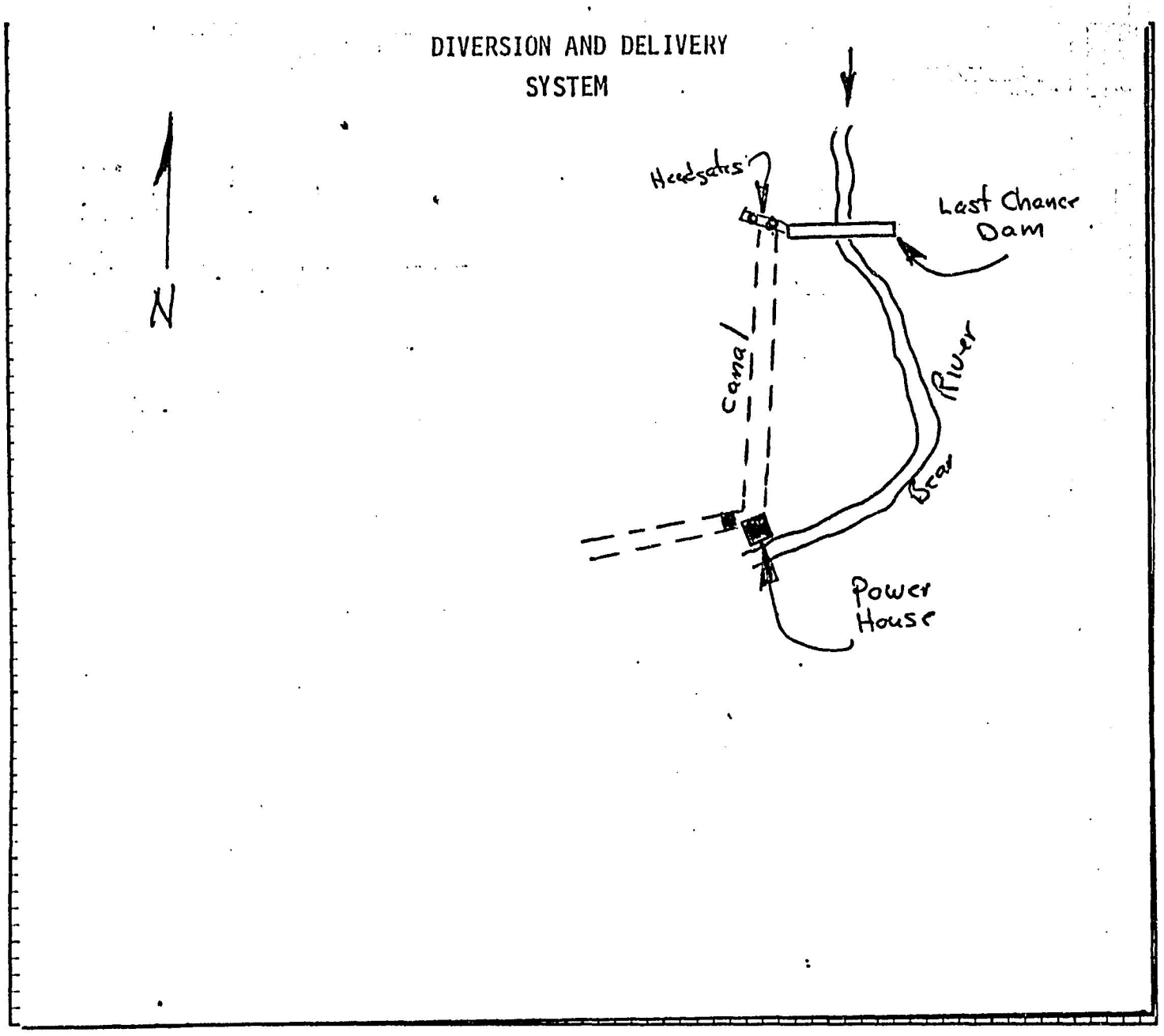
    Checked in Regional Office by Gary Spackman Date 12-31-85

    Approved in State Office by JIM Date 1-8-87

10. Other water rights on these l[illegible]s _____

11. Other water right diverted from same p.d. PD is headgates for Last Chance Canal on Bear River

12. **Diversion and Delivery System Diagram:** Indicate all major components and distances between components. Indicate ditch size/pipe i.d. as applicable. Indicate on systems with measurement port the distance between the port and the nearest component/pipe bend/restriction both upstream and downstream, and the inside pipe diameter at the measurement port. On multiple diversion systems indicate how diversion systems are connected.



13. ☑ Photo of Diversion & System Attached ☐ Aerial Photo of Place of Use Attached or Map of Irrigated Acreage Attached

14. Remarks Flow diverted thru powerhouse is not measured in cfs but rated as to how many Kw are produced. Kw produced depends on demand relayed from computer hook-up. There is a rating section at canal intake and another rated section for water that flows thru tunnel after the hydro plant split. Tunnel capacity said to be 375 cfs. Need Assignment to Utah Power & Light

15. 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

16. Examiner's/Consultant's Signature J. W. Jones Date 9-19-85

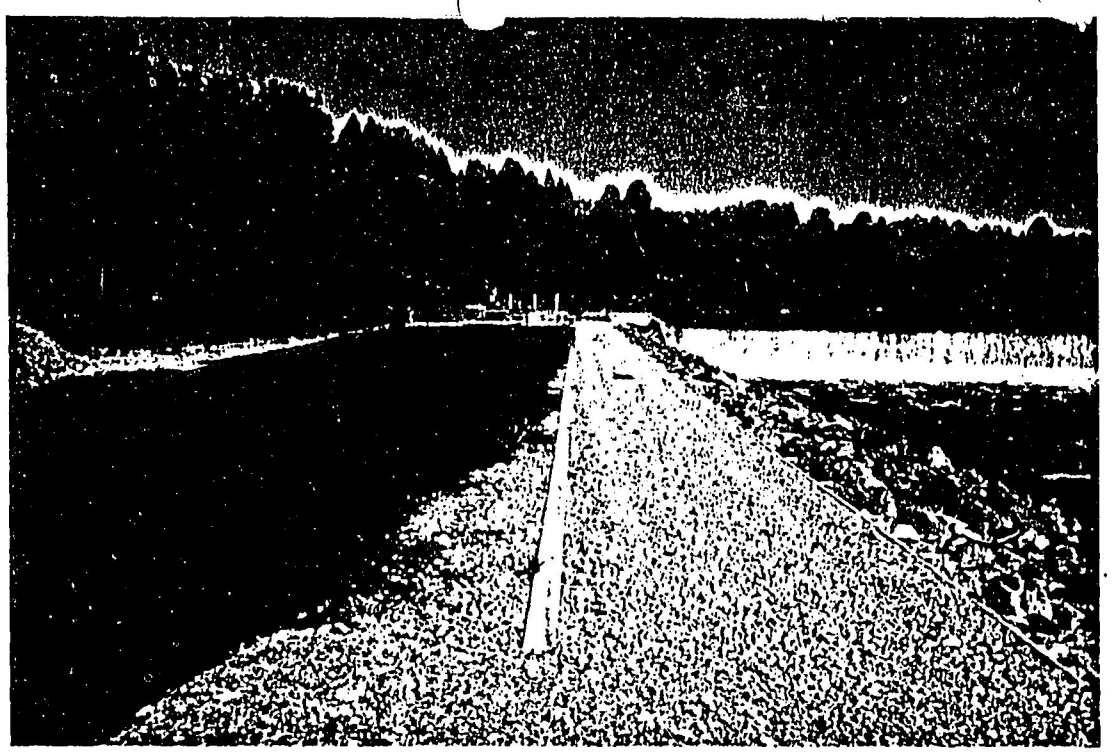
Consultant's License Number _____

IDWR Director's Authorization to Conduct Beneficial Use Examination _____

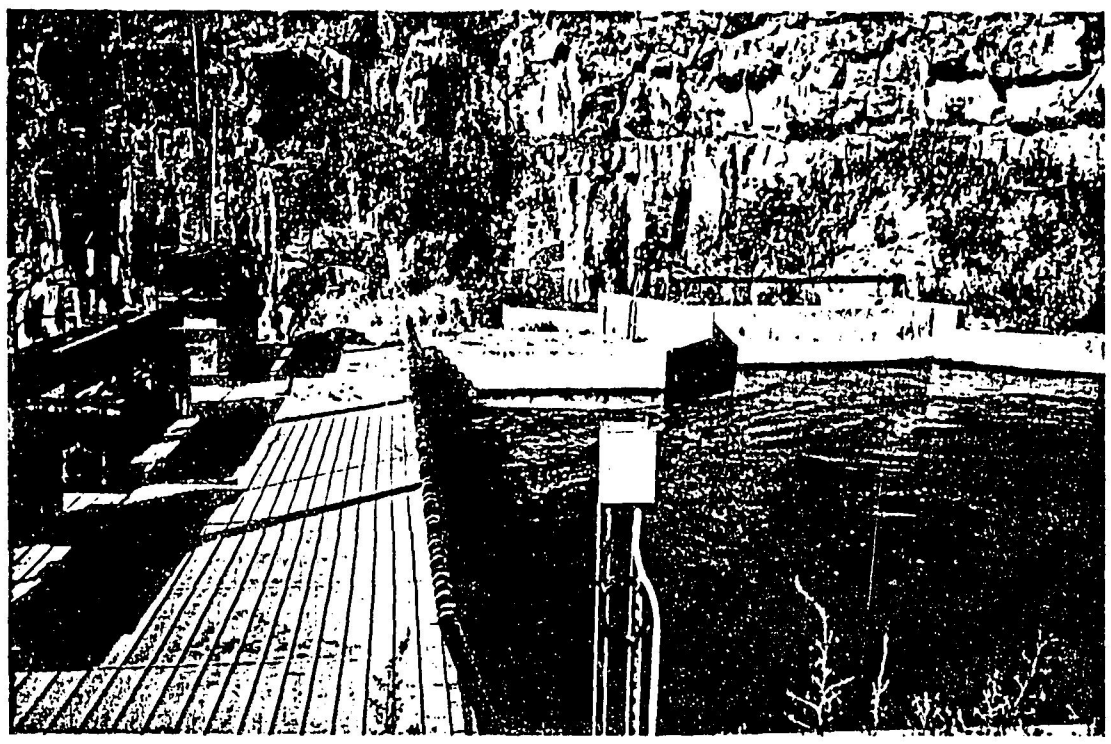
Date

CONSULTANT SEAL

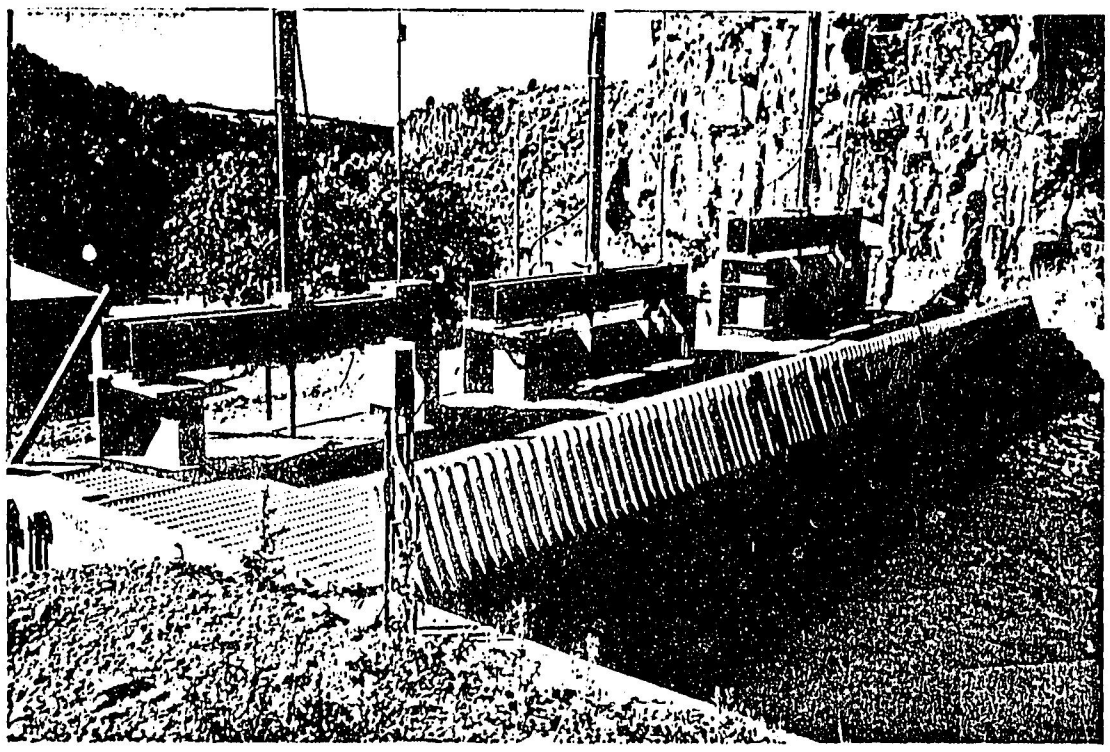
13-7288



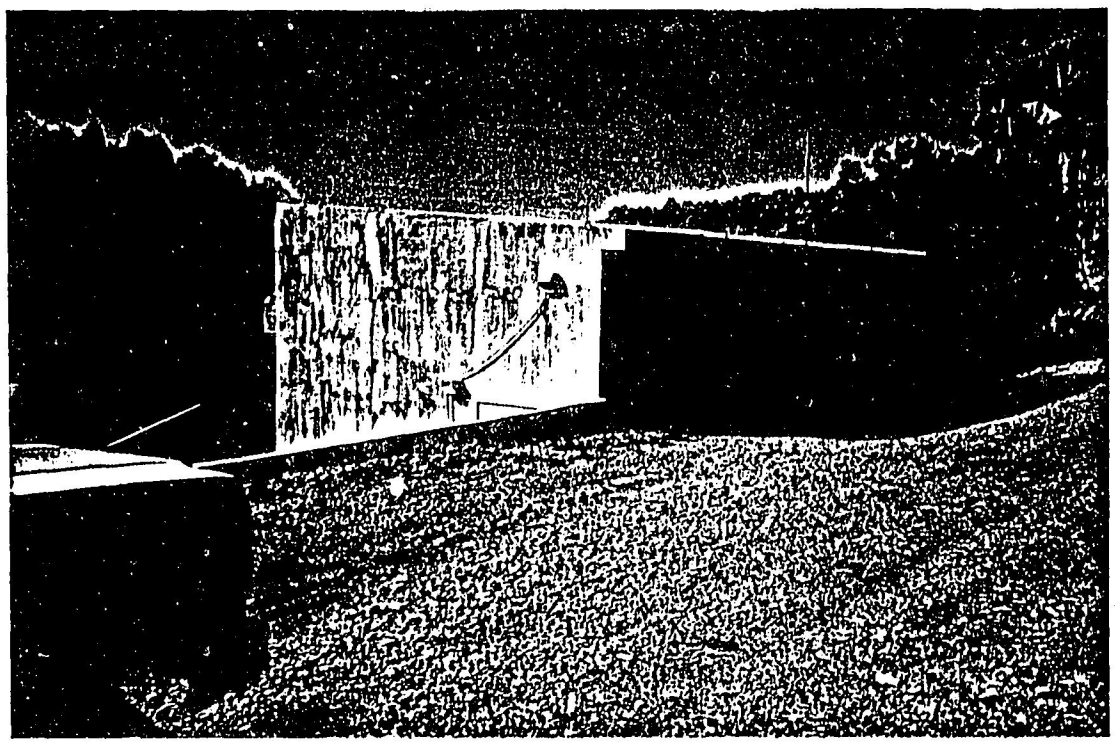
LAST CHANCE DAM
AND CANAL



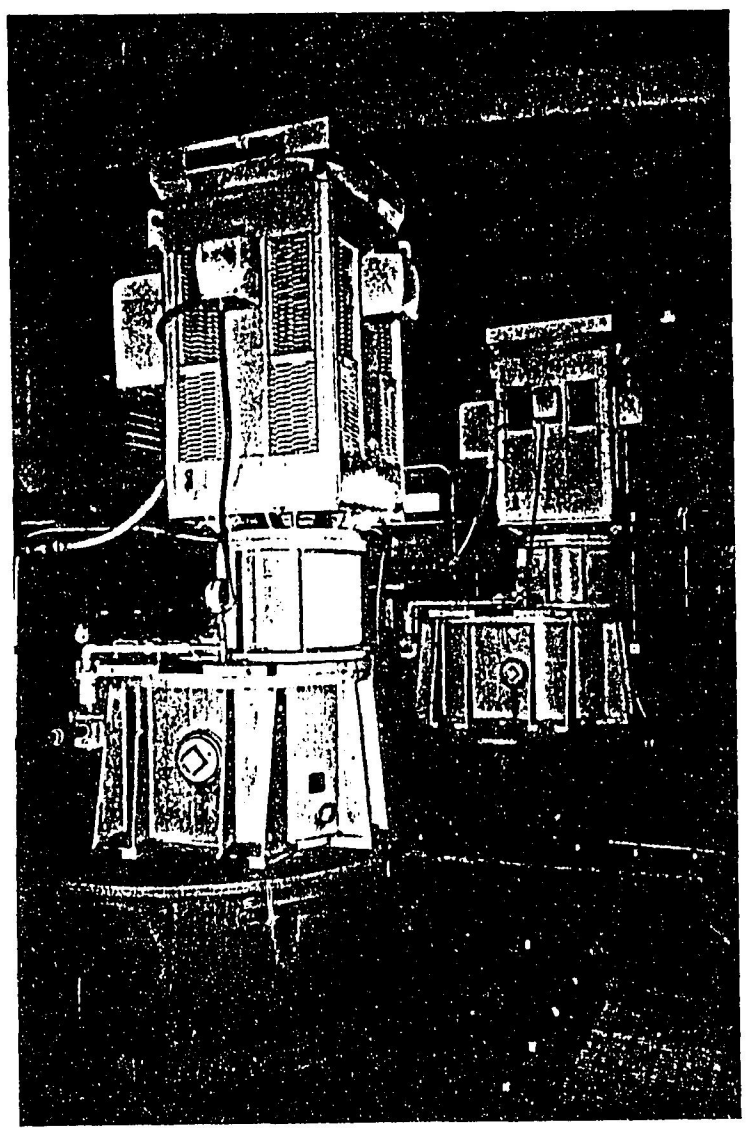
Intake Split
at Power House
and canal



#13-7288



Power House



Generators in Power House
(one not shown)

#13-7288

EY

42' 30"

R41E

T9S

30

31

Nelson Game Enclosure

Nelson Canyon

Right Fork

King Canyon

King Canyon Spring

Burton Canyon

McPherson Hollow

Grace

Grace Dam

Last Chance Dam

GRACE AIRPORT

GRAVEL LANDING STRIP

GAGING STATION 5604

GAGE STATION 5543

RIVER

INT CANAL

LIST CANAL

WATER TRANS. FLUME

FLUME

DAM & WATER LEVEL SAME 5553

VEON I-87

VEON I-104

BENCH

BENCH B CANAL

GUNNELL ROAD

BOUNDARY

MINGO ROAD

EAST BRANCH

GRAVEL PIT

STEEL WATER TANK

DRY

NATIONAL FOREST

I-86

5626

5671

5646

5598

5573

5587

5547

5658

5690

5677T

5671T

5676T

5905T

5945T

5636T

5554T

5566T

5626T

5524T

5520

5525

6209T

6403

6600

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

May 10, 1989

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

Utah Power and Light
c/o Carly Burton
P.O. Box 899
Salt Lake City, UT 84110

RE: Permits to appropriate water no. 13-7297 and 13-7288, Last Chance Canal Company project

Dear Sirs:

The Department of Water Resources is attempting to license permit nos. 13-7297 and 13-7288. We understand that Utah Power and Light has obtained an ownership interest in the hydropower project from Last Chance Hydroelectric Company.

I am requesting an official assignment of the water right permits from Last Chance Hydroelectric Company to Utah Power and Light. I have enclosed an assignment form. If an assignment has already been executed, it can be submitted.

May I remind you that Idaho Codes § 42-204 through § 42-210 prohibit the transfer or assignment of a water right permit without initial approval from the Department of Water Resources. It also requires a showing that the transferee is either a resident of the State of Idaho or qualified to do business in the State of Idaho. While I don't question the authority of Utah Power and Light to do business in the State of Idaho, the assignment of the permits listed above must be submitted to the department and approved.

The statutes also state that if the permit is assigned without approval, the department shall immediately cancel the permit. I don't anticipate taking such drastic action, but the statutory mandate should raise enough concern to prompt submittal of the executed assignment to the department.

Sincerely,

Gary Spackman

Gary Spackman, Manager
Water Right Permits Section

GS:ds

cc: Utah Power and Light
Rt. 1 Box 180
Grace, Idaho 83241

Eastern Region

RECEIVED
MAR 16 1987
Department of Water Resources

13-7288
13-7297
permits
3-31-87
LD

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application Filed with the Commission
(March 9, 1987)

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of Application: Preliminary Permit

b. Project No: 10240-000

c. Date Filed: January 12, 1987

d. Applicant: Last Chance Hydroelectric Company

e. Name of Project: Last Chance Diversion

f. Location: On Bear River in Caribou County, Idaho near the town of Grace T.9S. R.41E., sec. 30, SE 1/4 and sec. 31, NE 1/4

g. Filed Pursuant to: Federal Power Act 16 U.S.C. § 791(a)-825(r)

h. Contact Person: Mr. Jordan Walker, P.O. Box N, Manti, Utah 84642, (801) 835-0202; Mr. Mike Graham, P.O. Box N, Manti, UT 84642, (801) 835-0202

j. Comment Date: MAY 11 1987

i. Description of Project: The proposed project would consist of: (1) an existing 35-foot-high concrete dam at an elevation of 5,608 feet, owned by the Last Chance Irrigation Company; (2) an existing 8-foot-diameter, 1,500-foot-long buried penstock; (3) a powerhouse containing three generating units with an installed capacity of 2,100 kW, producing approximately 9,198,000 kwh of energy annually; and (4) an existing 3,000-foot-long, 2.5-kV Utah Power and Light Company's transmission line. No access road will be needed to conduct the studies. The Applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $5,000.

The proposed project would be located on lands owned by the Last Chance Irrigation Company.

k. Purpose of Project: Project power would be sold to Utah Power and Light Company

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit -- Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit -- Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent -- A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

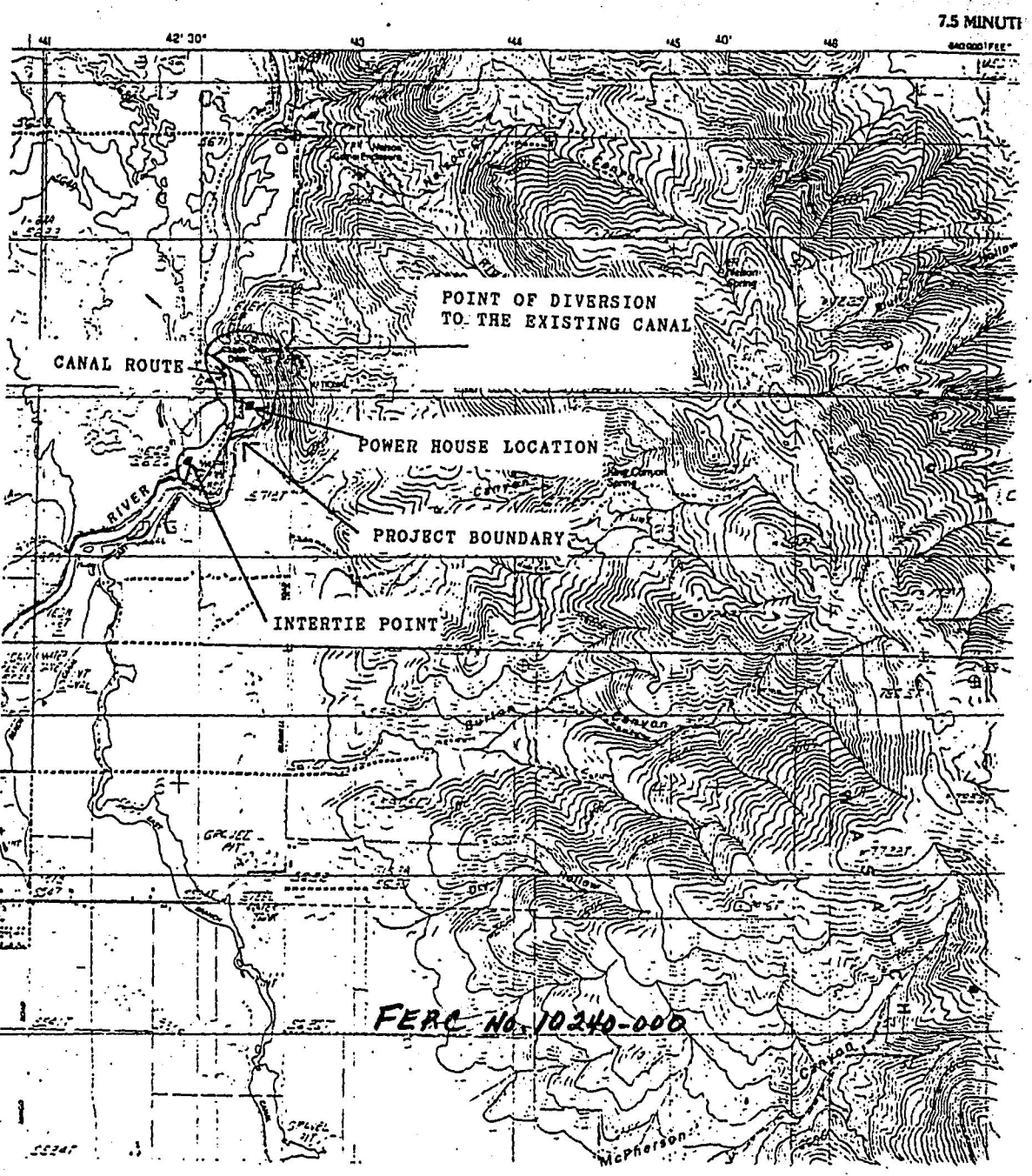
A10. Proposed Scope of Studies Under Permit -- A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene - Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F. R. §§385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents - Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments - Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenneth F. Plumb
Secretary



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

July 28, 1989

Randall C. Budge, Attorney at Law
P.O. Box 1391
Pocatello, ID 83204-0391

RE: Permits to Appropriate Water Nos. 13-7297 and 13-7288, Last Chance Canal Company Project

Dear Randy:

I acknowledge your letter dated June 1, 1989. It assists to clarify some questions about ownership. There are, however, others which are not clear to me.

I am uncertain after reviewing the portion of the agreement which I received, whether Idaho Power purchased the land, or only the plant facilities. This is important, as I'm sure you're aware, because, when a license is issued, the water right becomes appurtenant to the land. If UP&L owns the land, the water right may be owned by UP&L, regardless of whose name is printed on the license. Please inform me whether Last Chance Canal Company owns the land where the power plant is located.

Idaho Code § 42-206 through § 42-210 require department approval of all transfers of permits to appropriate water for power purposes. If the permits held by Last Chance Hydro Electric Company have been assigned to Last Chance Canal Company as a result of dissolution of the Last Chance Hydro Electric Company, a document representing the transfer must be submitted to the department for approval.

Finally, Idaho Code § 42-206 and § 42-207 require that a holder of a permit for power purposes must be authorized to do business in the state of Idaho. We have required submittal of a certificate from the secretary of state or an affidavit establishing authority to do business, and request submittal of the certificate or affidavit.

Once we receive the above information, the department will change its records, and issue a license in the name of the Last Chance Canal Company.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

No. 67035-m

LAST CHANCE HYDRO ELECTRIC CO.

Articles of Dissolution

STATE OF IDAHO
Department of State
Boise, Idaho

Approved, filed and admitted to the corporate records of the State of Idaho

Date September 27, 1984

Time 3:08 P.M.

FEES PAID

Filing $ 20.00

Tax $ _____

Pete T. Cenarrusa
SECRETARY OF STATE

By: Shelly I Clark

Filed By: Racine, Olson, Nye, Cooper & Hodge
P. O. Box 1391
Pocatello, Idaho 83204

NOTICE OF PROSPECTIVE DISSOLUTION

NOTICE IS HEREBY GIVEN of the prospective voluntary dissolution of LAST CHANCE HYDRO ELECTRIC CO., an Idaho Corporation, pursuant to §30-1-87, Idaho Code, on or after October 1, 1984.

LAST CHANCE HYDRO ELECTRIC CO.

By: Don W. Gilbert
DON W. GILBERT, President

ATTEST:

By: DeAnn Maughan
DeANN MAUGHN, Secretary

CONSENT OF SHAREHOLDERS
TO VOLUNTARY DISSOLUTION OF
LAST CHANCE HYDRO ELECTRIC CO.

LAST CHANCE CANAL COMPANY, LTD., an Idaho Non-Profit Corporation with its principal place of business as 911 South Main, Grace, Idaho, 83241, being the sole shareholder of LAST CHANCE HYDRO ELECTRIC CO., hereinafter referred to as the "Corporation" pursuant to Idaho Code, §30-1-83, does hereby consent and agree to the dissolution of said Corporation and authorizes the appropriate officers of said Corporation to take any and all actions necessary to dissolve the Corporation.

DATED this 24th day of September, 1984.

LAST CHANCE CANAL COMPANY, LTD.

By: Don W. Gilbert
DON W. GILBERT, President

ATTEST:

By: DeAnn Maughn
DeANN MAUGHN, Secretary

STATE OF IDAHO)
: ss
County of Caribou)

On this 24th day of September, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared DON W. GILBERT and DeANN MAUGHN, known to me to be the President and Secretary, respectively, of LAST CHANCE CANAL COMPANY, LTD., whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Randall A. Budge
NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello, ID
My Commission Expires: 10/13/84

(SEAL)

ARTICLES OF DISSOLUTION

OF

LAST CHANCE HYDRO ELECTRIC CO.

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, in order to voluntarily dissolve a corporation pursuant to the laws of the State of Idaho, do hereby certify as follows:

1. CORPORATION NAME AND ADDRESS: The name, location and post office address of the corporation is as follows:

LAST CHANCE HYDRO ELECTRIC CO.
911 South Main
Grace, Idaho 83241

2. LAST OFFICERS AND DIRECTORS: The names and addresses of the last officers and directors of the corporation are as follows:

Don W. Gilbert
P. O. Box 177
Grace, Idaho 83241

John J. Thomas
Route 1, Box 69
Grace, Idaho 83241

Merrill Hubbard
Star Route, Box 272
Grace, Idaho 83241

Glenn Allen
Box 241
Grace, Idaho 83241

Mark Gibbs
Box 415
Grace, Idaho 83241

3. NOTICE REQUIREMENTS: All notices required by Idaho Code, §30-1-87 have been given.

4. PAYMENT OF LIABILITIES: All debts, obligations and

liabilities of the corporation have been paid and discharged or adequate provision has been made therefor.

5. DISTRIBUTION OF ASSETS: All of the remaining property and assets of the corporation have been distributed to the sole shareholder, LAST CHANCE CANAL COMPANY, LTD., an Idaho Non-Profit Corporation with its principal place of business as 911 South Main, Grace, Idaho, 83241.

6. PENDING SUITS: There are no suits pending against the corporation in any Court.

DATED this 24th day of September, 1984.

LAST CHANCE HYDRO ELECTRIC CO.

By: Don W. Gilbert
DON W. GILBERT, President

(SEAL)

ATTEST:

By: DeAnn Maughn
DeANN MAUGHN, Secretary

STATE OF IDAHO)
: ss
County of Caribou)

DON W. GILBERT and DeANN MAUGHN, being first duly sworn, deposes and says that they are the President and Secretary, respectively, of LAST CHANCE HYDRO ELECTRIC CO., that they have read the foregoing Articles of Dissolution, know the contents thereof and believe the facts stated to be true.

Don W. Gilbert
DON W. GILBERT

DeAnn Maughan
DeANN MAUGHN

SUBSCRIBED AND SWORN TO before me this 24th day of September, 1984.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing at: Grafton, Id
My Commission Expires: 10/16/84

State of Idaho

Department of State.

CERTIFICATE OF DISSOLUTION
OF

LAST CHANCE HYDRO ELECTRIC CO.

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Dissolution of *LAST CHANCE HYDRO ELECTRIC CO.*, duly signed and verified pursuant to the provisions of the Idaho Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Dissolution, and attach hereto a duplicate original of the Articles of Dissolution.

Dated *September 27*, 19 *84*.

GREAT SEAL OF THE STATE OF IDAHO

Pete T. Cenarrusa
SECRETARY OF STATE

Kelly J. Clark
Corporation Clerk

CO 779

ASSIGNMENT OF ALL ASSETS

THIS ASSIGNMENT, made this 1st day of October, 1984, by and between LAST CHANCE HYDRO ELECTRIC CO., an Idaho Corporation with its principal place of business at 911 South Main, Grace, Idaho (hereinafter referred to as "Assignor"), and LAST CHANCE CANAL COMPANY, LTD., an Idaho Corporation with its principal place of business at 911 South Main, Grace, Idaho (hereinafter referred to as "Assignee").

1. RECITALS:

1.01 Assignor was duly incorporated as a profit corporation under the Idaho Business Corporation Act on June 19, 1981, for the purposes of constructing, owning, operating and maintaining a hydro electric generation plant, adjacent to the Bear River near Grace, Idaho.

1.02 Assignee, an Idaho non-profit corporation, is now and always has been the sole shareholder and owner of Assignor.

1.03 The hydro electric generation plant constructed, owned and operated by Assignor was sold to Utah Power & Light Company pursuant to Agreement of Purchase and Sale dated January 19, 1984.

1.04 Assignor is being voluntarily dissolved by consent of its shareholder pursuant to Idaho Code, §30-1-83 and hereby desires to distribute all of its assets to Assignee as a sole shareholder pursuant to Idaho Code, §30-1-87 following which Articles of Dissolution will be filed with the Idaho Secretary of States Office.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants of this Assignment, it is agreed by and

between the parties hereto as follows:

2. ASSIGNMENT:

2.01 Assignor hereby assigns, transfers and sets over to Assignee, its successors and assigns, all present and future rights, title and interests of Assignor in and to the following described real property, to-wit:

That certain AGREEMENT OF PURCHASE AND SALE dated January 19, 1984, between Last Chance Canal Company, Ltd., and Last Chance Hydro Electric Company as "Seller" and Utah Power & Light Company as "Buyer".

All water rights for nonconsumptive power generation purposes evidenced by Permit #13-7288 and #13-7297 approved on December 18, 1980, and June 23, 1981, respectively, by the Idaho Department of Water Resources, together with any and all other water rights.

First Bank & Trust of Idaho, Grace, Idaho, savings account #93-02412-2 with an approximate balance of $289.00; checking account #93-003167 in the amount of $7,747.00 (approximately); and, Certificate of Deposit #93-0360 in the face amount of $108,000.00, together with accrued interest thereon.

All easements, rights of way and all other assets now owned or hereafter acquired by Assignor.

2.02 This Assignment is made following voluntary dissolution of Assignor for the purpose of distributing all remaining assets to Assignee as the sole shareholder pursuant to Idaho Code, §30-1-87.

2.03 Assignee accepts this Assignment, takes the property herein assigned as is and agrees to assume all obligations on assets assigned by Assignor and abide by all

of the terms, covenants and conditions of the Agreement of Purchase and Sale and other contractual obligations hereby assigned.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

ASSIGNORS:

LAST CHANCE HYDRO ELECTRIC CO.

By: /s/
DON W. GILBERT, President

(SEAL)

ATTEST:

By: /s/
DeANN MAUGHN, Secretary

ACCEPTANCE:

LAST CHANCE CANAL COMPANY, LTD.

By: /s/
DON W. GILBERT, President

(SEAL)

ATTEST:

By: /s/
DeANN MAUGHN, Secretary

EXHIBIT "A"

Number I-17418

ASSIGNMENT OF RIGHT-OF-WAY

We, Last Chance Canal Company, do hereby assign to Utah Power & Light Company all of our undivided right, title, and interest in and to that certain Last Chance Hydroelectric Plant right-of-way affecting T. 9 S., R. 41 E., B.M., Section 31: SW¼NE¼, NE¼NE¼, containing 80 acres, said right-of-way being designated for 30 years, and approved on October 23, 1981 by the United States Department of the Interior, Bureau of Land Management.

January 19, 1984
Date

Llow W. Gilbert Pres.
Signature

Attest: Orrin Harris Secretary
Signature

APPLICATION FOR APPROVAL OF ASSIGNMENT OF RIGHT-OF-WAY

We, Utah Power & Light Company are authorized to do business in the State of Idaho, and are native born citizen(s) of the United States of America, do hereby make application for approval of the above assignment of that certain Last Chance Hydroelectric Plant right-of-way, I-17418. This application is made pursuant to the regulations in 43 CFR Parts 2800.

We, the undersigned applicant(s), agree to comply with and be bound by the terms and conditions of the right-of-way grant. The $50 filing fee is attached.

_____
Date

_____
Signature

_____
Signature

_____
Signature

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-0391

TELEPHONE
AREA CODE 208
232-6101

TELEX
208-232-6109

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL *
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
CARY B. COLAIANNI
BRENT O. ROCHE
PATTI POWELL **
FRED J. LEWIS
KIRK B. HADLEY

*ALSO MEMBER ILLINOIS BAR
**ALSO MEMBER WASHINGTON BAR

August 24, 1989

RECEIVED
AUG 29 1989
Department of Water Resources

Mr. Gary Spackman, Manager
Water Right Permits Section
State of Idaho
Department of Water Resources
1301 North Orchards Street
Statehouse Mail
Boise, Idaho 83702

Re: Permits to Appropriate Water Nos. 13-7297 and 13-7288,
Last Chance Canal Company Project

Dear Gary:

This will respond to your July 28th letter regarding the captioned matter and address the inquires in the order set forth.

First you inquired if Idaho Power purchased that land that only the plant facilities. I assume you meant Utah Power and not Idaho Power. UP&L acquired the plant facilities only and does not own the underlying land. The land is owned by the United States Department of the Interior, Bureau of Land Management which issued to Last Chance Right of Way No. I-17418 approved on April 23, 1981. When the plant was sold to UP&L, this right of way was in turn assigned to UP&L by Assignment of Right of Way dated January 19, 1984. I am enclosing a copy of the Assignment which was Exhibit "A" to the Agreement of Purchase and Sale dated January 19, 1984.

As indicated in my previous letter to you of June 1, 1989, and set forth specifically in Paragraph 3(g) located on page 6 of the Agreement, Last Chance Canal Company specifically retained ownership of the nonconsumptive water rights under Permits No. 13-7288 and 13-7297 and granted the Buyer, UP&L the right to use such rights.

Secondly, you requested documentation representing the transfer of permits held by Last Chance Hydro Electric Company to Last Chance Canal Company. These permits were originally issued to Last Chance Canal Company Ltd. and subsequently assigned to

Last Chance Hydro Electric Company by Assignment dated July 27, 1981. Last Chance Hydro Electric Company, a wholly owned subsidiary of Last Chance Canal Company Ltd. was dissolved by Articles of Dissolution filed with the Idaho Secretary of State's Office on September 27, 1984, at which time a Certificate of Dissolution was issued. I am enclosing herewith copies of the Certificate of Dissolution and Articles of Dissolution. As set forth in Paragraph 5 of the Articles of Dissolution, all assets of Lasts Chance Hydro Electric Company were distributed to Last Chance Canal Company Ltd.

I am also enclosing a copy of the Assignment of All Assets wherein you will note Paragraph 2.01 specifically list Permits Numbered 13-788 and 13-7297 and being assigned to Last Chance Company Ltd. The copy provided is from my file and I will represent as their counsel that it is a true and correct copy of the original which was duly executed and is a part of the records of the Last Chance Canal Company Ltd. I trust this will be sufficient but if you require anything further on this please advise and we will supplement. Notwithstanding, I am in the process of getting a new Assignment and will forward shrotly so the Department records are complete.

Thirdly, regarding the corporate status of Last Chance Canal Company, Ltd., you may easily verify by calling the corporation division of the Secretary of State's office at 334-2300 that the Last Chance Canal Company Ltd. is now and was at all times a non-profit corporation incorporated under the laws of the State of Idaho in good standing. Nonetheless, I have ordered a Certificate of Authority from the Secretary of State's office and will forward the same upon receipt.

Based on the foregoing, we would respectfully request that the Department correct is records accordingly and issue the licenses for the captioned permit in the name of Last Chance Canal Company, Ltd.

Very truly yours,

RANDALL C. BUDGE

RCB:gr
Enclosures
cc: Last Chance Canal Company
DeAnn Maughan - Secretary
Don Gilbert - President

MEMORANDUM

TO: File Nos. 13-7288 and 13-7297 in the Name of Last Chance Canal Co., Ltd.
FROM: Gary Spackman *Gary*
DATE: October 25, 1989

Last Chance Canal Co., Ltd. has submitted sufficient information to show that they are authorized to do business in the state of Idaho. They have also submitted information to show that Last Chance Hydro Electric Co. was dissolved in 1984, and that upon dissolution, all assets, including these permits, became the property of the Last Chance Canal Co., Ltd.

Records should be changed to show that the owner is now Last Chance Canal Co., Ltd. The address of 911 S. Main, Grace, Idaho will remain the same.

Once our records are changed, a new license should be run, and submitted to Norm for signature.

November 24, 1989

LAST CHANCE CANAL CO. LTD.
911 S. MAIN
GRACE, ID 83241

RE: PERMIT NO. 13-07288

Dear Permit Holder(s):

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure