EXHIBIT B

State of Idaho

License and Certificate of Water Right

Water License No	appropriate the
THIS IS TO CERTIFY that American Falla Power Company of Pocatello, Idaho, made application for a permit to public waters of the State of Idaho, dated September 3 , 1900; that Permit N was issued under said application; that Certificate of Completion of works, with a carrying of second feet, was issued thereunder on December 17 , 1913, showing	appropriate the
of Pocatello, Idaho, made application for a permit to public waters of the State of Idaho, dated September 3, 1900; that Permit N was issued under said application; that Certificate of Completion of works, with a carrying of second feet, was issued thereunder on Doceaber 17, 1913, showing	¥o. 4168
public waters of the State of Idaho, dated September 3, 1900; that Permit N was issued under said application; that Certificate of Completion of works, with a carrying of second feet, was issued thereunder on December 17, 1913, showing	¥o. 4168
public waters of the State of Idaho, dated September 3 , 1900; that Permit N was issued under said application; that Certificate of Completion of works, with a carrying of second feet, was issued thereunder on Docember 17 , 1913, showing	¥o. 4168
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Idaho Power Company	
of Boise State of Idaho , made proof to the sa Commissioner of Reclamation	tisfaction of the
RECEIVED FOR STATE OF RESERVED AND A	,
tributary of Columbia River , for the purpose of generating electr	ric power .
tributary of Columbia River , for the purpose of generating electric ander Use Permit No. , 4168 of the Source Surger was a fait that said right to	the use of said
waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed commissioner of Reclamation Volume's foldienses, at page 2529 commission of Idaho and entered of record in Volume's 5 of Licenses, at page 2529 commissions.	ed by the State
lay of February , 1920;	withe on
The right hereby confirmed dates from September 3 190	08 :
The state of the s	,,
The Point of Diversion is located	•
n the SW 14 SE 14, Sec. 30 , Tp. 7 S. R. 31 E. B.M.	;
That the amount of water to which such right is entitled and hereby confirmed, i	for the purposes
tforesaid, is limited to an amount actually needed and beneficially used for said purposes	s, and shall not
exceed 1400 cubic feet per second.	
Description and location of use: At the town of American Falls, Id	3.6.
Description was tocation of use: No one power of while the reality is	BHO.
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The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of

we herein described, as provided by the laws of Idaho.

Genusia stoner of Heelang tion

WITNESS the scal and signature of the Mark Enginess affixed at Roise, Idaho, this 5th day of , in so

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

A COTTACTOR OF THE STREET PROPERTY.
CIVIL CASE NUMBER: 39356
IN RE THE GENERAL ADJUDICATION Ident. Number A01-02017
OF RIGHTS TO THE USE OF WATER FROM Date Received THE SNAKE RIVER BASIN WATER SYSTEM Beceipt Number
THE SNAKE HIVEH BASIN WATER SYSTEM Receipt Number
NOTICE OF CLAIM
This is the manifest that it will be a first the transfer of the first of the company of the company of the first of the f
indicated that the Michigan WATER RICHT. The terminates are considered to the constant of the
ACQUIRED UNDER STATE LAW
THE REPORT OF THE PARTY OF THE
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Please type or print clearly the control of the con
1. Name of Claimant (s) Idaho Power Company Phone (208) 383-2300
Mailing Address agree P.O. Box 70, Boise, Idaho, and all account of the 83702 ways
2. Date of Priority (Only one (1) per claim) September 3, 1908
2. Date of Priority (Only one (1) per claim) September 3, 1908
Source of water supply (a) Snake River
which is tributary to (b) Columbia River
which is tributary to (b) Columbia River 4. a. Location of existing point of diversion is: Township 78 Range 31E Section 30
1/4 ofSW 1/4 of SE1/4 , Govt. Lot, B.M., County ofPower
Additional points of diversion if any:
b. If instream flow, beginning point of claimed instream flow is:
Township Range Section , 1/4 of 1/4 of 1/4,
Govt. Lot 6. B.M., County of
ending point is: Township Action Range Section 1/4 of 1/4 of
1/4, Govt. Lot B.M., County of
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. American Falls Power Plant

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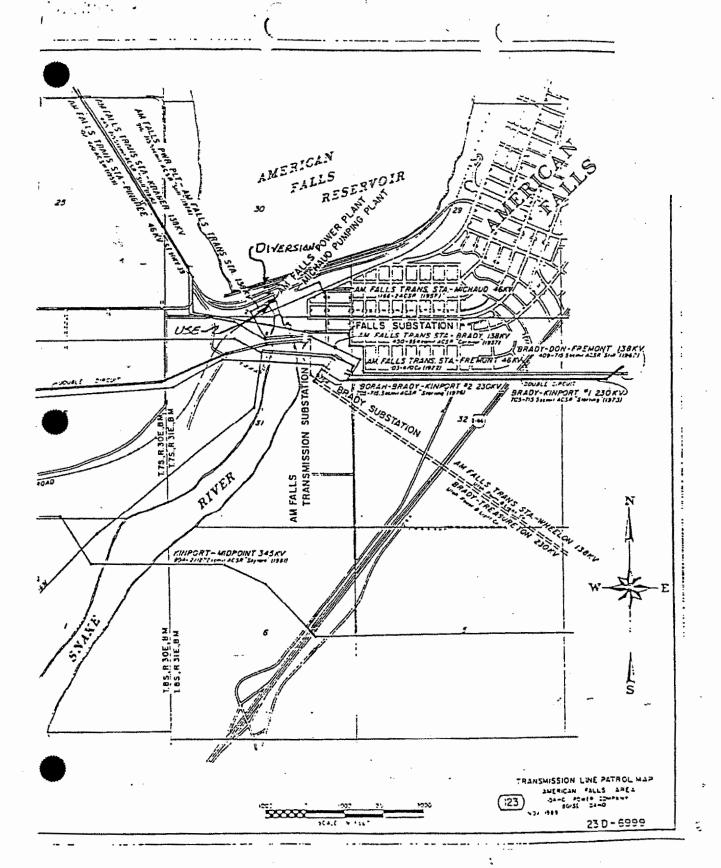
Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

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Last Name Idaho Power Company Ident No. 01-02017 Copies: White-State, Yellow-Claimant



	-	Decree			License X Permit	
, If	f applicable provide IDWR	Water Right Number	er <u>01-020</u>	17		
					Decree Date	
P	Plaintiff vs Defendant	······································				
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and co S	ignature of Claimant (s)			West-70-10-10-10-1	Date	
	Fi				Date	
For Or	ganizations: I do solemn	ly swear or affirm t	hat I am	Attorney	***************************************	
of	Idaho Power Compa	137			that I have signed the foregoi	na
	Org	janization				
docum	nent in the space below as	Tit	ie	or	Organization	
and tha	at the statements containe	d in the foregoing o	document are tru	e and correct.	<u> </u>	
	Signature of Auth	orlzed Agent		110	2	
	Title and Organiz	ation Attorney	, Idaho Powe	r Company	Date	18-9G
Count	of Idaho/or y of <u>Twin Falls</u> cribed and sworn (or affirm) SS.)	18th	day	or October	_19
	SEAL		Notary Public	Maron	Aart Stackl	an
			Residing at	Godin	J	
	, t.		My Commission	on Expires _	12-17-97	
		Please	Print Name		·	
Notice of the	lotice of Appearance: e is hereby given that I, claimant signing above, at d bo mailed to me at the ar	James C. Tu nd that all notices re idees listed below	equired by law to	be mailed by	vill be acting as attorney at lav the director to the claimant sig	v on beh ning abo
Signa	iture	<u> </u>			•	
Addre	P.O. Box 19	06, Twin Falls	, Idaho 833	03-1906		
ate	10-18-96					
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State of Idaho

License and Certificate of Water Right

Water District No. 36	Priority 3-8-1919
THE IS TO CERTIFY that	Idaho Power Company .
ef Boise, Adaho	, made application for a permit to appropriate the
public waters of the State of Idelig, dated	March 8 , 19 19; that Permit No. 14067
was brand under said application; that C	ertificate of Completion of works, with a carrying capacity of
A .COB second fost, was issued therounded	er on July 21 . 19 24, showing that said works

where completed on the left day of $$\rm July$$, 19 24 ; and that on the left day of ${\rm July}$, 1924 ,

of Boise , State of Idaho , made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of Snake River , a tributary of Columbia River , for the purpose of power

Idaho Power Company

under Use Permit No. 14067 of the Commissioner of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume6 of Licenses, at page 3175, on the 21st day of July , 19 24;

The right hereby contirmed distra from March 8 , 1019;

The Point of Diversion is located

Water License No. 14067

in the SW 14SE 14. Sec. 30 , Tp. 7 8. R. 31 B. , R. M.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 4,600 cubic feet per assoul.

Description and beation of use:

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The right to the use of the water storessid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the scal and signature of the Commissioner of Reciamation, sourced at Boise, Idaho, this 21st day of July ,19 24.

M. C. SWENDSEN

Amount 4,600 sad

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DEFARIMENT OF WATER ADMINISTRATION

Statehouse — Annex 2 Boise, Idaho 83707 (208) 384-2215



R. Keith Higginson Director

Water Rights Administration Water Resource Investigations Dam and Reservoir Safety Water Well Drilling

Flood Plain Management Irrigation and Flood Control Districts

December 9, 1971

Idaho Power Company Box 30 Boise, Idaho 83707

Gentlemen:

A representative of this department has made an examination of the works covered by your Permit No. 16635/01-2046 and has found the following:

-	f water that can be recognized as 2,000 cfs	beneficially used under Idal
law:	2,000 CLB	
The mari	mum quantity diverted shall not e	xceed 1,447,590 acre f
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per seaso Beneficia 31, Twp	on. l Use: Power generation purpose	is within the $NW_{4}^{\frac{1}{4}}NE_{4}^{\frac{1}{4}}$, Sec.

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Very truly yours,

BOBBY D. FLEENOR Assistant Director

BDF:DR

Form 202 /92

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1.	Name of applicant Idaho Power Company	Phone	388-2300
	Post office address P.O. Box 70, Boise, Idaho, 83702		
2.	Source of water supply Snake River which i	s a tributary of	Columbia River
3.	Location of point of diversion is 1/4 of	SE 1/4,	Govt. Lot
	Sec. 30 Township 7S Range 31E B	.M. Power	County; additional
	points of diversion if any:		
4.	Water will be used for the following purposes:		
	Amount 7,850 cfs Power purposes from 1/1 [cfs or acre-feet per annum]	to 12/31	_ (both dates inclusive)
	Amount for purposes from	_ to	_ (both dates inclusive)
	Amount for purposes from	. to	_ (both dates inclusive)
	Amount for purposes from	_ to	_ (both dates inclusive)
5.	Total quantity to be appropriated is (a) 7,850 and/or (b)	let per annum	
	Proposed diverting works:	·	
	a. Description of ditches, flumes, pumps, headgates, etc. American 1	Falls Power	Plant
	, in v		
	b. Height of storage dam feet; active reservoir capac	rity	acre-feet; total
	reservoir capacity acre-feet; period of year when we	ater will be dive	erted to storage:
	inclusive.		
	c. Proposed well diameter is inches; proposed depth	of well is	feet.
	d. Is ground water with a temperature of greater than 85°F being sou	ght?	<u> </u>
1	tf well is already drilled, when?; Drilling firm;		;
-	Well was drilled for (well owner)		· · · · · · · · · · · · · · · · · · ·
7.	Time required for the completion of the works and application of the w	ater to be prop	osed beneficial use is
6	existing project years (minimum 1 year).		

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3.	Descri	ption	of pro	pose	d uses	s (if ir	rigati	on on	ly, go	to ite	em 9)):								
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	b. Sto	ckwati	ering;	list r	umbe	erand	l kind	of liv	estoc	k		•			·····					
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												Total	numt	er of	acre	s to b	e irriç	rated	N/A	
10	. Descri	be any	othe	r wat	er rig	hts u	sed fo	r the	same	purp	oses	as de	scribe	d abo	ove.	01-02	2046;	01-	02017;	
	01-0	2032;	Tra	nsfe	r of	Rig	ht No	os. 4	463 8	464	4; be	enefi	<u>cial</u>	. use	cla	aim i	for 1	.36 c	/f/s	
11	. a. Wh	o own	s the	ргор	erty a	t the	point	of di	versio	on?	App:	licar	t				·····			
	b. Wh	o own	s the	land	to be	irriga	ated c	r plac	ce of	use? .	App.	licar	t							
	c. If t	he pro	perty	is ov	wned	by a	perso	on oti	her th	ian ti	ne ap	plicar	nt, de	scrib	e the	arra	ngem	ent e	nabling the Applicant	
		licant				•						····								
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12	. Rema	rks: I	daho	Pow	er C	ompa	ny h	as f	Lled	or	w <u>il</u>	be .	fili Fal	ng t	he	above	-ref	eren	ced adjudica	tion
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American Falls nlant

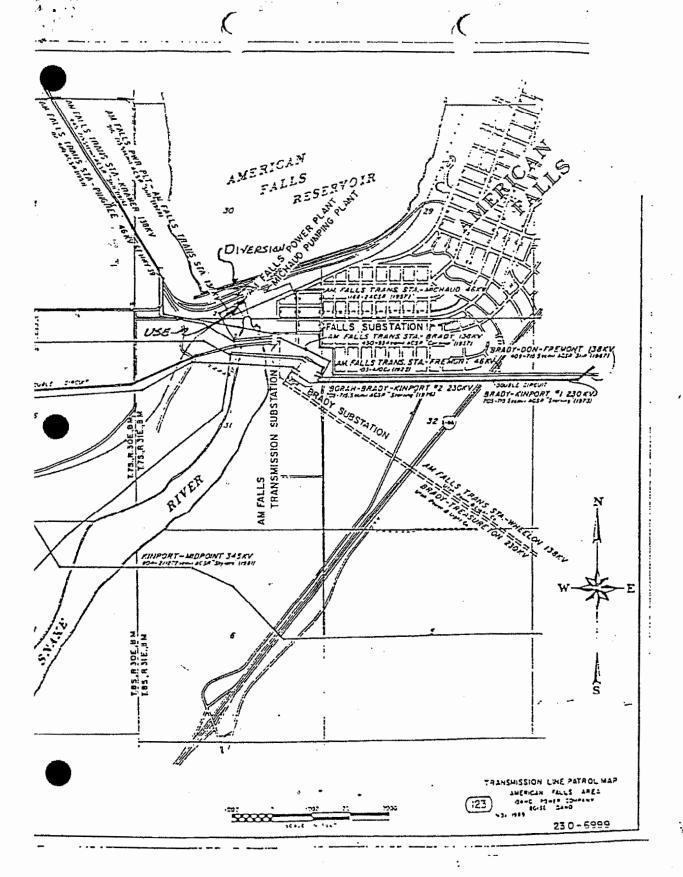
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number. (SEE ATTACHED)

Scale: 2 inches equal 1 mile.

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

By:
James C. Tucker (Applicant)

Attorney



		I +			# # # 2004	
Recei	ved by	_ Date	Time	Pro	eliminary check by	· · · · · · · · · · · · · · · · · · ·
Eee \$	AHTTO HARRING	Receipted by _	· · · · · · · · · · · · · · · · · · ·	#	Date	
uolio	ation prepared by_	-	Date		Published in	
Public						
 					WATER RESOURCES	
Τ	his is to certify that	l have examined .	Application fo	r Permit to app	propriate the public waters o	f the State of
Idaho	No	, an	d said applica	tion is hereby.		v =
1. Ap	provat of said applic	cation is subject to	the following	limitations ar	nd conditions:	
a.	SUBJECT TO ALL P	rior water rig	HTS.			
b.	Proof of construction	on of works and a	pplication of v	water to benef	icial use shall be submitted	on or before
			19			
C.	The rate of diversio water rights for the	n, if water is to be same land shall r	used for irriga ot exceed 0.0	ation under thi 2 cubic feet pe	s permit, when combined wit r second for each acre of lan	:h all other d.
d.	rights to the use of	water, other than this nermit and sh	hydropower, v	within the Stat se to any right (oses shall be junior and subc e of Idaho that are initiated to or claim against any future ri tiated later in time than the p	ater in time ohts to the

e. Other:

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N	UMBER:	39576	
ldent. Number	A01-10382	······································	
Date Received			
Receipt Number			

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

lease type or print clearly	y		and the second of the second o
Name of Claimant (s)	Idaho Power Com	apany	Phone (208) 383-2670
Malling Address P.	0. Box 70	Boise, Idaho	Zìp <u>83707</u>
Date of Priority (Only one	e (1) per claim) <u>July</u>	, 15, 1901	
Source of water supply	(a) <u>Snake River</u>		
which is tributary to (b)	<u>Columbia Rive</u>	<u> </u>	
a. Location of existing po	oint of diversion is: Tov	wnship 7S Range	31E Section 30
1/4 ofSW	1/4 ofSE1/4 . Go	vt. Lot,E B.M., County	of Power
• •			
Additional points of dive	rsion it any:		
b. If instream flow, begin	nning point of claimed in	nstream flow is:	
		oction	1/4 of1/4 of1/4
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ending point is: Townshi	pRange	Section	1/4 of1/
	and the second s		1.
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1/4, Govt. Lot Description of existing di including the dates of an	B.M., County of twersion works (Dams, Figure changes or enlargement)	of Reservoirs, Ditches, Wells, Pum ents in use, the dimensions of t	ps, Pipelines, Headgates , Etc), he diversion works as
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1/4, Govt. Lot Description of existing di including the dates of an constructed and as enlar		of Reservoirs, Ditches, Wells, Pum ents in use, the dimensions of t ach well. American Falls	ps, Pipelines, Headgates , Etc), he diversion works as Power Plant
1/4, Govt. Lot Description of existing di including the dates of an constructed and as enlar		of Reservoirs, Ditches, Wells, Pum ents in use, the dimensions of t	ps, Pipelines, Headgates , Etc), he diversion works as Power Plant

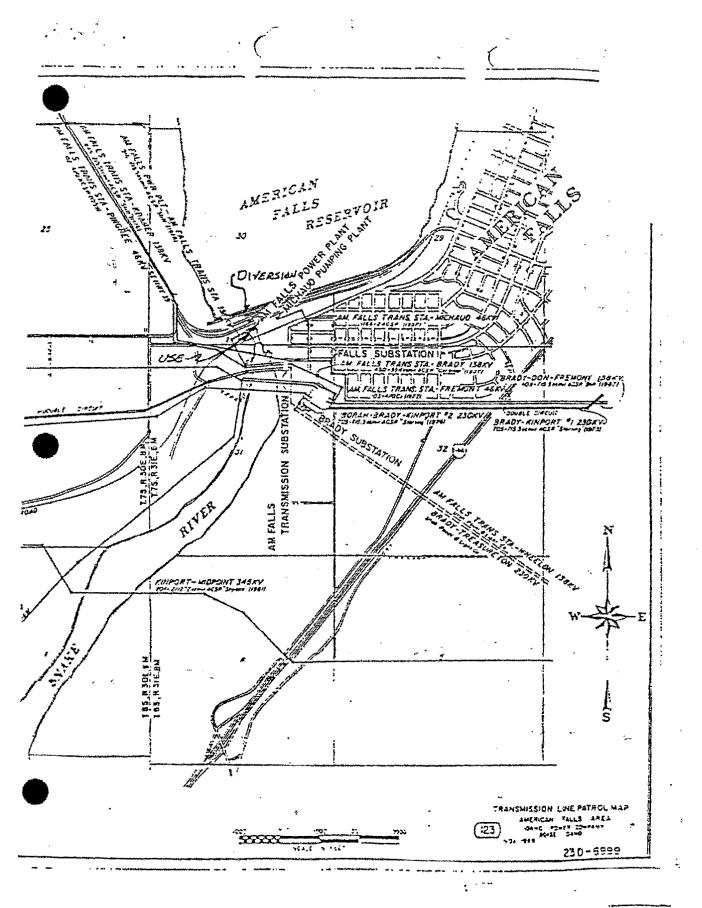
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Map of Project: show clearly the point of diversion; place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

(SEE ATTACHED)

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15.	Basis of Claim (check one)	Beneficial Use_	Posted Notice	ce X Licen	se Permit
	If applicable provide IDWR	Water Right Numb	_{er Certificate}	of Water Ri	ght Transfer#464 (Exhibit Decree Date
	Plaintiff vs Defendant				
	Signature (s) (a.) By signing below, I/We "How you will receive notic wish to receive and pay a s Number of attachmentsIndividuals: I do solemnly s correct.	e in the Snake Rive mall annual fee for	r Basin Adjudication monthly copies of t	n." (b.) I/We do he docket sheet.	do not
anu	Signature of Claimant (s)			[Date
	i i i i i i i i i i i i i i i i i i i				Date
For	Organizations: I do solemn	lly swear or affirm t	hat I amAt	torney	tio
of _	Idaho Power Compa				I have signed the foregoing
doc		ganization Attorney		of Ida	nho Power Company
UUCI	ument in the space below as	Tit	le	*.21	Organization
Cou	e of Idaho/or		. 18th	day of	Actober 19 96
			Motory Bullin	The said	Hart Stripland
	SEAL			Looding	sais iguares
	The state of the s		Residing at	Looding	
	· , " •	*	My Commission E	xpires 12	-17-97
		Please	Print Name		
Noti	Notice of Appearance: ice is hereby given that I, he claimant signing above, an uid be mailed to me at the ad-	James C. Tuc d that all notices re dress listed below.		will be mailed by the dir	acting as attorney at law on behalf ector to the claimant signing above
Sigr	nature	<u> </u>	2	·	
Add	ress P.O. Box 1906, 3	Twin Falls, ID	83303-1906		
					
ate	10-18-96				
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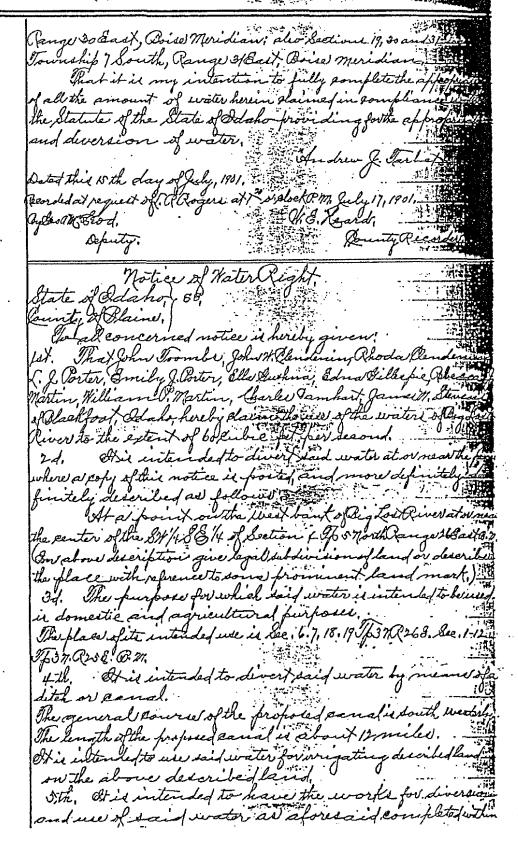
delainent of the Natur Right described in the within and original notice, of which the foregoing is a true copy, X of intended diversion at 7:15 o'clock PM. the frix by glayer A. beenled and sworn to before me the bed and sworn to before me this 10 day of agust 1901. a.L. Richardson, Chrof the White Cour, bituit Stake. Recorded at request of HEP rad it inier, Dep dyat Frebotom august 12, 1901. By Sea a Mo Brod, County Recorder. Inate River Traw J. Tarket, of Salt Lake City State of Utah, dopl water of suake River there feet fer reasond of time. ((6,000) Reil it at which diviting to divert said water is american Falls, Blain Portity Datalog in fot 12 Section 30, Township & South, Range 31 East, Doine Meridia The purposes for which & claim the water are: for generating electric I domestic purposes. The place where I intend to view the water is, alaine Sounty, Idaho. The general pourse, length, deitin it by which I propose to divit said was it as follows; for mechanical furfisces by attended to feet, more or bus in length, running partly through Section 30 and 31 J. 7 S. C. 31 E. B. M., and by their pipes 185 feet, more or less in length, for fumping furfaces Township and Range. For irrigation, by meant of open canal 15 feet wide by 3 feet deep, running northerly and Southerly about 15 miles in length to irrigate all the lands in Section 1314 23, 24, 26, 35 and 36, in Tourship & South, Range 3coses, Baise Milian; also Sections 1, 2, 9, 10, 11 and 16 in Townships South,

Pange Do East, Poise Meridian; also Sections 19, 30 and 31 Township 7 South, Range 2/ East, Drise meridian, That it is my interstion to fully complete the appropri of all the amount of water herein claimed in compliance we the Statute of the State of Idaho providing forthe appropri Dated this 15th day of July, 1901.

Reorded at request of Cageri at 1 stalock PM, July 17, 1901. Sounty Recorder, State of Mater Right. Inter al Concerned notice is hereby given! That John Toomber John H. Clente I Porter, Emily J. Porter, Ella Duckma, Edmid Mapie Poles Tim, William V. Martin, Sparle Jambert, James M. Ster where a copy of this notice is posted, and more definitely described as follows to

the center of the SH/488/4 of Section fift of North Danges 16. On above description give legal subdivision of land or describe the place with reference to some fromment land mar 34. The purpose for which said writer is intended to be is domestic and agricultural purpo The place of its intended 7437.0258.BM. The general downer of the proposed panalis douth the The length of the proposed sained is about 12 miles. Of is intended to use said water for wrighting described to

on the above described lar



V (.-B-Am.F.-W.R

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Cortificate of Water Right
Transfer Right No. 464

This is to certify that Idaho Power Company, a corporation of the State of Maine, qualified to do business in the State of Idaho, claims a right to the use of 253 o.f.s. of the waters of Snake River for power purposes, initiated and perfected under and by virtue of that certain water location notice by Andrew J. Tarbet, dated July 15th, 1901, and recorded in Book 4 of Water Rights at Page 266 in the records of Blaine County, Idaho, now situated in Water District #36 of the County of Power, State of Idaho, to-wit, at the hydro-electric generating station on the west side of Snake River at American Falls, Power County, State aforesaid, sometimes known as "West Side Plant"; that Idsho Power Company has become the owner of the said water right by mesne conveyances and was until recently the owner of said West Side Plant; that the waters covered by said water right were diverted from said streem in the South Half of the South Half (SaSa) of Section 30, Township 7 South, of Range 51 E., B.M., and conducted to the said West Side Plant and there used; that the said Company discontinued the use of said waters of the said water right as used at the said West Side Plant in June, 1927, and established a new place of use for such water on the east side of Sneke River at American Falls. County and State aforesaid, at that is commonly known as the inerican Falls East Side Power Plant of Ideho Power Company; that the new point of diversion of said waters is North 69 degrees 30 minutes West 1872.3 feet from the Southeast Corner of Section 30, in Township 7 South, of Range 31 Z., B.M., and such waters are conducted to said new place of use through the forebay of the American Falls Kast Side Power Plent of Idaho Power Company.

That upon the application of said Idaho Power Company for a transfer of water right made before the Commissioner of Reclamation of the State of Idaho, and said application having been granted, the right to the use of the said 253 c.f.s. of waters so initiated and perfected by and under said water location notice at the said new place of diversion and said new place of use be, and the same hereby is, acknowledged; that the right to the use of the waters aforesaid hereby acknowledged is restricted to said American Falls East Side Power Plant of Idaho Power Company, as provided by the laws of the State of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation of Idaho at Boise, Idaho, this 17th day of June, 1929.

Commissioner of Reclamation

STATE OF IDAHO, DEPARTMENT OF REGLAMATION

In the Matter of the Application of Idaho Power Company for Transfer of Water Right, Water District No. 36.

- -

ORDER GRANTING TRANSFER

WHEREAS, on the 10th day of June, 1929, at the Department of Reclamation of Idaho, at Boise, Idaho, the matter of the application of Idaho Power Company for a transfer of water right came on regularly for hearing, pursuant to the published notice; and

WHEREAS, no one appeared at the hearing to protest the application, and the evidence submitted by the Applicant in support of its said application shows that no one shall be injured by said transfer; and

WHEREAS, the Watermaster of the district in which the old and new points of diversion and of use are located has approved said application;

IT IS, THEREFORE, HERRET ORDERED that the said application for transfer of 255 e.f.s. of the waters of Snake River be granted and certificate issue to the Applicant herein; and

IT 19, THEREFORE, HEREBY FURTHER ORDERED that due notice of the hearing of said application has hereby been given.

IN WITNESS WHEREOF, I have hereunto set my hand and affired the official seal of my office at Boise, Idaho, this 17th day of June, 1989.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N	UMBER:	3957	6
ldent. Number	- A01-10	1383	
Date Received			
Receipt Number		- "	

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

Please type or print clearly	•				
. Name of Claimant (s)	Idaho Power Company		Phone (208) <u>383-2</u>	670
Mailing Address	P.O. Box 70 B	oise, Idaho		Zip 837 0 7	
2. Date of Priority (Only one	(1) per claim) August	1, 1901			
Source of water supply (a which is tributary to (b)	n) Snake River Columbia River				
I. a. Location of existing pol	nt of diversion is: Township	7S Range	31E Se	ection 30	1
1/4 of <u>SW</u> 1	/4 of <u>SE</u> SE/4 , Govt. Lot,	B.M., Count	y of <u>Power</u>		
Additional points of diver	sion if any:			1	
Township F	angeSection				1/4,
ending point is: Township	Range	Section		1/4 of	1/4 c
	B.M., County of	•		:	
5. Description of existing div including the dates of any	version works (Dams, Reservo v changes or enlargements in ged and the depth of each wel	irs, Ditches, Wells, Pu use, the dimensions o	imps, Pipeline of the diversion	s, Headgates , E works as	itc)
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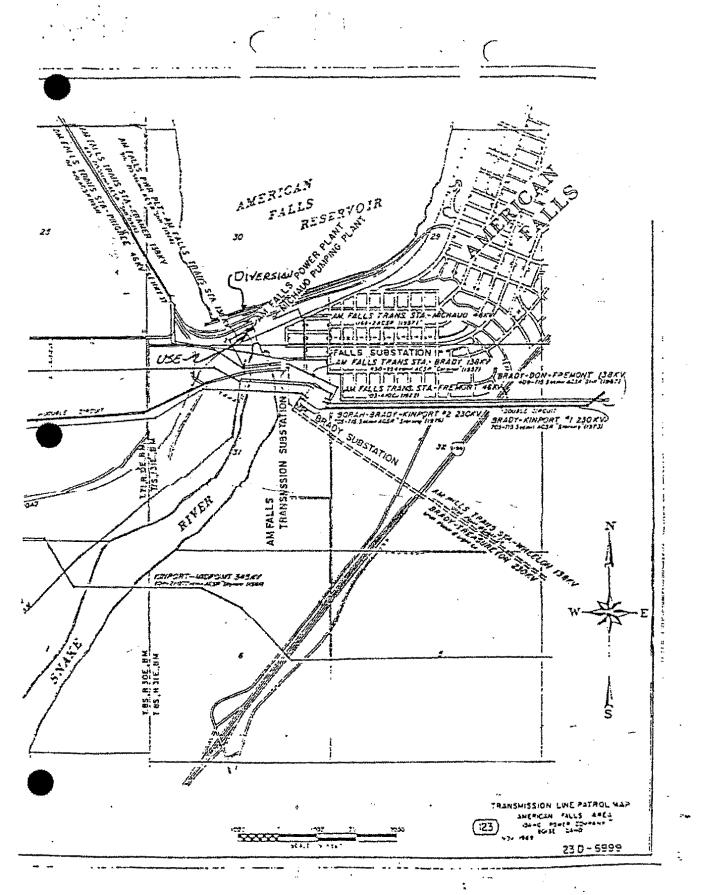
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	which	count	y (ies) :	are lan	ds list	ed ab	ove as	place	of use	e inca	ted? _	Po	wer						
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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

(SEE ATTACHED)

				
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15.	Basis of Claim (check one) Beneficial Use Posted Notice A License Permit Decree Book 4, Pg. 265, Blaine County (Exhibit A)
	Decree Book 4, Pg. 265, Blaine County (Exhibit A) If applicable provide IDWR Water Right Number Certificate of Water Right Transfer No.463(Exhibit)
	Court Case Number Decree Date
	Plaintiff vs Defendant
16.	Signature (s) (a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not wish to receive and pay a small annual fee for monthly copies of the docket sheet. Number of attachments Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
	correct.
	Signature of Claimant (s) Date
	Date
Fort	*
	Title
of _	Idaho Power Company , that I have signed the foregoing Organization
docı	ument in the space below as Attorney of Idaho Power Company Title Organization
	= · • · · · · · · · · · · · · · · · · ·
and	that the statements contained in the foregoing document are true and correct.
	Signature of Authorized Agent (()
	Title and Organization Attorney, Idaho Power Company Date 10-18-96
	Title and Organization Tecorney's Idano Tower Company
	scribed and sworn (or affirmed) before me this
	SEAL Notary Public Marion Varie Strukland
	Residing at Sooding
	My Commission Expires 12-17-97 Please Print Name
	() pages (III.) samile
Not of t	Notice of Appearance: lice is hereby given that I, James C. Tucker will be acting as attorney at law on behalf the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above build be mailed to me at the address listed below.
Sig	nature C. (J
Add	dress P. O. Box 1906, Twin Falls, ID 83303-1906
A	te 10-18-96
	st Name Idaho Power Companyldent, Number Copies White-State, Yellow-Claimant

a true and court copy, in a configurous place arean the gro of intended diversion described in said oratics to with Or West and of O.S. L. R.R. Bridge about 4 rocks to the right of track on fence port at bank of river. 6.13. Randall. Subscribed and sworm to before one this 19 day of branch 18. W. A. Johnson

Recorded at Request of Geo Ingusolf for march 30. 1901 at 32 oct W. E. Heard bounty Accorder.

By les a Mised Deputy.

Snake River. Notice of Hater Right Location. Brady, of the City of contello, County of Bannock, State of the how thile First, day of august 1901, appropriated and hereby clair the use of water of Smale River to the extent of Two Thousan (2000) Cubic Feet for second flowing at the bound of intended diversion, which said faint of intended diversion a particularly described as follows, to wit:

oft the head of the island of the Q. Qy Bridge, at amorice Falls, Itaho and on the line of weeds and Claime Dounts.

That the special furfact the furface for which said is it plained, is Origation Mining, Dower, and American. The place of intended wise in the Sity of Pocatelle Town of American Falle, and such other places in the m all may require the new of water for the above nameds. That the general source of the proposed sandove it on each side of the Snake Rivery for such distance as n be required. The length of said proposed panel or conduit is appro That it il intended to complete the wo Dute of said water assaforesaid, e five years, agony of this notice was duly freted at or. the fait of intended diversion, on the Frist day of august, 1901. Vituel my hand at Pocatello, County of Bannock, Sta Alaho, this 11th day of aigust, 1901. State of adaho, (, SS, STERNES

Neither als bestrone 1, 2, 9, 10, 11 a wide by 3 feet dock, perming righting and bouthardy about 15 miles in bedionists!! what ofour conole 15 feet in langth, for four The openeral sources, hingth, destination and by which a pollower, and follows, and follows, and follows, and follows, hy attend you feet, more on the benefit, through dection to ender the bit humany forther through dection to ender the bit of the start full full forther has and so hus in langthe mouning ntend to use the water raplacens Louth, Courses dood Court the wall and aposed for which delens the wall are;

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transfer Right No. 463

This is to certify that Idaho Power Company, a corporation of the State of Maine, qualified to do business in the State of Idaho, claims a right to the use of 611 clf.s. of the waters of Snake River for power purposes, initiated and perfected under and by virtue of that certain water location notice by J. H. Brady, dated August 1, 1901, and recorded in Book 4 of Water Rights at Page 265 in the records of Blaine County, Idaho, now situated in Mater District #36 of the County of Power, State of Idaho, to-wit, at the hydro-electric generating station on the island in Snake River at American Falls, Power County, State aforesaid, sometimes known as "Island Plant"; that Idaho Power Company has become the owner of the said water right by meane conveyances and was until recently the owner of said Island Plant; that the waters covered by said water right were diverted from said stream in the South Helf of the South Helf (SiSi) of Section 30, Township 7 South, of Range 31 K., B.M., and conducted to the said Island Plant and there used: that the said Company discontinued the use of the said waters of the said water right as used at the said Island Plant in June, 1927, and established a new place of use for such water on the east side of Snake River at American Falls, County and State aforesaid, at what is commonly known as the American Falls East Side Power; Plant of Idaho Power Company; that the new point of diversion of said waters is North 69 degrees 30 minutes West 1872.3 feet from the Southeast Corner of Section 30, in Township 7 South, of Range 31 E., B.M., and such waters are conducted to said new place of use through the forebay of the American Falls East Side Power Plant of Idaho Power Company.

That upon the application of said Idaho Fower Company for a transfer of water right made before the Commissioner of Reclamation of the State of Idaho, and said application having been granted, the right to the use of the said fell c.f.s. of waters so initiated and perfected by and under said water location notice at the said new place of diversion and said new place of use be, and the same hereby is, acknowledged; that the right to the use of the waters aforesaid hereby acknowledged is restricted to said American Fails East Side Power Plant of Idaho Power Company, as provided by the laws of the State of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation of Idaho at Boise, Idaho, this 17th day of June, 1929.

Commissioner of Regionation

STATE OF IDARO, DEPARTMENT OF RECLAMATION

In the Matter of the Application of | Idaho Power Company for Transfer of | ORDER GRANTING TRANSFER Water Right, Water District No. 36. |

WHEREAS, on the 27th day of May, 1929, at the Department of Reclamation of Idaho, at Boise, Idaho, the matter of the application of Idaho Power Company for a transfer of water right came on regularly for hearing, pursuant to the published notice; and

WHEREAS, no one appeared at the hearing to protest the application, and the evidence submitted by the Applicant in support of its said application shows that no one shall be injured by said transfer; and

THEREAS, the Watermaster of the district in which the old and new points of diversion and of use are located has approved said application;

IT IS, THEREFORE, HEREBY ORDERED that the said application for transfer of 611 c.f.s. of the waters of Snake River be granted and certificate issue to the Applicant herein; and

IT IS, THEREFORE, HERREY FURTHER ORDERED that due notice of the hearing of said application has hereby been given.

IN WITHERS THEREOF, I have hereunto set my hand and affixed the official seal of my office at Boise, Idaho, this 17th day of June, 1929.

Commissioner of Reclamation

WATER RIGHT NO. 01-10384

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N	UMBER:	139576
Ident. Number	101-103	184
Date Received		<u> </u>
Receipt Number		•

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

Name of Cialmant (s) Idaho Power Company	Pho	ine (208) 383-2670
		·
Mailing Address P. O. Box 70	Boise, Idaho	Zip <u>83707</u>
Date of Priority (Only one (1) per claim) <u>January 1</u> ,	1929	_
Source of water supply (a) <u>Snake River</u> which is tributary to (b) <u>Columbia River</u>		
a. Location of existing point of diversion is: Township	7S Range <u>31E</u>	_ Section _30,
1/4 of SW 1/4 of SE 1/4, Govt. Lot, Additional points of diversion if any:		
b. If instream flow, beginning point of claimed instream		
FownshipRange Section		
Govt. Lot B.M., County of		
ending point is: Township Range	Section	1/4 of 1/4 of
1/4, Govt. Lot B.M., County of		
Description of existing diversion works (Dams, Reservo including the dates of any changes or enlargements in constructed and as enlarged and the depth of each well	use, the dimensions of the dive	rsion works as
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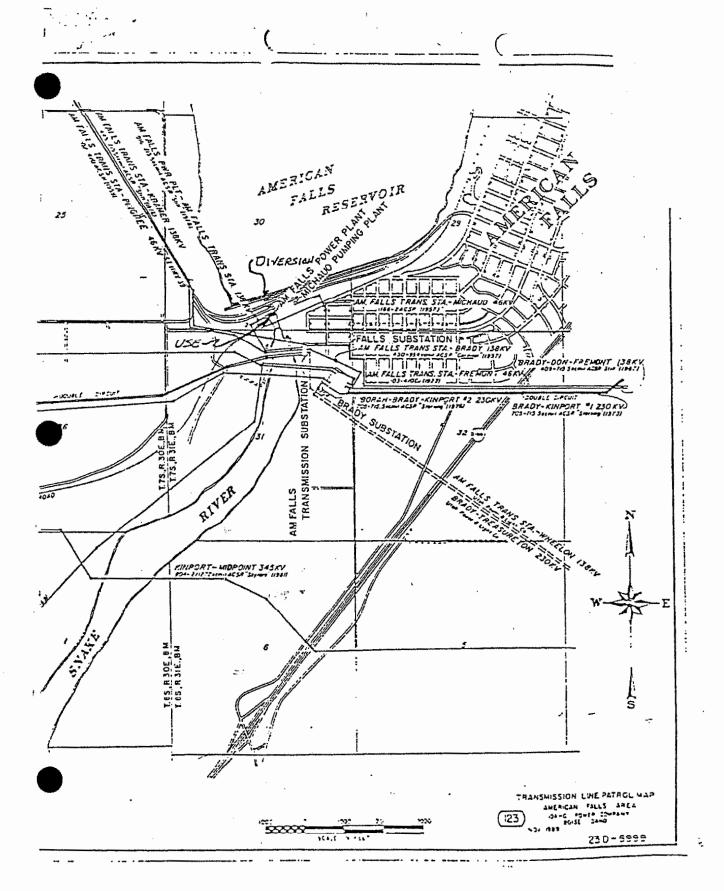
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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

(SEE ATTACHED)

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15.	Basis of Claim (check one)	Beneficial Use^	Posted Notic	eLice	nse	Permit	
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	Plaintiff vs Defendant	Oase N			_ Decree	BDate	
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EXHIBIT C

ROSHOLT, ROBERTSON & TUCKER

Chartered ATTORNEYS AT LAW

Twin Falls Office 142 3rd Ave. North P.O. BOX 1906 TWIN FALLS, IDAHO 83303-1906 TELEPHONE (208) 734-0700 FAX (208) 736-0041 Boise Office 1221 WEST IDAHO, SUTTE 600 P.O. BOX 2139 BOISE, IDAHO 81701-2139 TELEPHONE (208) 336-0700 FAX (208) 344-6334

October 23, 1996

Idaho Department of Water Resources 1301 North Orchard Statehouse Mail Boise, ID 83720

HAND DELIVERED TO SOUTHERN REGION

IDAHO DEPARTMENT OF WATER RESOURCES
TWIN FALLS, IDAHO

ATTN:

JOHN A. ROSHOLT

IAMES C. TUCKER

GARY D. SLETTE JERRY V. JENSEN

BRUCE M. SMITH

JOHN K. SEMPSON PATRICK D. MADIGAN

TIMOTHY J. STOVER

NORMAN M. SEMANKO

J. EVAN ROBERTSON

Karl Dreher, Director

Dave Tuthill, Adjudication Bureau Chief

Gentlemen:

Please find enclosed the following water right application and adjudication claims which we have presented for filing on this date on behalf of the Idaho Power Company:

- 1) Application for Permit 7,850 cfs for power purposes @ American Falls;
- 2) Notice of Claim 1,400 cfs for power purposes @ American Falls;
- 3) Notice of Claim 6,000 cfs for power purposes @ American Falls;
- 4) Notice of Claim 2,000 cfs for power purposes @ American Falls;
- 5) Notice of Claim 136 cfs for power purposes @ American Falls; and
- 6) Notice of Claim 3,500 cfs for power purposes @ Bliss power plant.

These filings are being made to supplement previous filings by the Company based upon the results of hydraulic capacity tests completed by the Company at various power facilities. These capacity tests were initiated in an effort to verify the previous SRBA claims filed by the Company. Tests at all of the Company's facilities have not been completed and further amended or supplementary filings may be forthcoming.

Idaho Department of Water Resource Am: Karl Dreher & Dave Tuthill October 23, 1996 Page 2

The filings at American Falls are further complicated, and in many respects necessitated, by the history of the development of the American Falls Reservoir and the adjudication filings for that facility made by the United States. Our review of pertinent records indicates that prior to the construction of the first American Falls Dam in 1927, the Company owned and operated three small power plants at American Falls, the West Side, Island, and East Side Plants. The diversion structure at the East Side Plant was capable of diverting 6,000 cfs in 1920. Permit No. 4168 was licensed in 1920 for 1,400 cfs, and Permit No. 14067 in 1924 for 4,600 cfs to make up the difference. In 1921, the Company filed an application to appropriate an additional 1,200 cfs for power purposes (Permit No. 15201/01-2041), along with an application for a permit to store 300,000 AF of water at the American Falls site. (Permit No. R-273/01-2065.) In each case, permits were subsequently issued to the Company.

About that same time, the Bureau of Reclamation became interested in the American Falls area as a reservoir site for the Minidoka Project. On June 15, 1923, the United States and the Company entered into a contract by which the United States acquired a portion of the Company's land and the water rights for the development of the American Falls site (The actual deed is dated April 13, 1926). This included the West Side and Island power plants. The Company retained the East Side Plant. The 1923 contract provided, among other things, that the Company was to acquire 45,000 AF of primary storage and 255,000 AF of "secondary storage" along with the right to use the water discharged from the dam for power production in the East Side Plant. The East Side power plant was not connected to the dam, so it made no use of the extra head created by the impoundment.

With the construction of the American Falls Dam in 1927, the capacity at the East Side Plant was increased to 9,000 cfs, and the corresponding the water rights consisted of the following:

- 1. 253 cfs With a priority date of July 15, 1901, transferred from the West Side Plant to the East Side Plant on June 17, 1929, by transfer No. 464;
- 2. 611 cfs With a priority date of August 1, 1901, transferred from the Island Plant to the East Side Plant on May 4, 1929, by transfer No. 463;
- 3. 1,400 cfs Permit No. 4168, with a priority date of September 3, 1908, licensed in 1920 to American Falls Power Company, No. 01-02017;

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4.	4,600 cfs	Permit No. 14067, with a priority dated of March 8, 1919, licensed in 1924, No. 01-02032;
5.	2,000 cfs	Permit No. 16635, with a priority dated of October 15, 1926, licensed in 1971, No. 01-02046;
-	8,864 cfs	TOTAL

The Company has previously filed adjudication claims on two of the licensed rights, Nos. 4 and 5 above (Water Right Nos. 01-02032 and 01-02046). Adjudication claims for Nos. 1 and 2 (the 1901 rights), No. 3 (No. 01-02017) along with a beneficial use claim for the 136 cfs necessary to bring the total water rights at the facility to 9,000 cfs are part of the current filing.¹

Permit Nos. 01-2041 and 01-2065, the permits issued to the Company for the 1200 cfs flow right and 300,000 AF storage right, respectively, were never licensed. In 1971, the Department of Water Administration (DWA) gave to the Company notice of its intention to cancel each of those permits for non-development. The Company opposed the cancellation based on provisions in the 1923 Contract, contending that the Company reserved its water rights at the American Falls site. The 1923 Contract, immediately following the provision transferring the Company's water rights to the U.S., provided:

But it is expressly agreed and understood that the water rights and rights to the use of water which it is herein agreed that the Company shall have are reserved out of its existing appropriations and rights as independent rights under its own filings and appropriations and of the dates of priority to which the Company is entitled under such appropriations and are not to be considered as mere contract rights under contract with the United States. (1923 Contract, para 9(d), at p. 11)

Despite that language, the DWA decided that both permits should be canceled. In his written decision, the then director, R. Keith Higginson, stated:

After reviewing the files of the Department and the answer of the Idaho Power Company, the Director finds that the rights established by the Idaho Power Company, by reason of Permit Nos. 01-2041 and 01-2065, have been merged with rights granted the United States of America and that by

You will note that the filings for the rights listed as Nos. 1 & 2 claim are for 6,000 cfs and 2,000 cfs, respectively. Although the Company only transferred the amounts listed above (253 and 611 cfs) to the East Side Plant, the balance of each right is included in the respective claim based on Judge Hurlbutt's recent decision in Basin-Wide # 10.

Idoho Department of Water Resources Ann: Kari Dreher & Dave Tuthill October 23, 1996 Page 4

reason of contracts and agreements entered into between the Company and the United States of America, Bureau of Reclamation, those rights are held in trust for use by the Company under the water rights of the United States at American Falls Reservoir.

The Director further finds that since the Company's rights to water at American Falls Dam and Reservoir are already covered by reason of licenses issued to the United States of America, under Permit Nos. R-269 and 4168² and contracts between the Company and the United States of America, that Permit Nos. 01-2041 and 01-2065 are duplicate and should be canceled. The Company has failed to submit proof that it has constructed the necessary works to divert the water and apply it to beneficial use. (emphasis added)

In 1972, storage behind the American Falls Dam was restricted for safety reasons. This led to a non-governmental replacement program whereby the Company guaranteed bonds issued by the American Falls Reservoir District (AFRD) for reconstruction of the Dam in exchange for the right to connect its power plant directly to the Dam and use the water released from the Dam to generate power. On March 31, 1976 a contract (the "Government Contract") was entered into between AFRD and the United States. In that contract the United States acknowledged the existence of a "falling water contract" between AFRD and the Company and agreed that the Company could use the water released from the Dam, subject to the other provisions of the contract, for power generation purposes. (Government Contract, Art 18, p. 6) The Government Contract, and the use of the falling water, was authorized by the American Falls Enabling Act of December 28, 1973 (P.L. 93-206, 87 Stat. 904). Pursuant to the Government Contract and the Act, the AFRD, as the constructing agency, and the Company entered into a Falling Water Contract which authorized the Company to utilize the water discharged from the Dam in accordance with the Government Contract. (Falling Water Contract, Sec. 3.1, p. 13.) Also on March 31, 1976, the United States, AFRD and the Company entered into a Spaceholder Contract which provided:

Nothing herein shall in any way alter or change the present proportion of the storage rights of the spaceholder, and this Spaceholder Contract and the American Falls Replacement Dam Program constitute a reaffirmation by the United States of the rights of the spaceholder under the Existing Spaceholder Contract, except as modified by this Spaceholder Contract as authorized in the Act of December 28, 1973, and the Government Contract. The provisions of

². Permit No. 4168 for 1400 cfs was licensed to American Falls Power Company in 1920 and is one of the SRBA claims being contemporaneously filed by the Company. R-269 is current license #01-02064, held by the U.S., for 1.8 MAF of storage for irrigation and power purposes. The U.S. has filed an adjudication claim for this water right but did not include power as a purpose of use. See SRBA clm. # A01-02064.

Idaho Department of Water Resource: Attr: Karl Dreher & Dave Trahili October 23, 1996 Page 5

the Existing Spaceholder Contract shall in all respects remain in full force and effect except that the provisions of this Spaceholder Contract with respect to the Replacement Dam, including but not limited to the operation and maintenance thereof and the distribution of water therefrom, shall prevail over the provisions of the Existing Spaceholder Contract wherever and to whatever extent the provisions of the Existing Spaceholder Contract are in conflict with the provisions of this Spaceholder Contract. (Spaceholder Contract, sec., 19, p. 6) [the 1923 Contract is identified as the "Existing Spaceholder Contract" in Part 1, sec. 18]

The spaceholder acknowledges that the water storage rights evidenced by permits, licenses and court decrees for the Existing Dam are held in the name of the United States and by this Spaceholder Contract the water rights are reaffirmed and neither the United States, the Constructing Agency, nor the spaceholders are required to make additional filings for the Replacement Dam. (Spaceholder Contract, sec. 49, p. 23)

Despite the decision by the DWA in 1971 that the "Company's rights to water at American Falls Dam and Reservoir are already covered by reason of licenses issued to the United States of America . . . ", questions remain as to whether additional SRBA filings by the Company are necessary to protect the Company's power rights at American Falls. Notwithstanding the 1971 decision, the contracts entered into in conjunction with the 1976 Dam Replacement Project reaffirmed the 1923 Contract and granted the Company the right to use water released from the Replacement Dam for purposes of power generation. While our review indicates that the United States holds various water rights at American Falls, only two have stated uses which include power generation. These are Water Rights Nos. 01-02064 (previously Permit No. R-269) and Water Right No. 01-04052, for a 1.8 MAF and 115,000 AF, respectively. Interestingly, the adjudication claim filed by the United States on the oldest power right, A01-02064, does not include power as a stated use. The later priority right, No. A01-04052, for 115,000 AF, does include power and contains the following under the remarks section: "Water furnished to private company for power generation." The amount of storage claimed under this right is significantly less than the 300,000 AF (45,000 primary and 255,000 secondary) of storage rights held by the Company under contract. Additionally, the U.S. has not claimed any flow rights for power purposes.

All of this further confuses and complicates the filings concerning American Falls. We are hopeful that with filing of the referenced claims that these issues can be addressed and resolved in the appropriate forum.

Finally, we are also enclosing the necessary fees for the referenced filings. The Company has previously paid the variable water use fees pursuant to I.C. § 42-1414(1)(b)(ii) and, as such, the enclosed fees for the adjudication claims are remitted under subsection

Idaho Department of Water Resources Aun: Karl Dreher & Dave Tunkill October 23, 1996 Page 6

(1)(a) of that section. The filing fees for the water right application for American Falls are being conditionally paid. If it is determined that the water that is the subject of that application is not required, either based on the enclosed adjudication claims or the contract rights held by the Company, we would expect a remittance of the enclosed fees. In that regard, perhaps it would be appropriate to delay the processing of that application until the issues raised by the adjudication claims filed by both the Company and the U.S. at American Falls are resolved.

We will happy to discuss issues relating to any of the enclosed filings with you at your convenience.

Very truly yours,

JAMES C. TUCKER

Encls.

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EXHIBIT D

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April 22, 1971

Te: Permit Nos. 01-2001 and 64-2005

Mr. Manna E. Bruce Vice-Provident and Secretary Idaho Tower Company Bon 7.4 Dinge, Science 18707

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Thelered yea will find a version added Decision cancelling the avo above referenced permits.

Kyon have any questions, plante feet free to contact our office.

Yory truly yours,

N. EUTET PICCINGO. Director

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BEFORE THE DIRECTOR

OF THE

IDAHO DEPARTMENT OF WATER ADMINISTRATION

In the Matter of Permit Nos.

01-2041 and 61-2065 in the

maine of IDAHO POWER COMPANY

MEMORANDUM DECISION

On March 17, 1921. Idaho Power Company submitted Applications to the Idaho Department of Reclamation (remined Idaho Department of Water Administration) requesting authority to divert 1200 cubic feet per second of water and to store 300,000 acro-feet of water to be used for power purposes. The water was to be diverted and stored in the S\(\frac{1}{2}\)S\(\frac{1}{2}\)Section 30. Township 7 South, Range 51 East, B.M., in Power County for use at the proposed reservoir site and at several sites downstream. Pursuant to these Applications, Permit Nos. R-273/01-2065 and 15201/01-2041 were issued by the Department.

the works had been complete as required under the provisions of Permits 15201/01-2041 and R-273/01-2065. On September 29, 1932, the Department of Reclamation informed the permit holder that it intended to reject the Proofs of Completion of Works and refuse to issue a Certificate, since a Certificate of Completion of Works had previously been issued to the United States of America. Bureau of Reclamation, for the full capacity of the reservoir constructed at the proposed site. The Department further informed the Idaho Power Company that it appeared that the Company rights to divert and store water at that location had been waived and compensated for by contractual agreement between the Company and the United States.

In July of 1967, the Department requested that the Company review the matter and give comments prior to action being taken to cancel the permits. Correspondence was received from the Company, on November 9, 1967, asking the Department to issue the required Certificate to complete the permits and contending that Licenses should be issued.

On October 1, 1970, an Order to Show Cause why the permits chould not be cancelled was issued to Idaho Power Company by the Department. On December 1, 1970, a brief was timely submitted by the Idaho Power Company setting forth, among other things, the terms and conditions of agreements between the Company and the United States.

STATE OF IDAHO DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2 Boise, Idano 83707 (208) 384-2215



R. Keith Higginson Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

IN THE MATTER OF CANCELLATION OF PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE

STATE OF IDAHO NO. R-273/01-2065

IN THE NAME OF Idaho Power Company

ORDER OF CANCELLATION

WHEREAS, the permit holder has failed to submit adequate proof of
completion of works due June 21, 1931 ; and,
MHEREAS, on October 1. 1970 notice was sent to the holder of said
permit to appear before the Director of the Department of Water Administration
on or before December 1, 1970 to show cause why said permit should not be
cancelled; and,
WHERFAS, the holder of said permit has failed to comply with the require-
ments of said permit and has not shown adequate cause why such permit should not
be cancelled;
IT IS THEREFORE ORDERED and Permit R-273/01-2065 is hereby CANCELLED.
Dated this 22nd day of April , 19 71 .

R. KETTH HIGGINSON

Director

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2 Boise, Idaho 83707 (208) 384-2215

be cancelled;



R. Keith Higginson

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Wall Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

IN THE MATTER OF CANCELLATION OF PERMIT)

TO APPROPRIATE THE PUBLIC WATERS OF THE)

STATE OF IDANO NO. 15201/01-2041)

IN THE NAME OF Idaho Power Company)

THE RESERVE THE PROPERTY OF TH

ORDER OF CANCELLATION

WHEREAS, the permit holder has failed to submit adequate proof of
completion of works due June 21, 1931; and,
WHEREAS, on October 1, 1970 notice was sent to the holder of said
permit to appear before the Director of the Department of Water Administration
on or before December 1, 1970 to show cause why said permit should not be
cancelled; and,
WHEREAS, the holder of said permit has failed to comply with the require-
ments of said permit and has not shown adequate cause why such permit should not

IT IS THEREFORE ORDERED and Permit 15201/01-2041 is hereby CANCELLED.

Dated this 22nd day of April , 19 71 .

R. KEITH RIGGINSON

Director

01-3041

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER ADMINISTRATION OF THE

STATE OF IDAHO

IN THE MATTER OF PERMITS
NO 15201/01-2041 and
R-273/01-2065 in the name
of IDAHO POWER COMPANY

ANSWER TO ORDER TO SHOW CAUSE

COMES NOW, IDAHO POWER COMPANY (hereinafter called "Company") and for its answer to Order to Show Cause as to why Proof of Completion of Works should not be rejected and Permits 15201/01-2041 and R-273/01-2065 cancelled, states and alleges as follows:

Ι

That the Company, or its predecessors, in 1901 commenced construction of generating plant at American Falls, Idaho, known as the "Island Plant." As power requirements increased, this plant was supplemented by construction at American Falls of the "West Side Plant" and, subsequently, the "East Side Plant."

That prior to June 15, 1923, the Company owned and operated a dam and the three power plants with a total of 4,040 KW generating capacity at American Falls. These plants provided the Company's entire power generation for the American Falls-Blackfoot-Pocateilo area, and were a source of large potential development to serve the future power needs of southeastern Idaho.

That the Power Company was preparing to enlarge its dam and generating stations to meet the rapidly growing power demand. Its plans included a storage reservoir which would not only make possible the installation of additional power capacity at American Falls to meet local needs, but also would have served to increase the firm capacity of its downstream plants at Shoshone, Lower Salmon and Swan Falls.

II

That the Company had made or acquired various filings and/or rights on waters of the Snake River for storage and use

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of such water for power production at its existing plants and also for its proposed plant expansion, as follows:

- (a) Appropriation under Water Location by Andrew J Tarbet for 6000 cfs of the waters of Snake River on July 15, 1901, recorded in Blaino County, Idaho, in Book 4 of Water Rights at Page 266.
- (b) Appropriation under Water Location by J E Brady for 2000 cfs of the waters of Snake River on August 1, 1901, recorded in Blaine County, Idaho, in Book 4 of Water Rights at Page 265.
- (c) Permit No 4168 for 6000 cfs of the waters of Snake River, issued by the State Engineer of the State of Idaho to American Falls Power Company on Application filed September 3, 1908.
- (d) Permit No 14067 for 4600 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed April 7, 1919.
- (e) Permit No 13947 for 1500 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to E C Kiersted on Application filed December 26, 1918.
- (f) Permit No 14909 for 500 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed June 25, 1920.
- (g) Appropriation under Water Location by I B Perrine for 1000 ofs of the waters of Snake River on November 1, 1901, recorded in Lincoln County, Idaho, in Book 1 of Water Rights at Page 241.
- (h) Appropriation under Water Location by Arturus Z Conrad for 1000 cfs of the waters of Snake River on September 13. 1902, recorded in Lincoln County, Idaho, in Book 1 of Water Rights at Page 251.
- (1) Permit No 14881 for 1000 cfs of the waters of. Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed August 9, 1920.
- (j) Permit No 13948 for 5000 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to E C Kiersted on Application filed December 26, 1918.
- (k) Permit No 3685 for 6000 cfs of the waters of Snake River, issued by the State Engineer of the State of Idaho to Fentreas Hill on Application filed May 11, 1908.
- (1) Appropriation under Water Location by Joseph H Hutchinson for 10000 cfs of the waters of Snake River on January 17, 1900, recorded in Owyhee County, Idaho, in Book 3 of Water Rights and Millsites at Page 750.

- (m) Appropriation under Water Location by Joseph H Hutchinson for 10000 cfs of the waters of Snake River on May 4, 1900, recorded in Owyhee County, Idaho, in Book 3 of Water Rights and Millsites at Page 761.
- (n) Permit No 14362 for 4000 cfc of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed July 29, 1919.
- (o) Permit No 15201 by Idaho Power Company according to Application No 21476 filed on March 17, 1921.
- (p) Permit No R-273 by Idaho Power Company for storage of 300,000 acre feet per annum of the waters of Snake River filed on March 11, 1921 and approved on June 28, 1921.

III

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This was a period of rapid growth in southern Idaho, and the need for additional water for irrigation development was increasing. American Falls was selected by the Bureau of Reclamation as an ideal site for a large and economical reservoir for the storage of water for irrigation use. The United States of America, acting through its Secretary of the Interior, and pursuant to appropriate acts of Congress determined to build a large irrigation storage reservoir at American Falls, using as a part of its reservoir land owned by the Company. This reservoir would require the destruction of two of the Company's plants (West Side and Island plants) and would prevent the Company from developing its own storage reservoir for power production. The Company already owned much of the necessary lands and flooding easements, which it had purchased and obtained for its own reservoir development.

IV

That in order to enable the United States of America to construct the irrigation storage reservoir, the United States and the Company developed a plan under which the Company reserved its existing water rights, and conveyed the necessary portions of its real property and easements to the United States. The Company

retained its East Side generating station with its appurtenant diversion dam, and was guaranteed by the United States the right to the amount and time of use of its reserved water rights. To effectuate this plan a contract was entered into between the United States and the Company on the 15th day of June, 1923, a copy of which is hereto attached as Exhibit A and is hereby made a part of this answer.

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That under the said contract the Company's rights to storage in the reservoir to be constructed by the United States to the extent of the 300,000 acre feet covered by Permit No R-273 issued by the Commissioner of Reclamation of the State of Idaho under the date of June 28, 1921, were preserved, defined and specifically provided for as follows:

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"In part consideration for the rights and property to be conveyed to the United States by the Company, and as a part of the cost of the proposed development at American Falls the United States grants to the company and the company shall be entitled to the perpetual use of 45,000 acre-feet of storage capacity in the reservoir to be constructed by the United States, such capacity to be for storing the water reserved to the company, and the water referred to in the last sentence of Paragraph 10, the company's right to such storage capacity to be on an equal basis in all respects, except as otherwise provided herein, with other primary storage capacity rights in the reservoir, as defined in the contracts between the United States and the Irrigation Companies and Districts cooperating with the United States in the construction of said reservoir, a form of which contract is attached hereto and marked Exhibit 'C'." (paragraph 16, pp 17 and 18, Exhibit A)

"Between October 1st of any year and June 10th of the following year, the company shall have and is hereby granted for the purpose of regulating and controlling the water reserved to the company under Paragraph 19 hereof, and the water which may be acquired under the last sentence of Paragraph 10, a secondary right to use not to exceed 255,000 acre-feet of storage capacity in the reservoir when such capacity is not then required and not being used by the owners of irrigation rights to the use of such capacity, but shall have no further right to use any part of said 255,000

acre-feet of capacity or any water stored therein after the reservoir is first filled each season, and the company shall in any event release on April 1st of each year all right and claim to such capacity and water stored therein, except 60,000 acre-feet, and shall release all right and claim to the remainder, if any, on June 10th of each year " (paragraph 18, p 19, Exhibit A)

That said contract specifically provided that the Company was not surrendering, or in any way disposing of its existing water rights but was only permitting the United States to use them in connection with its American Falls Reservoir, subject, however, to the Company's reserved rights as follows:

"WHEREAS the company has at American Falls water filings prior to the American Falls filings of the United States sufficient to embrace the entire amount of water reserved to the company under this contract." (paragraph 6, pp 2 and 3, Exhibit A)

"(d) All the company's water rights, appropriations water filings and permits, at American Falls, or used or intended to be used in connection with the company's power plants and proposed plants at American Falls, except the rights, whether primary or tertiary, expressly reserved to the company, as hereinafter set out. The water rights of the company transferred to the United States for use for power purposes shall be considered as impressed with a right in the United States to change the use of such water from power to irrigation or to store the same for irrigation whenever the Secretary of Interior shall decide that such water is required for irrigation purposes. But it is expressly agreed and understood that the water rights and rights to the use of water which it is herein agreed that the Company shall have are reserved out of its existing appropriations and rights as independent rights under its own fillings and appropriations and of the dates of priority to which the Company is entitled under such appropriations and are not to be considered as mere contract rights under contract with the United States." (paragraph 9(d), p 11, Exhibit A)

"It is the intent of this agreement that all power rights at American Falls except those granted to the United States herein shall be reserved to the company and that the deeds and conveyances by the company to the United States may contain a reservation in favor of the company of the rights reserved to it under the provisions of this agreement." (paragraph 30, p 30, Exhibit A)

That as a part of the plan for the American Falls reservoir the United States had applied for and received from the Commissioner of Reclamation of the State of Idaho, under the date of March 30, 1921, Permit No R-269 for the storage of 1,700,000 acre-feet in said reservoir and Permit No 15134 for direct diversion of 8,000 second feet in connection therewith.

That the existence of the Company's permits and water rights described in paragraph II, supra, were known to the parties at the time of the execution of the contract of June 15, 1923 (Exhibit A hereto), and the contract provisions referred to in paragraphs IV and V, supra, for protecting the Company's right to 300,000 acre-feet of storage covered by its Permit R-273 contemplated that said storage water was included in and formed a part of Permit R-269 and would be provided to the Company from waters stored under Permit R-269.

That in fact, while all the Company's reserved rights were considered in the contract (Exhibit A hereto), the contract specifically provided that said rights were reserved and were "* * * not to be considered as mere contract rights * * *."

VII

That the said reservoir was subsequently constructed and thereafter the United States made all necessary proofs required by the laws of Idaho and proper licenses have been issued to the Secretary of the Interior for the waters covered by Permit Nos R-269 and 15134.

VIII

That in addition to the aforementioned contract with the Company, the Secretary of the Interior entered into numerous contracts with irrigation districts, canal companies and individuals wherein he agreed to make available to them for irrigation use on lands irrigated by them, specific quantities of storage space and . 1837

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the waters annually stored therein, and that at the present time there are such contracts outstanding covering substantially all of the capacity of said reservoir.

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That by operation of law the Secretary of the Interior holds the water available in American Falls Reservoir under Permit Nos R-269 and 15134 as trustee for the Company and all other contract holders. The Company has continuously applied to a beneficial use its rights in said stored water, as have all other contract holders; and the Company and all other such contract holders are the equitable owners of the right to so use these waters.

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That a decree was entered in the District Court of the United States for the District of Idaho, Eastern Division, on June 25, 1929, in an action entitled Woodville Canal Co, Plaintiff, versus Clark and Edwards Canal and Irrigation Co, et al, Defendants, adjudicating water rights in Snake River at and above Milner Dam, including those at American Falls. That the numerous parties to said action included many of the water users on the river who claimed rights in American Falls Reservoir, together with the Secretary of the Interior. In such action a stipulation was entered into which was incorporated in the decree which read in part as tollows:

"It is further stipulated and agreed that there shall be decreed in the above entitled cause of action, to the Secretary of the Interior of the United States, and his successors in office, for use upon the various projects which have heretofore or may hereafter become entitled to the same by reason of contracts with the United States therefor, the water filed upon by the United States in connection with the construction of the American Falls Reservoir under permit number 15134, and reservoir permit number R-269, under date of priority of March 30th, 1921, the amount of water to be decreed to the Secretary of the Interior of the United States and his successor in office for such use under said date of priority of March 30th, 1921, to be One Million Seven Hundred Thousand (1,700,000) acre-feet per annum for storage in the

American Falls Reservoir and Eight Thousand (8,000) second feet for direct diversion. It is understood and agreed that paragraph two hereof does not apply to the said rights of priority of March 30, 1921, provided for in this paragraph or the rights decreed in the Foster and Rexburg decrees."

"It is stipulated and agreed that the rights of contract holders and any others beneficially interested, now or hereafter claiming or having storage reservoir rights in American Falls Reservoir shall not be affected or determined by the decree to be entered in this action, as to the use to be made of the waters decreed, under such decree, to the Secretary of the Interior under permits described in paragraph No. 4, of this stipulation, the same being permits No. 15134 and R-269."

and concerning which the decree provided:

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"Now therefore, the said stipulation is hereby approved and confirmed by the Court and adopted as a part of this decree, * * *."

WHEREFORE, the Company hereby requests that the Director of the Department of Water Administration enter an order rinding (a) that all or the rights of the Company covered by Permit Nos R-273 and 15502 have been merged into rights granted to the Secretary of the Interior in Permit Nos R-268 and 15134; (b) that the Secretary of the Interior holds and maintains the rights under said permits as trustee for the Company of all of the rights covered by Permit Nos R-273 and 15502; and (c) that in accordance therewith no further action need be taken with respect to Permit Nos R-273 and 15502.

Dated this 1st day of December, 1970.

R P PARRY Twin Falls, Idaho

JAMES E BRUCE Boise, Idaho

Attorneys for Idaho Power Company