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SNAKE RIVER



HYDRO POWER

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IDAHO POWER COMPANY

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IDAHO PUBLIC
UTILITIES COMMISSION

April 25, 1990

R. Sullivan

Mrs. Myrna J. Walters
Secretary
Idaho Public Utilities Commission
Statehouse
Boise, Idaho 83720

Re: Case No. IPC-E-90-8
Application of Idaho Power Company in
Regard to the Milner Project

Dear Mrs. Walters:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application in the above entitled matter. As is set forth in the Company's Application, it is requested that copies of all notices, pleadings and orders be served upon Mr. Steven L. Herndon and the undersigned. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Larry D. Ripley". The signature is fluid and cursive, written over a horizontal line.

Larry D. Ripley
Attorney

LDR:mmb

Enclosures

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IDAHO PUBLIC UTILITIES COMMISSION

LARRY D. RIPLEY
EVANS, KEANE, KOONTZ, BOYD, SIMKO & RIPLEY
c/o Idaho Power Company
1220 W. Idaho Street
P. O. Box 70
Boise, Idaho 83707
(208) 383-2674

STEVEN L. HERNDON
IDAHO POWER COMPANY
1220 W. Idaho Street
P. O. Box 70
Boise, ID 83707
(208) 383-2918

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR THE RATE BASING)
OF THE MILNER HYDROELECTRIC PROJECT)
OR IN THE ALTERNATIVE)
A DETERMINATION OF EXEMPT STATUS)
FOR THE MILNER HYDROELECTRIC)
PROJECT)

CASE NO. IPC-E-90-8

APPLICATION

IDAHO POWER COMPANY, The Applicant herein, applies to the Commission for a Certificate of Public Convenience and Necessity for the Rate Basing of the Milner Hydroelectric Project or in the alternative a Determination of Exempt Status for that project.

Idaho Power Company (Idaho Power) is a corporation incorporated under the laws of the State of Idaho and is duly qualified to transact business in the States of Idaho, Oregon, Nevada and Wyoming. Idaho Power is engaged in the business of generating, purchasing, transmitting and distributing electrical

energy, and provides retail electric service in the State of Idaho. Idaho Power's principal office is situated in Boise, Idaho, and its address is 1220 West Idaho Street, Boise, Idaho 83707.

It is requested that copies of all notices, pleadings and orders be served on the following:

Larry D. Ripley, Esq.
Legal Department
Idaho Power Company
P.O. Box 70
Boise, ID 83707

Steven L. Herndon, Esq.
Legal Department
Idaho Power Company
P.O. Box 70
Boise, ID 83707

THE MILNER HYDROELECTRIC PROJECT

I.

Idaho Power requests that it be issued a Certificate of Public Convenience and Necessity for the Rate Basing of the Milner Hydroelectric Generation Facilities (Milner Project or Project) and for recognition of the Milner royalty and debt service payments made to the Twin Falls Canal Company and the North Side Canal Company, Ltd. (Canal Companies) as revenue requirement expenses. The power generation facilities will utilize the reconstructed Milner Dam to provide generation capacity of 58,300 kW.

II.

The Project is located in Idaho on the Snake River about 130 miles southeast of Boise and between the cities of Burley and Twin Falls. The Project facilities extend from the existing Twin Falls Main Canal Headworks in Milner Reservoir approximately 1.3 miles along the canal to the powerhouse site where most of the new facilities are to be located.

Milner Dam was constructed in 1905 to provide irrigation storage and diversions. The Dam is owned jointly by the Twin Falls Canal Company, the North Side Canal Company and the American Falls Reservoir District Number Two.

Three canals with their headworks adjacent to the Dam are fed from Milner Reservoir. The Twin Falls Main Canal (or South Side Main Canal) constructed in 1905 will be utilized for the Project. Its headworks is located near the left (south) abutment of the dam and it flows west near the Snake River for about 12 miles.

The proposed Milner Project will use Snake River flows that presently pass through the Milner Dam Spillway. Such flows occur during the non-irrigation season and at times during the irrigation season when there are flows in excess of irrigation diversions. The water will be conveyed in an enlarged Twin Falls Canal and diverted into a forebay and an intake structure, penstock and powerhouse. Head will be obtained through utilization of the difference in elevation between the Twin Falls Canal and the Snake River. Other facilities required for the Project include modifications to the existing headworks, canal and bridge and a new control structure, tailrace channel, access road and transmission line.

III.

On December 15, 1988, the Canal Companies were granted a license under Part I of the Federal Power Act (FPA) to construct, operate, and maintain the Milner Project to be located at the existing Milner Dam and Twin Falls Main Canal on the Snake River. The Project as licensed consisted of the Milner Dam and Reservoir, modifications to 6,500 feet of the Twin Falls Main Canal to increase its capacity, a control structure on the canal that would divert the

additional flow into a forebay, a penstock, a powerhouse located on the Snake River 1.6 miles downstream of the dam and containing a single generating unit rated at 43,650 kilowatts, and a 1.4-mile-long transmission line.

Subsequently, the Canal Companies informed the Federal Energy Regulatory Commission (FERC) that there was a serious concern for the structural integrity of the 85-year-old Milner Dam and that failure of the dam during the irrigation season could result in near total crop failure on the 440,000 acres served by the dam. Following a meeting with Canal Companies and an inspection of Milner Dam, the FERC's Division of Dam Safety and Inspections concluded that there was a high risk of failure at the Milner Dam in the event of a seismic event (earthquake). A complete dam failure could lead to partial or total crop failure, since such a failure would prevent diversion of water into the irrigation canal. The Canal Companies intended to use the revenues from the sale of electric power to be generated by the Project to obtain the funds necessary to strengthen Milner Dam and upgrade its spillway. The Canal Companies contended that, absent these revenues, funding repair of the dam would result in severe economic hardship to many of the 7,500 Canal Companies' shareholders who depend on irrigation water from Milner Dam for their livelihood.

IV.

Although the FERC issued a license to the Canal Companies based upon the construction of a single generating unit rated at 43,650 kilowatts to be located on the Twin Falls main canal, the FERC ordered that within one year of issuance of the license, the Canal Companies were required to submit a report evaluating the feasibility of also constructing a power plant at Milner Dam to utilize the power potential of the flows released to the bypass reach of the

river below the dam and therefore not usable by the power plant to be located approximately 1.6 miles downstream. If the feasibility study showed that also developing a power plant at the dam would be economically beneficial, the Canal Companies were required to submit a schedule and plans for also developing a power plant at the dam.

V.

On May 2, 1989, the FERC issued an order adding Idaho Power as a co-licensee for the Milner Project. From and after that date the license for the Milner Project is now jointly held by Twin Falls Canal Company, North Side Canal Company, Ltd., and Idaho Power with all conditions of the previous license being applicable to the three licensees. The license is attached as Attachment 1.

VI.

Idaho Power and the Canal Companies prepared the analysis required to determine the feasibility of increasing the capacity of the Milner Project. Based upon that analysis, Idaho Power and the Canal Companies have proposed to the FERC that a new powerhouse be constructed near the north abutment of Milner Dam and that a second unit be added to the main powerhouse 1.6 miles downstream of the dam. The powerhouse at the dam will consist of a single-propeller turbine which will discharge a constant 200 CFS when in operation with a net head of 50 feet. It will be coupled to a 1000 kVA induction generator. Maximum output will be about 770 kW.

The turbine will be fed through a steel penstock coming off of an intake located either on the reservoir or on the North Side Canal upstream of a relocated control structure. Gates to allow start-up and to unwater the unit for

maintenance will be included. Provisions for release of the 200 CFS target flow when the plant is not being operated will be provided in the spillway.

Based upon the new analysis, the turbines located at the Main Powerhouse 1.6 miles downstream will be vertical shaft Kaplan type directly coupled to the generators. The large unit will have a rated output of 46,000 kilowatts (kW) at a net head of 150 feet, a discharge of 4,000 CFS and a speed of 200 revolutions per minute (RPM). The small unit will have a rated output of 11,500 kilowatts (kW) at a net head of 157 feet, a discharge of 1,000 CFS, and a speed of 400 revolutions per minute (RPM).

An Application to amend the license to conform the license to the above feasibility analysis has been prepared and sent to relevant state and federal resource agencies for their review and comment prior to filing with the FERC.

VII.

Idaho Power and the Canal Companies initially entered into an agreement to explore the feasibility of power generation at Milner Dam in 1981. The Canal Companies were guaranteed a royalty with a net present value over the life of any development equal to approximately \$5,638,000. At that time, the Parties were concerned about the integrity of the Dam itself and agreed to negotiate a common solution to the repair issue if necessary at a later date.

VIII.

As a result of various inspections, it has been determined that the cost of necessary repairs to Milner Dam is approximately \$11,700,000 and that immediate repair is required to insure the structural integrity of the dam. Idaho Power has agreed to provide interim financing for the rehabilitation of the

Canal Companies' dam and the Canal Companies have agreed to repay this initial loan with interest from funds obtained elsewhere at or near the time that the Project and the dam are completed. Idaho Power has agreed to guaranty the payment of complete debt service on the permanent loan for the Dam through a base royalty equal to the original present value of \$5,638,000 plus 1/2 of the total cost of repairing the dam over the term of the FERC License. Additionally, the Canal Companies will receive an incentive royalty whenever the annual Project generation is in excess of an agreed upon base of 142,000 MWh.

If Idaho Power's investment in the Project is not recognized for revenue requirement purposes by the Idaho Public Utilities Commission, the Canal Companies may exchange the set royalty option described above for 50% of the net benefits derived from the off system sale of the power after all costs including a return on Idaho Power's equity investment in the Project are deducted.

IX.

Idaho Power and the Canal Companies have entered into an Agreement Regarding the Ownership, Construction, Operation and Maintenance of The Milner Project. The Canal Companies will maintain the ownership of the dam, and Idaho Power will own the generation facilities. A copy of the Agreement is attached as Attachment 2.

X.

As set forth above, the Canal Companies were required to rehabilitate the Milner Dam and the source of funds available for that rehabilitation was to be the revenues derived from power sales. The Canal Companies had already received a license from FERC. Since the Project had to be constructed, Idaho Power was presented with a unique opportunity to participate with the Canal

Companies in the rehabilitation of the dam, thus securing the hydro power for the benefit of its customers. The timing of the Project, however, could not be deferred.

COMMITMENT ESTIMATE

I.

In addition to the information set forth above, Idaho Power acknowledges that it is required to provide the Commission with a cost estimate regarding the Project.

II.

Large hydroelectric projects involve design and construction which must be customized to the particular site. As a result, preliminary estimates contain many unknowns for both the final project layout and scope. Detailed engineering to finalize the layout and scope in order to obtain a more precise estimate would result in extremely high front end costs on all projects. In the event a particular project was not built, a significant expenditure would be lost and would have to be written off. Changes required as part of the environmental and regulatory review process could also result in the need to completely redesign a project, thus radically changing the original preliminary estimate.

III.

For most hydroelectric projects, the first major expenditure of funds, other than for engineering design, is the purchase of the hydroelectric turbines and generators. The design and acceptance of bids for the Milner Project's turbines and generators has been accomplished and Idaho Power is now able to make a cost estimate. This estimate, which Idaho Power has termed a "Commitment Estimate", is the best estimate of the Project's cost after the award

of the contracts for the turbines and generators plus an additional amount of 5% to establish a cost ceiling for the Project. Idaho Power will commit to building the Project for the Commitment Estimate (as it may be adjusted to account for documented changes in escalation rates or scope^{1/}). If the final costs exceed the "Commitment Estimate", Idaho Power will absorb the extra costs, and will include in its Idaho ratebase only the amount up to the Commitment Estimate.

IV.

The Milner Project's costs are currently projected to be \$60,334,000 at completion in 1992, with a dam reconstruction cost of \$11,700,000. With an additional 5%, Idaho Power's Commitment Estimate for the powerhouse is \$63,350,600. The installed turbine capacity will be 58,300 kW.

Depending upon the number of water years utilized in the Computation, the cost per kWh would range from a maximum of 52.93 mills/kWh based upon a cost for the powerhouse of \$63,350,600, 60 years of water data and a 50 year levelized cost; to 37.80 mills/kWh based upon a powerhouse cost of \$60,334,000, 20 years of water data and a 50 year levelized cost (or less if the Project is built for less than Idaho Power's present Project estimate). The cost estimates are attached as Attachment 3.

^{1/}The Wharton 2nd Quarter 1989 Forecasted CPI and Handy-Whitman Construction Cost Indices for the Plateau Region for Total Hydro Production were used to develop the cost estimate. If major inflation occurs, resulting in higher cost indices, the Commitment Estimate would be adjusted to reflect these inflated cost indices.

Examples of possible scope changes which could affect the project ceiling are:

1. Force Majeure or acts of God impacting the construction;
2. Design optimization for which increased energy more than offsets the increase in initial investment;
3. Foundation or site conditions significantly more expensive than indicated by exploratory drilling.

V.

Updated Project cost estimates will be submitted to the Commission as part of the Company's Quarterly Report of Construction Projects. The updated cost estimate will include any scope or escalation changes. The final cost report on the Project will still compare the actual costs to the Commitment Estimate.

THE COMPANY IN THE ALTERNATIVE REQUESTS A DETERMINATION OF EXEMPT STATUS

I.

As set forth above, the FERC has issued an order making Idaho Power a co-licensee for the Milner Project.

II.

If the Commission determines that Idaho Power's investment in the Milner Project should not be Rate Based for revenue requirement purposes, the Commission should issue an order determining that the Milner Project should have an exempt status.

III.

The order determining the exempt status should be issued for a period of 20 years from the date of commercial operation to permit Idaho Power to enter into a long term sale of the energy to another utility.

IV.

Idaho Power would propose that two years prior to the expiration of the order determining the exempt status, Idaho Power would apply for a redetermination of the status of the exempted Milner Plant. The Commission, after notice, would determine if the Order of Exemption should be continued or if a Certificate of Public Convenience and Necessity for the Rate Basing of the

Milner Project should be issued at that time. The order determining the status of the generating electric plant would be issued by the Commission within one year of the date the application for redetermination is filed.

V.

If the Commission determines in the second proceeding that a Certificate of Public Convenience and Necessity for the Rate Basing of the Milner Project should be issued, the Commission should issue a Valuation Order for revenue requirement purposes within three months of the order issuing a Certificate of Public Convenience and Necessity. The value of the plant for revenue requirement purposes in the 20th year will be based upon the then reproduction cost new less depreciation.

VI.

Reproduction cost new less depreciation means the total investment that would be required by Idaho Power to duplicate the Milner Project at then current costs for all materials, supplies, labor, land and land rights, transportation, and miscellaneous direct and indirect expenses (including overhead, engineering and supervision costs that are normally capitalized) that would be required; the costs that would be required to obtain all necessary approvals and permits; and any other costs that would be appropriately applicable to the reproduction cost of the Milner Project less an amount representing the straight line depreciation of such Reproduction Costs of any depreciable items.

VII.

If the Commission determines that the Milner Project should not be ratebased, the Commission's order should declare that the investment, expenses, current or accrued tax benefits and revenues incident to the Milner Project will

not be considered for regulatory purposes in the State of Idaho including, but not limited to, revenue requirement and power supply purposes.

VIII.

In the event the Commission determines in a second proceeding that a Certificate of Convenience & Necessity should be issued, the Commission should not consider in a revenue requirement proceeding any profit or loss or accrued tax benefits that were accumulated as a result of the Milner Project having previously operated under an Order of Exemption. However, it is recognized that the Commission could assume the availability of tax depreciation benefits associated with the restated value of the plant on a prospective basis on a straight-line method consistent with the book depreciation if the Project is later rate based.


W H E R E F O R E

Idaho Power Company respectfully requests that the Commission issue an Order authorizing the Rate Basing of the Milner Project with an upper limit of \$63,350,700 allowed for the Company's investment in the powerhouse. Idaho Power also requests that the Commission's Order permit the Milner royalty payments to the Twin Falls Canal Company and the North Side Canal Company, Ltd. be recognized as proper ratemaking expenses.

OR IN THE ALTERNATIVE, if the Commission determines Idaho Power's investment in the Milner Project should not be ratebased, that the Commission issue its order determining that the Milner Project should have an exempt status

for Idaho Public Utilities Commission regulatory purposes for a period of 20 years.

DATED at Boise, Idaho this 25th day of April, 1990.


/s/ Larry D. Ripley

PARTIES OF RECORD

LARRY D RIPLEY ESQ
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

STEVEN L HERNDON ESQ
IDAHO POWER COMPANY
P O BOX 70
BOISE ID 83707-0070

GRANT E TANNER
DAVIS WRIGHT TREMAINE
1300 SW FIFTH AVE SUITE 2300
PORTLAND OR 97201

PETER J RICHARDSON
DAVIS WRIGHT TREMAINE
350 N 9TH SUITE 400
BOISE ID 83702-5471

HAROLD C MILES
IDAHO CONSUMER AFFAIRS INC
316 15TH AVENUE SOUTH
NAMPA ID 83651-4319

JAMES N ROETHE
PILLSBURY MADISON & SUTRO
PO BOX 7880
SAN FRANCISCO CA 94120

R MICHAEL SOUTHCOMBE
CLEMONS COSHO & HUMPHREY
815 W WASHINGTON ST
BOISE ID 83702-5590

R SCOTT PASLEY
ASSISTANT GENERAL COUNSEL
JR SIMPLOT COMPANY
PO BOX 27
BOISE ID 83707-0027

DAVID H HAWK DIRECTOR
ENERGY NATURAL RESOURCES
JR SIMPLOT COMPANY
PO BOX 27
BOISE ID 83707-0027

INTERESTED PARTIES

RON WILLIAMS
IMHOFF & LYNCH
PO BOX 739
BOISE ID 83701-0739

MICHAEL WHEAT
26 ELM LANE
BAY CITY TX 77414

GEORGE F BELLEM
ROUTE 1 BOX 1055
PAUL ID 83347

L B MONCHER
ROUTE 1 BOX 1053
PAUL ID 83347

CLARENCE BELLEM
ROUTE 1 BOX 241
RUPERT ID 83350

JOHN GEYER
CITIZENS POWER & LIGHT
1400 KOIN CENTER
222 SW COLUMBIA
PORTLAND OR 97201

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-90-8

IDAHO POWER COMPANY

**ATTACHMENT 1
TO
APPLICATION**

17 APR 1989 162 124

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Twin Falls Canal Company,
North Side Canal Company, Ltd.,
Idaho Power Company

Project No. 2899-006
Idaho

ORDER APPROVING TRANSFER OF LICENSE

(Issued May 2, 1989)

Twin Falls Canal Company, and North Side Canal Company, Ltd. (Transferees), seek Commission approval to add Idaho Power Company (IPC) as a co-licensee for their license for the Milner Hydroelectric Project, to be jointly known as the Transferees. The project is located on the Snake River in Twin Falls, Cassia, Jerome, and Minidoka Counties, Idaho. The license transfer is necessitated to effectuate the existing contractual relationship between the transferors and IPC.

The transferors have fully complied with the terms of the license and agree to pay annual charges that have accrued to the date of the transfer. The transferees are qualified to hold the license and operate the property under license and agrees to be bound by the license as if it were the original licensee.

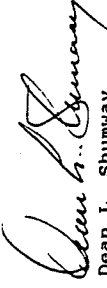
No motions to intervene, comments, or protests were filed in response to the public notice of the application to transfer the license. Transfer of the license for this project is consistent with the Commission's regulations and is in the public interest.

The Director orders:

- (A) Transfer of the license for this project is approved.
- (B) Approval of the transfer is contingent upon transfer of the title of the properties under license and delivery of all license instruments to the transferees, which shall be subject to all terms and conditions of the license as though it were the original licensee. The transferees shall submit certified copies of all instruments of conveyance within 60 days from the date of this order.

DC-A-5

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order. The transferees shall acknowledge acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet within 60 days from the date of this order.



Dean L. Shumway
Director, Division
of Project Review

Project No. 2899-006

IN TESTIMONY of its acknowledgement of acceptance of this order and its terms and conditions, Twin Falls Canal Company, North Side Canal Company, Ltd., and Idaho Power Company this 13th day of June, 1989, have caused their names to be signed hereto by their presidents, and attested by JOHN A. ROSHOLT

By 
PRESIDENT--TWIN FALLS CANAL COMPANY

By 
PRESIDENT--NORTH SIDE CANAL COMPANY

By 
PRESIDENT--IDAHO POWER COMPANY

Attest:



JOHN A. ROSHOLT

(Executed in triplicate)

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Martha O. Hesse, Chairman;
Charles G. Stalon, Charles A. Trabandt,
Elizabeth Anne Moler and Jerry J. Langdon.

Twin Falls Canal Company) Project No: 2899-003
North Side Canal Company, Ltd.)

ORDER ISSUING LICENSE
(Major Project)

(Issued December 15, 1988)

On July 27, 1984, the Twin Falls Canal Company and the North Side Canal Company, Ltd. (CC) filed a joint application for license under Part I of the Federal Power Act (FPA) to construct, operate, and maintain the Milner Hydroelectric Project No. 2899, to be located at the existing Milner Dam and Twin Falls Main Canal on the Snake River in Twin Falls, Cassia, Jerome, and Minidoka Counties, Idaho. Parts of the project would occupy lands of the United States managed by the Bureau of Land Management (BLM) of the Department of the Interior. The project would consist of the Milner Dam and Reservoir, modifications to 6,500 feet of the Twin Falls Main Canal to increase its capacity, a control structure on the canal that would divert the additional flow into a forebay, a penstock, a powerhouse located on the irrigation canal 1.6 miles downstream of the dam and containing a single generating unit rated at 43,650 kilowatts, and a 1.4-mile-long transmission line.

Notice of the application has been published. The Idaho Department of Fish and Game (IDFG) and the Idaho Department of Water Resources (IDWR) became intervenors in the proceeding. The motions to intervene and comments filed by agencies and individuals have been fully considered in determining whether to issue this license. The issues raised by the intervenors are discussed below.

I. Dam Safety and National Environmental Policy Act Compliance

The Commission currently is in the process of preparing an environmental impact statement (EIS) assessing, inter alia, the potential cumulative impacts of the Milner Project No. 2899 and three other proposed hydroelectric projects on the environmental resources of the Snake River Basin. A draft EIS (DEIS) was

issued in November 1987. 1 Due to new circumstances and new information received after the DEIS was issued, a Notice of Intent to Prepare a Supplement to the DEIS and to hold public meetings was issued on July 15, 1988; public meetings were held in Twin Falls, Idaho, on August 19, 1988. At these meetings, CC informed the Commission that there was a serious concern for the structural integrity of the 85-year-old Milner Dam and that failure of the dam during the irrigation season could result in near total crop failure on the 440,000 acres served by the dam. 2

Following a meeting with CC and an inspection of Milner Dam, the Commission's Division of Dam Safety and Inspections concluded that there is a high risk of failure at the Milner Dam in the event of a seismic event (earthquake). A complete dam failure could lead to partial or total crop failure, since such a failure would prevent diversion of water into the irrigation canal.

CC intends to use the revenues from the sale of electric power to be generated by the project to obtain the funds necessary to strengthen Milner Dam and upgrade its spillway. CC states that, absent these revenues, funding repair of the dam would result in severe economic hardship to many of the 7,500 CC shareholders who depend on irrigation waters from Milner Dam for their livelihood. According to CC, having the shareholders bear the total cost of repairs could cause some shareholders to lose their farms and would cause significant adverse impacts to a local economy that is already suffering the effects of the general economic problems of the farming industry.

The final EIS (FEIS) for the four projects on the Snake River is not expected to be completed until late summer or early fall of 1989. Thus, waiting for completion of the FEIS before action on the license application for Project No. 2899 could cause a delay of up to two years in starting the repair of Milner Dam, during which time there would be a risk of dam failure. If a license for the Milner Project is issued at this time, the necessary financing and other arrangements could be made so as to complete the dam repairs in one year or less.

1

Draft Environmental Impact Statement for the Twin Falls (FERC No. 18), Milner (FERC No. 2899), Auger Falls (FERC No. 4797), and Star Falls (FERC No. 5797) Hydroelectric Projects on the Mainstem Snake River, Idaho, Federal Energy Regulatory Commission, Washington, D.C., November 1987.

2

See the attached Safety and Design Assessment (S&DA) for a more detailed description of the dam safety concerns regarding this project.

Council on Environmental Quality (CEQ) regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA) state that, where emergency circumstances make it necessary to take an action with significant environmental impacts without following CEQ regulations (e.g., without first preparing an FEIS), the agency taking the action should consult with CEQ regarding alternative arrangements. Such arrangements are to be limited to actions necessary to control the immediate impacts of the emergency. 3 Pursuant to CEQ's regulations, the Commission consulted with CEQ and requested concurrence with a plan to proceed with the licensing of the Milner Project prior to completion of the FEIS on the four projects on the Snake River. 4 Consistent with the emergency provisions CEQ's regulations, the CEQ approved the Commission's plan to license the hydroelectric facility at the Milner Dam prior to completion of the FEIS. 5

II. Comprehensive Water Block

Commission staff has proposed development of a Comprehensive Water Block (CWB) for the four projects in the Snake River Basin included in the DEIS. As described in more detail in the Scoping Document Supplement (Supplement) prepared for this proceeding in October 1988, 6 the objective of the CWB is to provide target flows at the projects when water is available in excess of irrigation needs. The CWB represents the combined amount of water needed to provide target flows for protection and enhancement of environmental resources associated with the four projects addressed in the DEIS. Under the CWB proposal, each of the four projects, if licensed and constructed, would provide a sub-block to the CWB; the size of the individual sub-blocks would be different for each project, due to the fact target flows would be based on what is needed to mitigate impacts at each specific project. The size of the CWB would also vary from year to year depending on the amount of flow in the river and the availability of water in excess of irrigation needs.

3

See 40 C.F.R. 1506.11 (1988).

4

Letter from Martha O. Hesse, Chairman, Federal Energy Regulatory Commission, October 25, 1988).

5

Letter from A. Alan Hill, Chairman, CEQ, October 27, 1988.

6

Information regarding the Supplement was published in the Federal Register on October 15, 1988. See 53 Fed. Reg. 42,997. Scoping meetings on the Supplement were held in Boise and Twin Falls, Idaho, on November 2, 1988.

The CWB proposal would require the licensees for the four projects to lease water for the CWB from the Upper Snake Water Supply Bank (Water Bank). The State of Idaho established the Water Bank as a convenient means to allow and account for the rental of water by those irrigators in need of additional water from those who have excess water. Irrigators who estimate that their water storage rights would be in excess of their requirements in any year may place a portion of their storage right in the Water Bank, to be leased by others, with irrigators receiving first priority. Any water that is not leased in any year is lost if all of the upstream storage is refilled in the following year.

IDWR, by letter dated September 30, 1988, stated that it appears that structured reliance on the Water Bank through the CWB mechanism can be successful in meeting prescribed mitigative flows on the mainstem of the Snake River. Furthermore, Commission staff discussions with IDWR staff regarding the operation of the Water Bank revealed that: (1) water has been available for lease from the Water Bank in all years since its creation; (2) Idaho Power Company has leased water for power generation from the Water Bank in every year since its creation; (3) future water availability likely will increase due to increased irrigation efficiencies; (4) it is highly probable that water will be available in the Water Bank in excess of irrigation demand in the future, except in very bad water years; and (5) the cost of water from the bank is currently very reasonable, and is expected to remain so in the foreseeable future.

Under the CWB proposal, each licensee would be responsible for providing project-specific target flows. Target flows to be set for the projects would recognize the physical limitations of the river system so that they would not interfere with irrigation operations and would not flood low-lying areas. Flows to be released for project-specific target flows would be accounted for when the water is released from the upstream American Falls Reservoir and measured below Milner Dam. Thus, the CWB would be an accounting mechanism for licensees to equitably share the responsibility for mitigative flows, since water which is released from American Falls Reservoir would flow through all of the four proposed projects.

As discussed below, we believe the CWB proposal is an appropriate means to provide mitigative flows while recognizing the need to protect irrigation needs in the area. Accordingly, Article 401 of the license requires CC to meet the target flows specified by Article 407 of the license by renting water from the Water Bank when it is available.

III. Environmental Impacts

A. Erosion, Sedimentation, and Slope Stability

Rehabilitation of Milner Dam would involve excavation of rock materials, construction of access roads leading from the excavations to the dam, associated staging areas, and a cofferdam to dewater a small area in the reservoir when reconstructing the spillway. These activities would cause minor erosion, sedimentation, localized movement of loose rock materials, and temporary increases in suspended sediment in Milner Reservoir during placement and removal of cofferdams. In order to ensure that impacts on soils and geologic resources are minimized, Article 402 requires CC to include measures to minimize erosion and sedimentation and to control slope stability when submitting final design specifications for rehabilitation of Milner Dam.

During project construction, localized erosion, sedimentation, and temporary increases in turbidity and suspended sediments would occur until disturbed land surfaces are stabilized. Blasting for the powerhouse and tailrace excavation and construction of the access road could cause localized rockfall and mass movement of loose materials, and placement and removal of cofferdams would temporarily increase suspended sediments and turbidity within the Snake River.

With implementation of a detailed, site-specific erosion, sediment, and slope stability control plan that incorporates CC's proposed mitigation and the mitigation measures recommended in the DEIS, the effects on soil and geologic resources would be minor. ⁷ Article 402 requires CC to prepare a detailed, site-specific plan to control erosion, sedimentation, and slope stability that includes control measures proposed by CC and recommended in the DEIS.

B. Water Quality

1. Water Quality Certification

In a letter dated January 27, 1984, CC requested water quality certification pursuant to Section 401(A)(1) of the Clean Water Act from the Idaho Department of Health and Welfare (IDHW). IDHW granted water quality certification for the Milner Project on September 30, 1985. Since IDHW did not act on the certification request within one year from the date it received the request, water quality certification was deemed waived by

