

ASSIGNED TO:
Last Chance Hydro Electric Co.
911 South Main
Grace, Idaho 83241
July 29, 1981

13 7297
Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant LAST CHANCE CANAL COMPANY, LTD. Phone 232-6101
Post office address Grace, Idaho c/o Randall C. Budge, P. O. Box 1391, Pocatello Idaho

2. Source of water supply Bear River which is a tributary of Great Salt Lake

3. Location of point of diversion is SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 30 Township 9S
Range 41 E. B.M. Caribou County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 220 cfs for Power purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 220 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 head gates into existing gravel canal

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

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

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 3 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 31 Township 9S
Range 41 E. B.M. Caribou County, Idaho

(2) Amount of power to be generated: 1932 hp horsepower under 35' feet of head.
(Estimate for total project)

(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 Last Chance Canal Company Ltd.

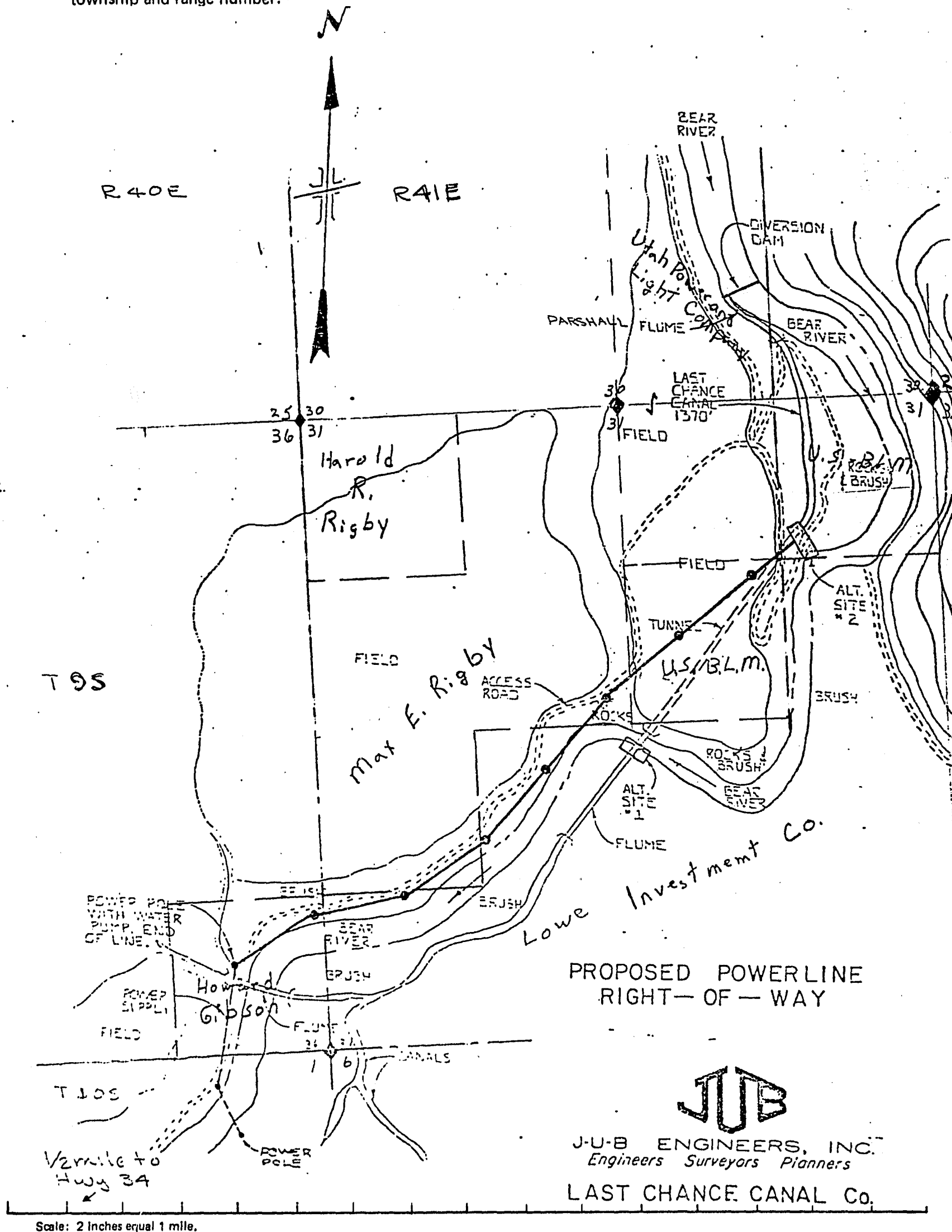
b. Who owns the land to be irrigated or place of use BLM (as per telecon 2/17/81 HWJ)

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Application for easement and right-of-way made. (as per telecon 2/17/1981 HWJ)

10. Remarks the proposed use is nonconsumptive. The diversion system described above is presently in existence having been constructed by the applicant in approximately 1918, 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. v. Last Chance Canal Company, 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, where it will be transported through the canal approximately parallel to the river channel but at a higher elevation and then diverted from the canal into hydro electric generating turbines and returned to the Bear River at the place of use described above.

NOTE: This application is to appropriate additional and supplemental waters for the same purpose and use as set forth in Application for Permit #13 7288, filed 5/30/80 and approved 12/18/80. Subsequent to filing the above mentioned application, a preliminary feasibility study on project determined that a different place of use up stream was more feasible which would permit utilization of larger quantities of water and this application is submitted to obtain a permit covering these additional waters.

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



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

LAST CHANCE CANAL CO. LTD

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

Proposed Priority

2/11/81

Received by kw Date 2/11/81 Time 11:25

Preliminary check by HWS Fee \$ 1825.00

Receipted by kw Date 2/17/81 # 17039

Publication prepared by kw Date 2/19/81

Published in Caribou County Sun

Publication dates 2/26 & 3/05/81

Publication approved kw Date 3/17/81

Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by EMC RA

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 13-7297, 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 July 1, 19 84.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. Other: A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works. (2) The issuance of this permit in no way grants any right-of-way or easement across the land of another. (3) Use of water under this permit is subject to control by the watermaster of State Water District # 11, Bear River. (4) 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. (5) This project shall be operated in a manner that will not conflict or interfere with the future diversion of water for irrigation or other beneficial consumption. (6) This permit does not constitute Idaho Public Utilities Commission nor Federal Energy Regulatory Commission approval that may be required.

Witness my hand this 23rd day of June, 1981.

D. Glen Saxton

Chief, Operations Bureau

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.

13-7297

LAST CHANCE CANAL
COMPANY, LTD.

C/O RANDALL C. BUDGE,
P.O. BOX 1391, POCA TELLO,
IDAHO 83201

Source: BEAR RIVER trib-
utary to GREAT SALT LAKE

Date Filed: 02-11-1981

Amount: 220.00 CFS

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

Use: POWER (220.00 CFS)
from 01-01 to 12-31

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

Diversion Means: ROCK
CRIB DAM, HEADGATES &
CANAL

29-7580

LLOYD, KEITH &/or ELLA
&/or JOSEPH

BANCROFT, ID. 83217

Source: SPRING tributary to
SINKS

Date Filed: 02-17-1981

Amount: 0.06 CFS

Diversion Point: SESW Sec 28
T 08S R 39E NENW Sec 33T

08S R 39E, CARIBOU Co.

Use: IRRIGATION (0.02
CFS) from 04-01 to 11-01

DOMESTIC (0.04 CFS) from
01-01 to 12-31

Place of Use: SESW Sec 28T
08S R 39E for 1 ACRES

Diversion Means: STORAGE
TANK & PIPELINE

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, 150 Shoup

Ave., Idaho Falls, Idaho 83401 on
or before MARCH 16, 1981.

C. STEPHEN ALLRED

Director

Published Feb. 26 and March
5, 1981, in the Caribou County
Sun.

RECEIVED

MAR 12 1981

Department of Water Resources Caribou
Eastern District Office of Idaho

**Affidavit of
Publication**

ss.

Mark Steele

being first duly sworn on his
oath, states:

Publisher

That he is
of the Caribou County Sun, a
newspaper of general circula-
tion 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 sev-
enty-eight consecutive weeks,
prior to the first publication of
the annexed notice or advertise-
ment;

That the annexed notice was
published as per clipping at-
tached 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

26th

day of

February

1981

The date of the last publication

being the 5th day of

March

1981

Subscribed and sworn to be-

fore me this 6th day

of March, 1981.

Notary Public, residing
at Soda Springs, Idaho

(SEAL)

My Commission expires the

1st day of March

1984.

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JUL 29 1981

ASSIGNMENT OF PERMITS

Department of Water Resources

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,)
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.

(Seal)

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

WATER RIGHT SPLIT

SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT C.F.S.
~~App. for Permit~~	~~13-7297~~	~~Last Chance Canal Company, LTD~~	~~220~~
Assignment	13-7297	Last Chance Hydro Electric Co.	220

LAW OFFICES OF
RACINE, HUNTLEY & OLSON
CHARTERED

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

CENTER PLAZA - CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

TELEPHONE
AREA CODE 208
232-6101

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

February 10, 1981

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

Enclosed please find an Application for Permit which we are submitting on behalf of Last Chance Canal Company, Ltd., of Grace, Idaho together with our check in the sum of \$1825.00 for filing fees which represent \$1225 for the first 100 CFS and \$5 for each additional 1 CFS.

Also enclosed is Amended Application #13 7288 which was filed with a 5/30/80 priority and approved on 12/18/80, together with check of the sum of \$20 for filing fees.

After Application #13 7288 was submitted a feasibility study on the project indicated that an upstream site would be more feasible. The new application for permit is submitted to supplement application 13 7288 as a greater quantity of water will be utilized at the new site. The Amended Application reflects the change in the place of use that resulted, the increased estimate of construction cost and change in amount of power to be generated.

Kindly file and begin processing these applications. If you have any questions, please don't hesitate to contact me.

Very truly yours,

Randy Budge
Randall C. Budge

RCB/pb

En.

CC: Orrin Harris
Don Gilbert

RECEIVED

FEB 11 1981

Department of Water Resources
Eastern District Office

13-7297

LAST CHANCE CANAL COMPANY, LTD.

C/O RANDALL C. BUDGE, P.O. BOX 1391, POCA TELLO, ID 83201

Source: BEAR RIVER tributary to GREAT SALT LAKE

Date Filed: 02/11/1981

Amount: 220.00 CFS

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

Use: POWER (220.00 CFS) from 01/01 to 12/31

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

Diversion Means: ROCK CRIB 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, 150 Shoup Ave., Idaho Falls, Idaho 83401 on or before MARCH 15, 1981.

C. STEPHEN ALLRED

Director

Published 2/26 & 3/05/81.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

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

FEBRUARY 19, 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 16, 1981.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

150 Shoup Ave. -----

525-7161

February 24, 1981

RE: Application for Permit No. 13-7297

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

Gentlemen:

The Department has initiated processing of the application for permit recently submitted by Last Chance Canal Company for power generation. Departmental Receipt No. 17039 in the amount of \$1825.00 is enclosed. However, since it appears the Federal Energy Regulatory Commission may have jurisdiction over the project, prior to the Department recommending final action on the application you will need to supply varification of whether the intended project is subject to their jurisdiction. Provided the project is identified as requiring regulation through F.E.R.C. it may take several months for you to receive project development approval. Therefore, once Regional processing is completed the Canal Company's application will be forwarded to our State Office where it will be retained until the Department receives notification concerning the above matter.

Since the source of water under your application is located in the Bear River Drainage you need to correspond with the Federal Energy Regulatory Commission, 819 Taylor Street, Suite 9A05, Fort Worth, Texas, 76105.

Should you have any questions concerning the contents of this letter, please feel free to contact the Eastern Regional Office.

Respectfully submitted,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw
Enclosure

February 25, 1981

RE: Application for Permit No. 13-7297 LAST CHANCE CANAL CO.

Bureau of Land Management
940 Lincoln Road
Idaho Falls, Idaho 83401

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 March 16, 1981, 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

February 25, 1981

RE: Application for Permit No. 13-7297 LAST CHANCE CANAL CO.
No. 13-7298 STEVENSON

Mr. Russell Stoker, Watermaster
Water District No. 11
379 East 3rd North
Soda Springs, Idaho 83276

Dear Mr. Stoker:

We are enclosing a copy of two applications that may be of interest to your water district. Please review the applications and submit any comments you may have to our Department as soon as possible. The last date of protest is March 16, 1981, 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 #2

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 25, 1981

Mr. Ernest Carlsen
Department of Water Resources
Eastern Region
150 Shoup Ave.
Idaho Falls, Idaho 83401

RECEIVED

FEB 26 1981

Department of Water Resources
Eastern District Office

Re: Last Chance Canal Co., Ltd.
Application for Permit No. 13-7297

Dear Ernest:

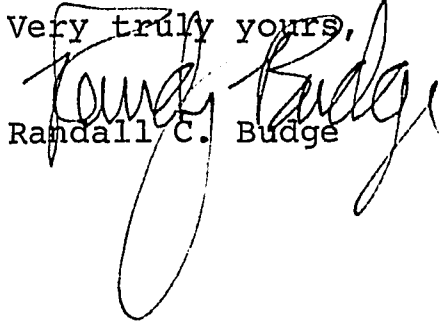
Thank you for your letter of February 24, 1981, on the captioned matter. Please be advised that this proposed power project is for less than 5000 KW and therefore Federal Energy Regulatory Commission licensing is not required. The Public Utilities Regulatory Policy Act of 1978 at 16 USC 2708(1) was amended 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 5000 KW or less from the licensing requirements of FERC.

At this time we are pursuing rule or order from FERC granting an exemption in full from the requirements, including license, of the Federal Power Act. Accordingly, we would request that the IDWR act on the water right application as soon as processing has been completed in the same manner that it acted upon sister application for permit No. 13-7288 which was approved December 18, 1980.

Last Chance is continuing to undertake considerable expense in pursuing this project and securing the necessary financing to permit construction to begin soon.

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

Very truly yours,


Randall C. Budge

RCB/pb



United States Department of the Interior

IN REPLY REFER TO

7520

BUREAU OF LAND MANAGEMENT
Soda Springs Resource Area
P.O. Box 855
Soda Springs, Idaho 83276

March 4, 1981

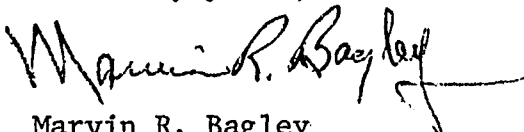
Mr. Ernest Carlsen
Idaho Department of Water Resources
150 Shoup
Idaho Falls, ID 83401

Dear Mr. Carlsen:

Thank you for your letter of February 25 regarding the Last Chance Canal Company's application for permit #13-7297.

They have applied to us for a right-of-way for the generating facilities and powerline. We are in the process of recommending approval for that right-of-way, therefore, we are not considering a protest of the application.

Sincerely yours,


Marvin R. Bagley
Soda Springs Area Manager

RECEIVED

MAR 5 1981

Department of Water Resources
Eastern District Office



Save Energy and You Serve America!

MRD424
02/24/81

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NEW WATER RIGHT FILINGS

PAGE 1

INDICATES TOTAL

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	PERIOD FROM TO	MAX AMOUNT	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
01-7061	NEW SWEDEN IRRIGATION DISTRICT RT. 4 BOX 225 IDAHO FALLS SOURCE: SNAKE RIVER	ID 83401	POWER	01-01 12-31	2000.00 CFS	NENE S35 N4N4 T04N R37E S13 T03N R37E		APPLICATION
02-7317	NELSON, DEAN BINGHAM, ARNOLD RT. 54E4 SOURCE: SNAKE RIVER	ID 83627	TRIBUTARY: COLUMBIA RIVER	02-12-1981 IRRIGATION 03-01 11-01	12.00 CFS	NESW S28 T05S R07E		APPLICATION
02-7318	JOHNS, KENNETH H. JOHNS, QUEY L. 1310 N. 10TH E. MOUNTAIN HOME SOURCE: SNAKE RIVER	ID 83647	TRIBUTARY: COLUMBIA RIVER	02-10-1981 IRRIGATION 03-15 11-15	2.90 CFS	SWNE S02 T06S R06E		APPLICATION
13-7297	LAST CHANCE CANAL COMPANY, LTD C/O RANDALL C. BUDGE P.O. BOX 1391 POCATELLO SOURCE: BEAR RIVER	ID 83201	TRIBUTARY: GREAT SALT LAKE	01-01 12-31	220.00 CFS	SWSE S30 NENE T09S R41E S31 T09S R41E		APPLICATION
13-7298	STEVENSON, GARTH E. C/O MERLIN STEVENSON DAYTON SOURCE: SPRING	ID 83232	TRIBUTARY: DEEP CREEK	02-13-1981 DOMESTIC 01-01 12-31	.04 CFS	SWSE S01 SENE T15S R38E S12 T15S R38E		APPLICATION
15-4072	NALDER, LYNN NALDER, NANCY 449 C MINK CREEK ROAD POCATELLO SOURCE: LITTLE MALAD RIVER	ID 83201	TRIBUTARY: MALAD RIVER	04-01-1880 IRRIGATION 04-01 11-01	2.00 CFS	NWSW S31 T14S R36E		STARRY CLM

RECEIVED

MAR 9 1981

Department of Water Resources
Eastern District Office

Power Calculations for 13-7297

Key
 P = hp, kw
 Q = cfs
 H = ft
 e = efficiency

Proposed
 1932 hp x .74 kw = 1429.68 Kws
 220 cfs
 35 ft
 70% & 80% &
 100%

Based on 70%

$$P = \frac{QHe}{11.8} = \frac{220 \times 35 \times .7}{11.8} = \frac{5390}{11.8} = 456.78 \text{ Kws}$$

$$Q = \frac{P(11.8)}{He} = \frac{1429.68 \times 11.8}{35 \times .7} = \frac{16870.224}{25.9} = 651.36 \text{ cfs}$$

Based on 80%

$$P = \frac{QHe}{11.8} = \frac{220 \times 35 \times .8}{11.8} = \frac{6160}{11.8} = 522.0 \text{ Kws}$$

$$Q = \frac{P(11.8)}{He} = \frac{1429.68 \times 11.8}{35 \times .8} = \frac{16870.224}{28} = 602.51 \text{ cfs}$$

Based on 100%

$$P = \frac{QHe}{11.8} = \frac{220 \times 35 \times 1.0}{11.8} = \frac{7700}{11.8} = 652.5 \text{ Kws}$$

$$Q = \frac{P(11.8)}{He} = \frac{1429.68 \times 11.8}{35 \times 1.0} = \frac{16870.224}{35} = 482.0 \text{ cfs}$$

RH
 3/24/81

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

13 7297

INITIAL REVIEW BY: HWS

APPLICATION NUMBER: Last chance C. Comp

CHECK:

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

Field check by: _____
Date: _____
Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

Is you on Fed. Land? (yrs, BLM)
* Send Copy to FERC - Last chance currently asking for
waiver from FERC.
Needs affidavit of residence of a davit filed with previous permit 13-7288

SEND COPIES TO:

- ☐ Idaho State Health Department. Copies sent by: _____ Date: _____
☐ Idaho Fish and Game Department. _____
☐ Idaho Department of Lands. _____
☒ U.S. Bureau of Land Management. fw 2/26
☐ U.S. Forest Service. _____
☒ Other FERC letter fw 2/24
WDH fw 2/26

PROCESSING:

- ☐ Yes ☒ No Platted by: _____ Map No. _____
☐ Yes ☒ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising.
Final date for protests: March 16 ✓
☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: March 12, 1981 ✓
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☐ Yes ☐ No Measuring device required. Code 01E
☐ Yes ☒ No Access port required.
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what district? Code 05 ✓
Feb 11, 1981 Date of priority recommended.
Special conditions of approval or cover letter. _____

Code 08A, 17, 04.

This permit does not constitute Idaho Public Utilities
Commission nor Federal Energy Regulatory Commission
approval that may be required

By: Carol Carlson

Date: March 17, 1981

STATE OFFICE REVIEW:

SLW/LO2

01E, 04, 05 (11 Bear P.), 08A, 17 & special

cond above

- ☐ See attached sheet for more information.

By: [Signature]

Date: 3/24/81



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

March 24, 1981

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

Dear Mr. Budge,

RE: Permit No. 13-7297

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

At this time we see no reason that the application will not be approved with certain conditions of approval. However, for power projects that are under the jurisdiction of the Federal Energy Regulatory Commission (FERC), we withhold final action on the application pending (1) approval of a preliminary permit by FERC, or (2) FERC granting of an exemption. If you have not yet contacted FERC, the address below is a good starting point:

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

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

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

RECEIVED

APR 30 1981

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

Department of Water Resources
TELEPHONE
AREA CODE 208
232-6101

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

April 28, 1981

Mr. Jim Johnson
Water Distribution Supervisor
State Office
450 W. State Street
Boise, Idaho 83720

Re: Last Chance Canal Company Amended Permit #13-7288

Dear Mr. Johnson:

Thank you for your letter of April 22, 1981, and the copy of the approved Amendment to Permit #13-7288.

Please be advised that we have recently filed an Application for Federal Energy License Exemption with the Federal Energy Regulatory Commission. The Application is still being processed at this time and has not yet been approved. We do not foresee any difficulty in getting the requested exemption and will advise you when the application exemption has been approved.

At the same time we filed the above-captioned Application for Amendment for Permit #13-7288, we filed an Application for Permit assigned #13-7297. We have not yet received notification that this permit has been approved, although we are unaware that any protests were filed. Would you kindly follow up on the status of this matter and forward me a copy of the approved permit.

If you have any questions concerning the foregoing matters, please contact me.

Very truly yours,

Randy Budge
Randall C. Budge

RCB/pb

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



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

A. KENNETH DUNN
XXXXXXXXXXXX

May 4, 1981

Randall C. Budge
P.O. Box 1391
Pocatello, Idaho 83201

Dear Mr. Budge,

RE: Permit No. 13-7297

Pursuant to your letter of April 28, 1981, as to the status of application for permit No. 13-7297, we are holding this application pending follow-up to our letter of March 24, 1981 (copy enclosed). If you have any new information pertaining to approval of a preliminary permit by FERC or FERC granting an exemption, please let us know.

If you have any further questions on this matter, please let us know.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:mr
Enclosure

CONVERSATION MEMORANDUM

DATE 6-19-87

FILE 13-7297

NAME OF PARTY Randy Budge

EMPLOYEE Jim Johnson

RE: Mr. Budge came into the office today to request that this application be processed rather than continue to hold it as a permit.

He explained that this application was supplemental to permit 13-7288 which the Department had approved.

After reviewing permit file 13-7288 it appears that the reason the Department approved the application was because of information Mr. Budge had provided which appeared that FERC would not require a preliminary approval on a license and that an exemption notice would be forthcoming.

Mr. Budge, had indicated no problem would occur if the permit was issued subject
to PUC or FERC approval.

Review of both files has determined that both files are identical except for the
quantity. There is no question that one project is intended.

Therefore, it appears that approval of this application justifiable.

June 30, 1981

Last Chance Canal Co., Ltd.
% Randall C. Budge
P.O. Box 1991
Pocatello, Idaho 83201

Dear Mr. Budge,

RE: Permit No. 13-7297

Per your request I have reviewed the file and taken into consideration the information which you provided in your visit to this office.

The Department has decided to approve the Application for Water Permit.

Enclosed is a copy of this approved Application.

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.

If you have any questions, please let us know.

Sincerely,

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

Enclosure

RECEIVED

JUL 6 1981

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

Department of Water Resources
TELEPHONE
AREA CODE 208
232-6101

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

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:

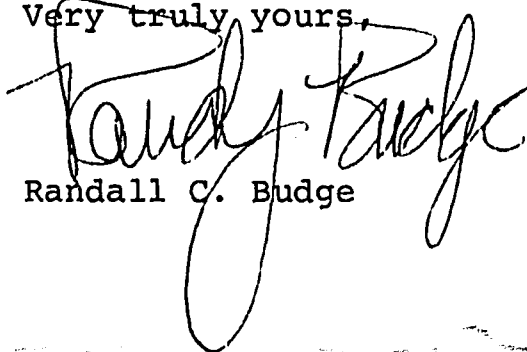
Thank you for your review and approval of Permit No. 13-7297.

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

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



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

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

RECEIVED

JUL 29 1981

Department of Water Resources

TELEPHONE
AREA CODE 208
232-6101

LAW OFFICES OF
RACINE, HUNTLEY, OLSON
NYE & COOPER

CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83201

July 27th, 1981

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

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

Attention: Mr. David R. Tuthill, Jr.

Re: Permits 13-7297 and 13-7288
Last Chance Canal Company

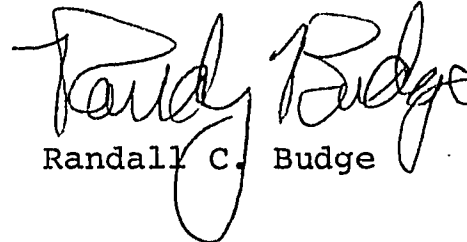
Dear Mr. Tuthill:

I enclose herewith the original and copy of an Assignment of Permits from the holder, the Last Chance Canal Company, Ltd., to Last Chance Hydro Electric Company. Kindly file the Assignment and return the copy when approved for our information.

Please contact me if you have any questions or if I can be of further assistance.

Your time and cooperation has been appreciated.

Very truly yours,


Randall C. Budge

RCB/cn
Enclosure

cc: Mr. Don W. Gilbert
P.O. Box 177
Grace, ID 83241



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
Permit # 13-7297

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
Water Distribution Supervisor

JJ:jg

Enclosure

RECEIVED

JUL 27 1981

Department of Water Resources

-2-

Project No. 4580-000

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)

The 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).

DC-A-31

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

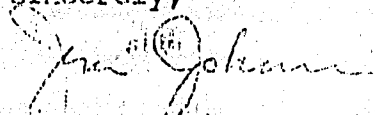
Dear Mr. and Mrs. Newell:

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. 2316, 92-111/1241 with the suggestion if you still plan to develop the water as intended you refile for a new permit.

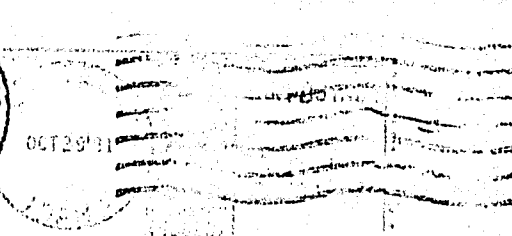
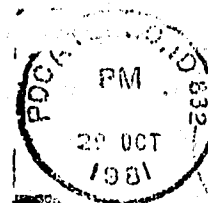
If you have additional information concerning this permit or wish us to act officially on your extension request, please return the form with the check on or before December 1, 1981.

Sincerely,


JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosures: Extension Form
Check

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



Mr. David R. Tuthill, Jr.
State of Idaho
Department of Water Resources
450 W. State Street
boise, ID 87420

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

How W. Gilbert
Signature

Pres.
Title

10-12-81
Date

RECEIVED
DEPT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
OCT 21 9 46 AM 1981
RA 334 FL 31 90
POISE, IDAHO 83702
IDAHO LAND OFFICE

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

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.

UNITED STATES
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 NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ 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:

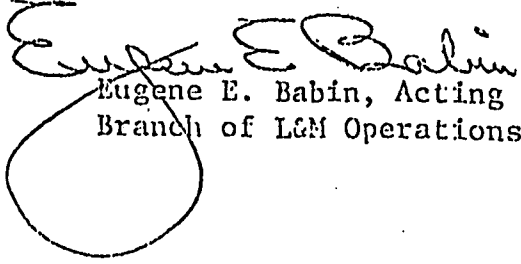
Amount: \$25 per five-year period subject to adjustment pursuant to 43 CFR 2803.1-2(d)

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, Acting Chief
Branch of L&M Operations

17 FEB 162,042

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 1 of the Federal Power Act pursuant to 18 C.F.R. Part 4 SUBPART X (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

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

Stipulated 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. 532705 and 2709).

3/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. 3375.308 (1980), as amended by 46 Fed. Reg. 14119 (1981).

D_{C-A}-18

- 2 -

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

It is ordered that:

(A) 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 1 of the Federal Power Act, including licensing, subject to the standard articles in 18 C.F.R. 34.106 of the Commission's regulations, 18 C.F.R. 34.106 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. 48449 (1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 113(a) of the Act does not operate as a stay of the effective date of this order, except as specifically ordered by the Commission.

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

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 1 of the Federal Power Act pursuant to 18 C.F.R. Part 4 subpart X (1980) implementing in part section 409 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, 1,170 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 FEA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1970 (16 U.S.C. §§2705 and 2708).

DC-11

Project No. 4580-000

-3-

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 applications, protests, or petitions to intervene must be filed by providing the original and three copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 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

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

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



Orrin Harris
Last Chance Canal Company
Grace, Idaho 83241

YOUR MAIL HAS
BEEN DELAYED BECAUSE
OF IMPROPER ZIP CODE
P-4580

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.

LAW OFFICES OF
RACINE, HUNTLEY, OLSON
NYE & COOPER

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

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 Resources
450 W. State Street
Boise, ID 87420

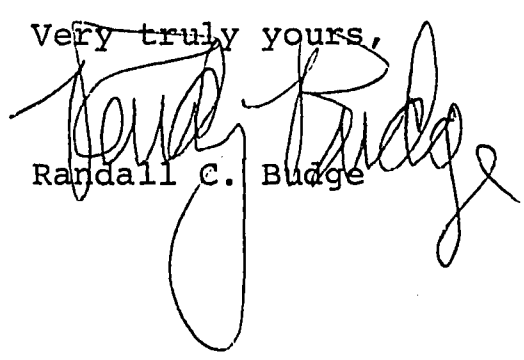
Attention: Mr. David R. Tuthill, Jr.

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 SPOKANE, Washington.

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 $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30,
Township 9 South, Range 41 East, B.M., Caribou
County, Idaho.

E. Place of Use:

Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, 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 $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30,
Township 9 South, Range 41 East, B.M., Caribou
County, Idaho.
- E. Place of Use:

Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, 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 $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, 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 extend 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 Don W. Gilbert
Its PRESIDENT

STATE OF IDAHO

County of Caribou

I DO HEREBY CERTIFY, That on this 33rd day of November, 1981, 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.

Randall C. Budge
Notary Public in and for the State of Idaho

Residing at Grace Pocatello
My commission expires 10/15/85

RECEIVED

DEC 4 1981

LAW OFFICES OF
RACINE, HUNTLEY, OLSON
NYE & COOPER

CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204

Department of Water Resources

TELEPHONE
AREA CODE 208
232-6101

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

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 supplemented your file on these permits with copies of the Federal Energy Regulatory Commissions Order granting exemption 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

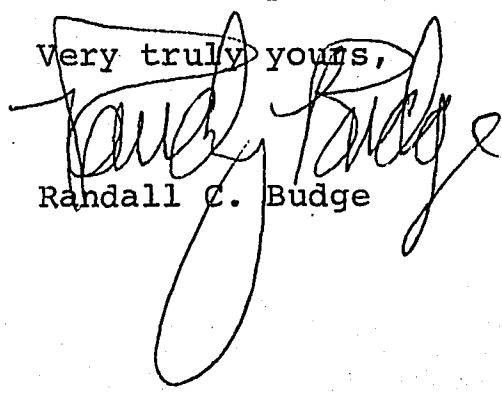
Mr. A. Kenneth Dunn
Permits No. 13-7288 and 13-7297
Last Chance Hydro Electric Co.
December 1, 1981
Page 2

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

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 13-7288. ^{Both} 13-7297

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

Donald C. Budge
Signature of Permit Holder

original postcard
in 13-7288

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

November 7, 1983

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

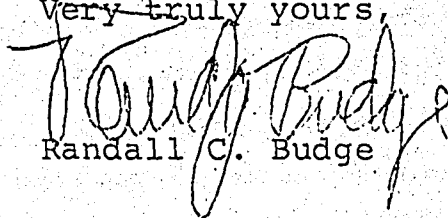
Re: Permit No. 13-7288 -- Approved December 18, 1980
Permit No. 13-7297 -- Approved June 23, 1981

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

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07297

Priority: February 11, 1981 Maximum Diversion Rate: 220.00 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 February 11, 1981; 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:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
POWER	01/01 to 12/31	220.00 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.

PAGE 2

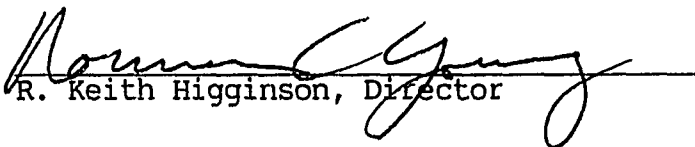
State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-07297

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 24TH
day of NOVEMBER, 1989.

Attest for


R. Keith Higginson, Director



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

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

December 9, 1983

Last Change Hydro Electric Co.
911 South Main
Grace, ID 83241

RE: Permits #13-7297 & 13-7288

Dear Permit Holder:

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

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

☐ A field examination of your system has been scheduled for _____.

If this time and date is not convenient for you, please contact this office as soon as possible.

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

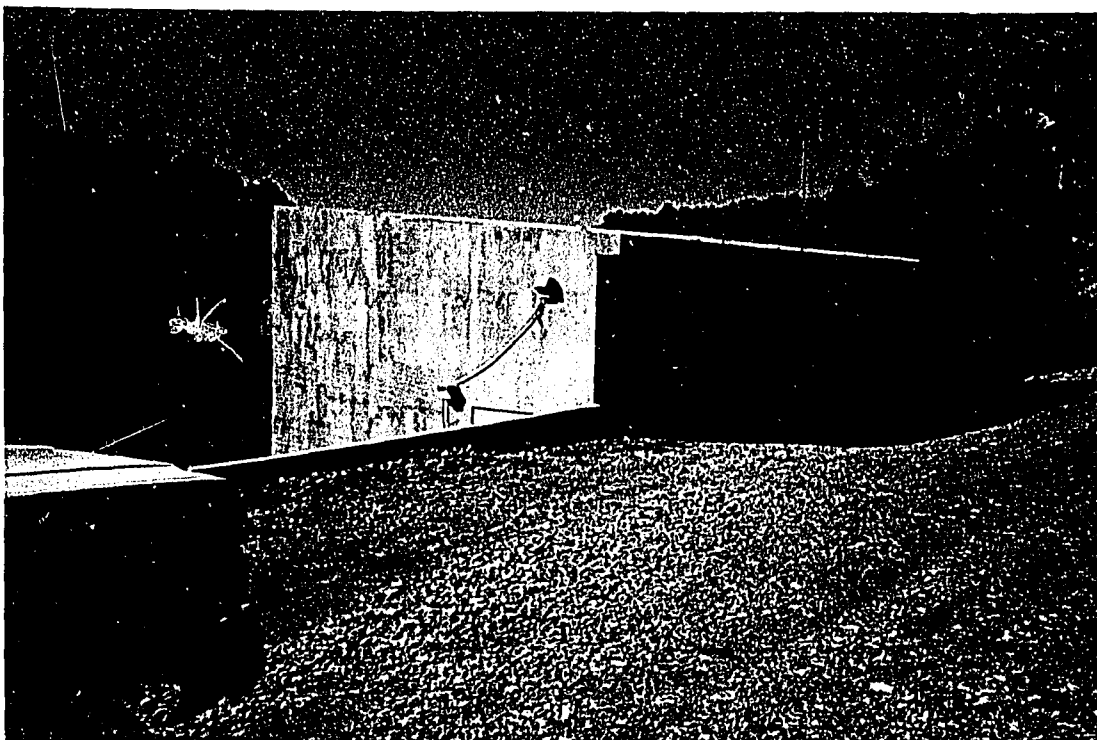
If you have any questions regarding the field examination, please contact this office.

Sincerely,

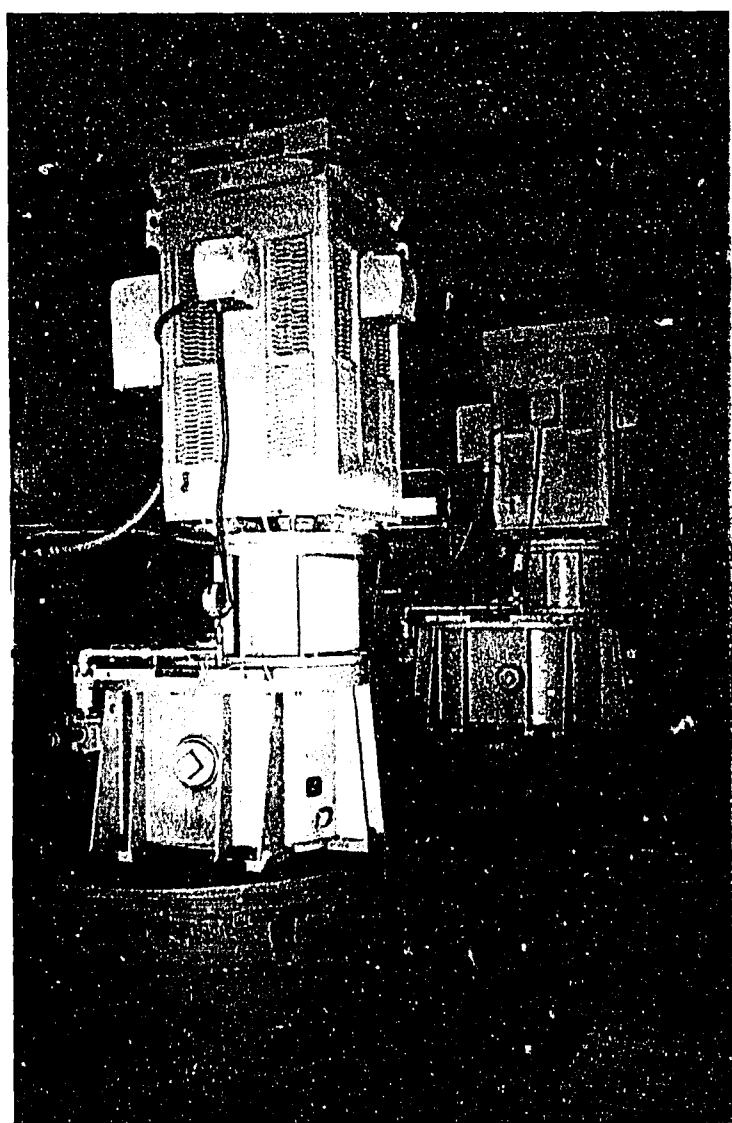
HAROLD W. JONES
Sr. Resource Agent

HWJ:JK

13-7297



Power House

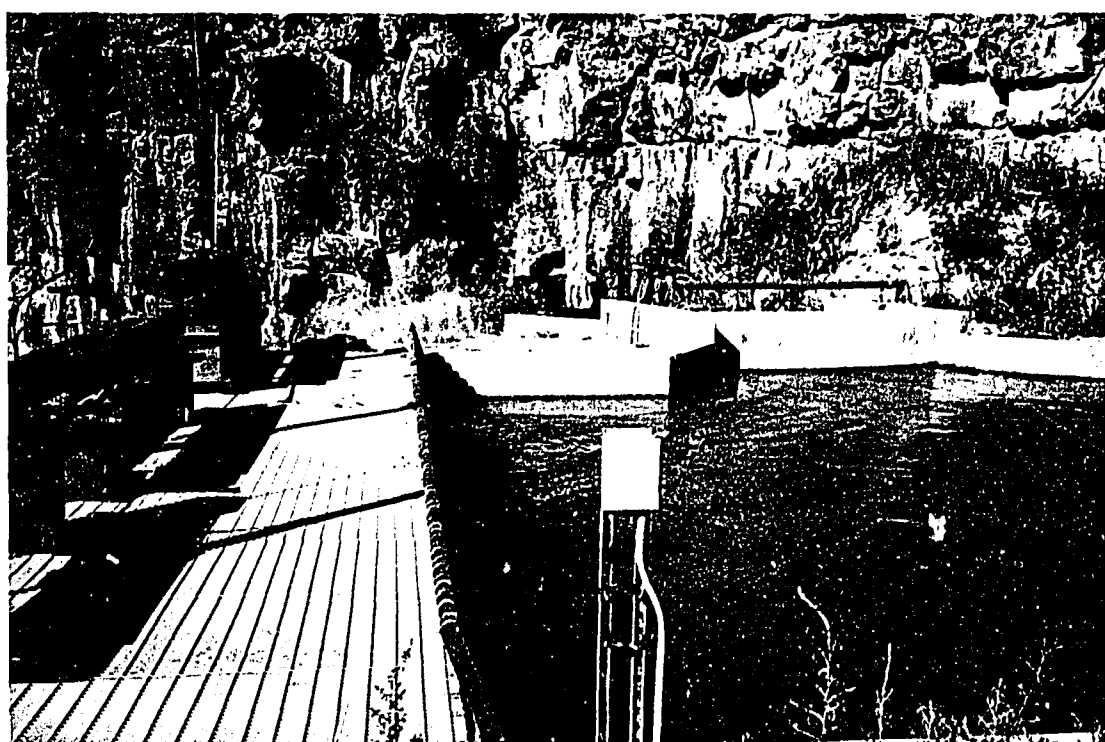


Generators in Power House
(one not shown)

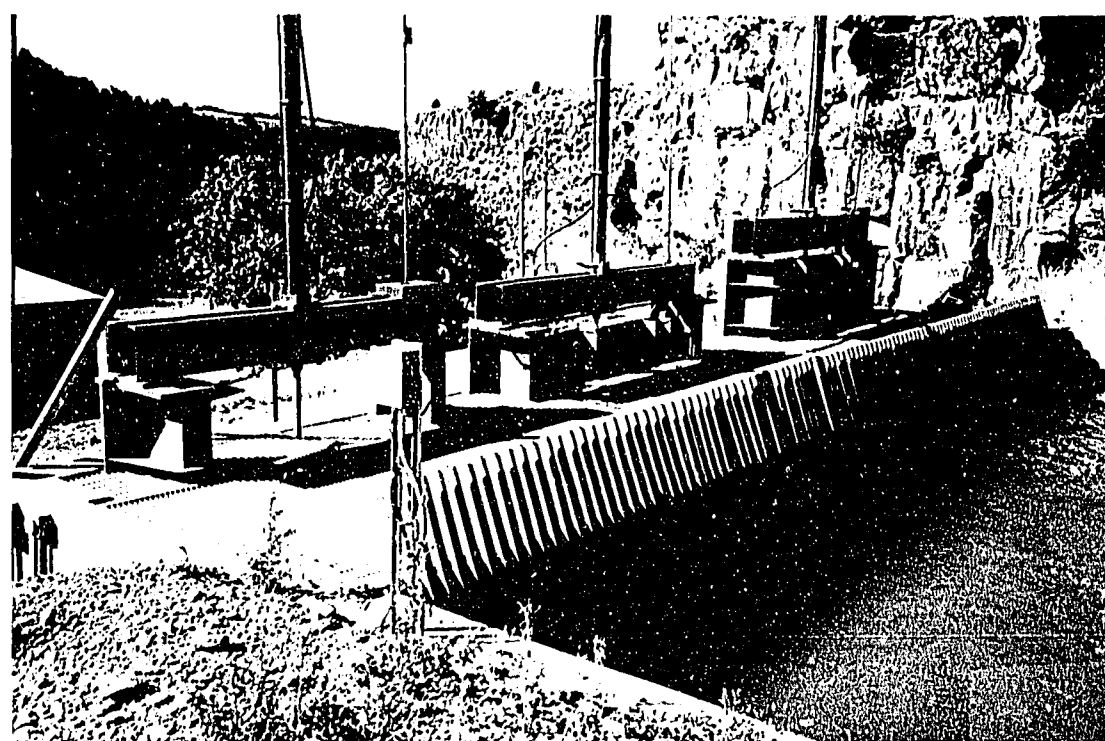
13-7297



LAST CHANCE DAM
AND CANAL

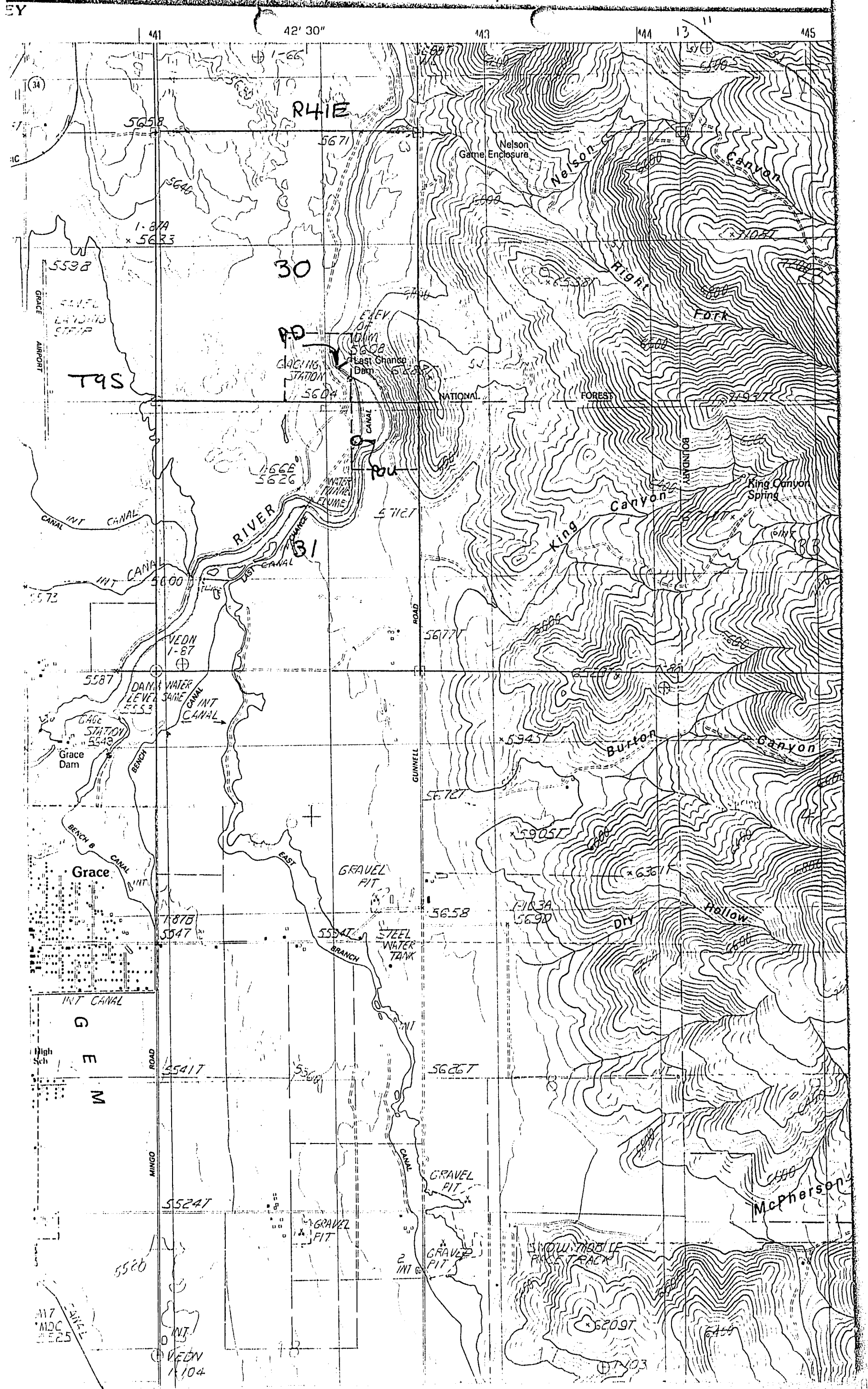


Intake Split
at Power House
and canal



For Clarity of
Photographs Filmed
Please See File

13-7297



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.

Gay Spackman

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED

JAN 13 1986

Permit No.

13-7297

Department of Water Resources

1. Measurement Calculations

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

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

	Motor efficiency supplied by Utah Power	Pump capacity
(248kw) # 1	.875	43,050 gpm
(528kw) # 2	.888	91,480 gpm
(958kw) # 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

- b) Volume Calculations for Irrigation:

$$V_{i,r} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$$
$$V_{d,r} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$$
$$V = \text{Smaller of } V_{i,r} \text{ and } V_{d,r} =$$

- c) Volume Calculations for Other Uses:

permit asks for 220 cfs: $220 cfs \times 365 \text{ days} \times 1.9835 = 159,275.1 \text{ afa}$

2. Overlap Review

- a) Other water rights with same place of use: (Power) 13-7298
- b) Other water rights with same point of diversion: (Power) 13-7288 - (Irrigation) 11-0258 & 11-0259
- c) Analysis: Need ASSIGNMENT TO Utah Power & Light

RECOMMENDED AMOUNTS

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	To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Power	1-1	12-31	219.8	159,275.1

Allowable Maximums: _____

7. Point(s) of Diversion:

[illegible]

8. Place(s) of Use

[illegible]

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. J. Jones

Date 9-19-85

Checked in Regional Office by Gary Hallman

Date 12-31-85

Approved in State Office by Jim

Date 1-8-86

JAN 13 1988

BENEFICIAL USE FIELD REPORT

Department of Water Resources (13-7)

Permit No. 18-1288

Phone No. 425-3511

1. Owner: Utah Power & Light ^{% Carly Burton} SLC, Utah Phone No. 425-3511
Current Address: (Rt. 1 Box 180 Grace, IL 83241) Grace Plant
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

Well/Diversion* No.	Motor Make	HP	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	Westinghouse	248 KW	1S-82-06	Ingersoll Rand Turbine	#03827 - 43,050 gpm capacity
Motors & Generators in Power Plant	Westinghouse	528 KW	1S-82-08	" "	#038283 - 91,480 gpm capacity
	Westinghouse	958 KW		" "	#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 least 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 allotted 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;

$$cfs = 16 \times 11.8$$

See Licensing Report

Power generation systems should reflect capacity of ^{load x efficiency} system

Power generation systems should reflect capacity of system - ^{have x efficiency} generators are rated in kW ^{produced} rather than measuring flow

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

[illegible]

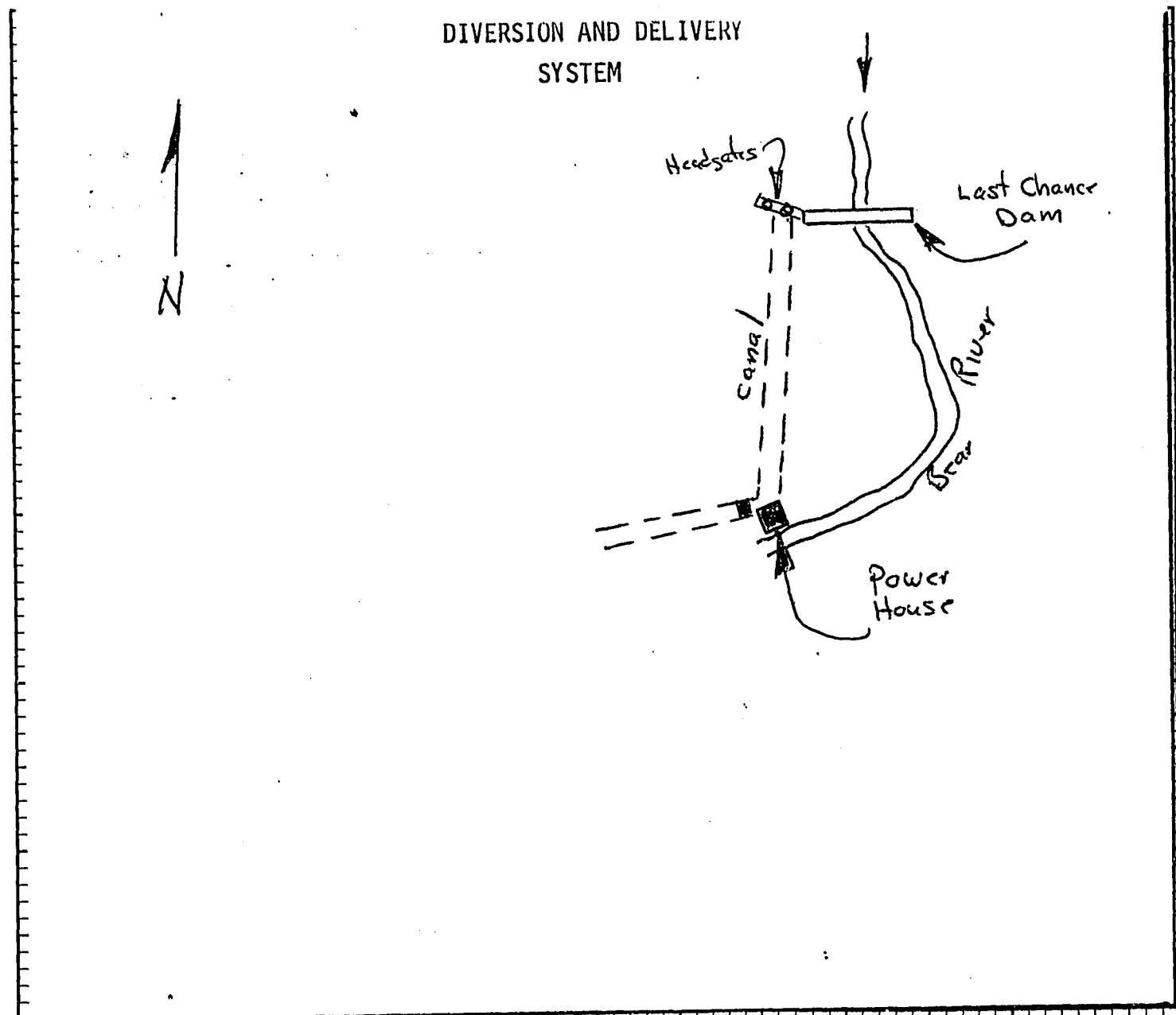
9. Place(s) of Use: Irrigation - give acres served by system at time of exam.
Indicate Method of Determination USGS Map

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9S	71E	31	X P																
Total Acres _____																			

10. Other water rights on these lands _____

11. Other water right diverted from same p.d. PD is headgate 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

H.W. Jones

Date

9-19-85

Consultant's License Number _____

IDWR Director's Authorization to Conduct

Beneficial Use Examination _____

Date

CONSULTANT SEAL



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, Manager
Water Right Permits Section

GS:ds

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

Eastern Region

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
BRENT O. ROCHE
PATTI POWELL**
CARY B. COLAIANNI
FRED J. LEWIS

*ALSO MEMBER ILLINOIS BAR
**ALSO MEMBER WASHINGTON BAR

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

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

June 1, 1989

RECEIVED
JUN 05 1989

Department of Water Resources

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

Dear Gary:

Your May 10, 1989, letter addressed to Utah Power & Light Company regarding the captioned matter was forwarded to me by their counsel for appropriate handling on behalf of our client the Last Chance Canal Company. Your letter indicated the IDWR was proceeding to license these permits and requested an official assignment of the water rights to Utah Power based upon their ownership interest in the facility.

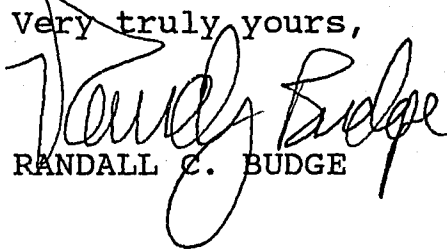
Please be advised that while UP&L did in fact purchase the physical assets of the plant pursuant to an Agreement of Purchase and Sale dated January 19, 1984, the Seller, Last Chance Canal Company specifically retained ownership of its non-consumptive water rights under Application Nos. 13-7288 and 13-7297 approved by the Department on January 23, 1981. The Buyer, UP&L was granted the right to use such water rights. I am enclosing copies of the front page, signature page and page 6 of the January 19, 1984, Agreement, Paragraph 3(g) located on page 6 reflects the manner in which the water rights were handled as above described.

Accordingly, there has been no assignment or transfer of ownership of these Permits. The licenses should be issued to Last Chance Canal Company, P. O. Box 287, Grace, Idaho 83241. Last Chance Hydro Electric Company, a wholly owned subsidiary of Last Chance Canal Company was dissolved several years ago and

Gary Spackman
Page Two
June 1, 1989

merged in Last Chance Canal Company. If you have any questions or desire additional information, please don't hesitate to contact me.

Very truly yours,


RANDALL C. BUDGE

RCB:gr

Enclosures

cc: Last Chance Canal Company
Utah Power & Light Company

RECEIVED

JUN 05 1989

AGREEMENT OF PURCHASE & SALE Department of Water Resources

Agreement of Purchase and Sale, dated as of January
19th 1984, by and between LAST CHANCE CANAL
COMPANY and LAST CHANCE HYDROELECTRIC COMPANY, its
wholly-owned subsidiary, both corporations organized and
doing business under the laws of the State of Idaho,
hereinafter referred to as "Seller," and UTAH POWER & LIGHT
COMPANY, a corporation organized and existing under the laws
of the State of Utah, and authorized to do business in the
State of Idaho, and its transferees and assigns, hereinafter
referred to as "Buyer."

WHEREAS, Seller has constructed a 1.4 megawatt (mW)
hydroelectric generating plant, hereinafter referred to as
"the Plant," on the Bear River in Caribou County, near
Grace, Idaho, which plant was constructed pursuant to an
exemption from licensing of a small hydroelectric project,
Project No. 4580-000, issued by the Federal Energy Regula-
tory Commission on October 15, 1981, and

WHEREAS, Seller desires to sell and Buyer desires to
purchase said plant pursuant to the terms and conditions of
this agreement, and

WHEREAS, representatives of Buyer and Seller have met
from time to time to discuss their respective interests in
the development of a dam and reservoir hereinafter referred
to as the "Caribou Reservoir," in connection with Buyer's

necessary rights of way and easements to give Buyer access to the plant across such property, and guarantees to preserve such access during the life of the Plant.

(g) Seller hereby grants to Buyer the right to use its non-consumptive water rights under the Idaho Application Nos. 13-7288 and 13-7297 approved by the Idaho Department of Water Resources on January 23, 1981, for hydroelectric generation for so long as Buyer, or its successors and assigns, operates the plant. Nothing in this agreement is intended to impair any other water rights held by Seller.

(h) Seller hereby assigns to Buyer all of its right, title and interest in the Federal Energy Regulatory Commission exemption of the Plant, (FERC Project No. 4580-000), and will execute the Notice of Change of Ownership and Address" attached to this agreement as Exhibit B, simultaneously with execution of this Agreement.

(i) Buyer accepts the Plant from Seller in its present condition without guarantee except as provided in this agreement. The construction of the plant was accomplished by Seller pursuant to the contracts for engineering, construction and equipment which are listed in Exhibit C to this agreement. With regard to such agreements, Seller

Party to submit itself to regulation or review by any governmental entity or agency which does not presently exercise jurisdiction over such Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the 19th day of January, 1984.

LAST CHANCE CANAL COMPANY
LAST CHANCE HYDROELECTRIC COMPANY

UTAH POWER & LIGHT COMPANY

By Don W. Gilbert

By A. T. T. T. T.

gms

Title: PRESIDENT

Title: Executive Vice President

Attest: Orin Harris

Title: 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.

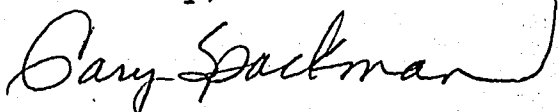
I am uncertain after reviewing the portion of the agreement which I received, whether Idaho Power purchased the land, or only the plant facilities. This is important, as I'm sure you're aware, because, when a license is issued, the water right becomes appurtenant to the land. If UP&L owns the land, the 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,

A handwritten signature in cursive script that reads "Gary Spackman". The signature is written in dark ink and is positioned above the printed name and title.

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

No. 67035-a

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 3:00 P.M.

FEES PAID

Filing \$ 20.00
Tax \$

Pete T. Cenarrusa

SECRETARY OF STATE

By: *Gregory J. Clark*

Filed By: Racine, Olson, Nye, Cooper & Dodge
P. O. Box 1391
Post Falls, 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 MAUGHAN, 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)
County of Caribou) ss

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.

(SEAL)

Donald C. Bridges
NOTARY PUBLIC FOR IDAHO
Residing at: Grapple, ID
My Commission Expires: 10/13/84

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

ATTEST:

(SEAL)

By: DeAnn Maughan
DeANN MAUGHAN, 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 Maughn
DeANN MAUGHN

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

(SEAL)

William J. T. T. T.
NOTARY PUBLIC FOR IDAHO
Residing at: Bozeman, Id.
My Commission Expires: 10/15/84

State of Idaho

Department of State

CERTIFICATE OF DISSOLUTION OF

LAST CHANCE HYDRO ELECTRIC CO.

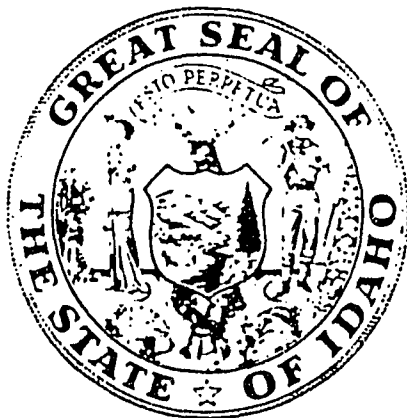
I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that
duplicate originals of Articles of Dissolution of _____

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



Pete T. Cenarrusa
SECRETARY OF STATE

Helley J. Clark
Corporation Clerk

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: b/
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: SW¹/₄NE¹/₄, NE¹/₄NE¹/₄, 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

Don W. Gilbert - Pres.
Signature

Attest: Armin Harnes 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

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

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

August 24, 1989

RECEIVED
AUG 29 1989

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

Department of Water Resources

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 inquiries 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

Gary Spackman
Page Two
August 24, 1989

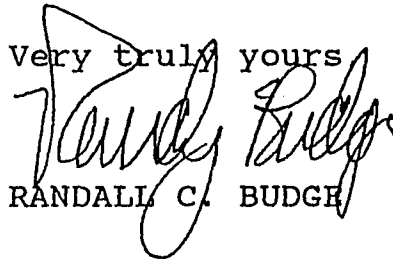
Last Chance Hydro Electric Company by Assignment dated July 27, 1981. Last Chance Hydro Electric Company, a wholly owned subsidiary of Last Chance Canal Company Ltd. was dissolved by Articles of Dissolution filed with the Idaho Secretary of State's Office on September 27, 1984, at which time a Certificate 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. 13-07297

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