STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 27349 PERMIT 20122 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 20122 was issued to Frontier Land and Power on August 3, 1987 pursuant to Application 27349.

2. Permit 20122 was subsequently assigned to Five Bears Hydro, Inc.

3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.

4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE MADE ON OR BEFORE	December 31, 1998	(0000009)

Dated: OCTOBER 25 1993

Roger [signature]

for Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20122

Application 27349 of Frontier Land and Power (over)

c/o Bruce McDowell, P.O. Box 131, Taylorsville, California 95983

filed on June 3, 1982, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:	Tributary to:
South Branch Ward Creek	Ward Creek thence
	Indian Creek thence
	East Branch of North Fork Feather River
	thence North Fork Feather River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
South 1,200 feet and West 1,000 feet from NE corner of Section 26	NE¼ of NE¼	26	25N	11E	MD

County of Plumas

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
Power	NW¼ of NW¼	23	25N	11E	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

Permit # 20122:

8-25-87 Assgd. to: McDowell Forest Products, Inc.

5-5-88 Assgd to: Five Bears Hydro, Inc;

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 8 cubic feet per second to be diverted from January 1 to December 31 of each year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1990. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1991. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. The equivalent of the continuous flow allowance for any 14-day period may be diverted in a shorter time, provided there be no interference with other rights and instream beneficial uses; and provided further that all terms or conditions protecting instream beneficial uses be observed. (0000027)

15. For the protection of fish and wildlife, permittee shall during the period: (a) from March 2 through June 15 bypass a minimum of 10 cubic feet per second, (b) from June 16 through March 1 bypass a minimum of 3 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount.

Each year, upon concurrence by the U.S. Forest Service, permittee shall bypass the entire unrestricted flow in South Branch Ward Creek for a period of five consecutive days during the peak runoff season to provide a channel flushing action. (0140060)

16. No water shall be diverted under this permit until permittee has installed a continuous recording device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained.

The daily record of maximum and minimum flows for each water year of October 1 to September 30 shall be supplied to 1) the State Water Resources Control Board with the next progress report submitted to the Board by permittee, and 2) the California Department of Fish and Game by December 31, of each year. (0060062)

17. In accordance with Section 1603 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

18. Permittee shall, prior to construction, file a Report of Waste Discharge pursuant to Water Code Section 13260 with the California Regional Water Quality Control Board, Central Valley Region, (Regional Board) and shall comply with all Waste Discharge Requirements issued by the Regional Board. If the Regional Board waives issuance of Waste Discharge Requirements, the permittee shall comply with Parts I and II of the "Guidelines for Protection of Water Quality During Construction and Operation of Small Hydro Projects" (Guidelines) as contained in the Water Quality Control Plans of the Central Valley Basin.

Specific requirements set forth in this permit shall prevail over any specific or general requirements in the referenced Guidelines in the event of conflict.

When complying with the Guidelines, pursuant to this condition, the permittee shall not commence construction until the Erosion Control Plan and any baseline data required by the Guidelines have been submitted to and approved in writing by the Regional Board; and before commencing sluicing operations, the permittee shall submit and receive written approval from the Regional Board of the Sluicing Operation Plan. (0000102)

19. Water diverted under this permit is for nonconsumptive use and is to be released to Ward Creek within the NW¼ of NW¼ of Section 23, T25N, R11E, MDB&M. (0000111)

20. All rights and privileges to appropriate water for power purposes under this permit and any subsequently issued license are subject to depletions resulting from future upstream appropriation for domestic and stockwatering uses within the watershed. Such rights and privileges under this permit may also be subject to future upstream appropriations for uses within the watershed other than domestic and stockwatering if and to the extent that the Board determines, pursuant to Water Code Sections 100 and 275, that the continued exercise of the appropriation for power purposes is unreasonable in light of such proposed uses. Any such determination shall be made only after notice to permittee or licensee of an application for any such future upstream appropriation and the opportunity to be heard; provided, that a hearing, if requested, may be consolidated with the hearing on such applications. (000I001)

21. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained, including compliance with any applicable Federal Energy Regulatory Commission requirements. Prior to any construction of a land disturbing nature on public lands, permittee shall obtain a Special Use permit from the U.S. Forest Service. (000J001)

22. Permittee shall install and properly maintain a fish screen, acceptable to the California Department of Fish and Game, at the diversion facility. (0400500)

23. Permittee shall install and properly maintain a fish passage facility acceptable to the U.S. Forest Service. (0140500)

24. Six months prior to project operations, permittee shall prepare and implement an aquatic monitoring study plan, acceptable to the California Department of Fish and Game, U.S. Fish and Wildlife Service and U.S. Forest Service, designed to evaluate impacts of project operation on fish and wildlife resources during the three-year period immediately following project operation. All studies shall be conducted with the approval of the aforementioned agencies, and study results shall be provided to those agencies upon request. (0390500)

25. Permittee shall design and construct above-ground transmission lines in such a manner that they will not be a hazard to raptors. (0400500)

26. To ensure proper incorporation and operation of fish and wildlife protective measures, permittee shall, for the life of the project, allow reasonable access to the project by designated representatives of the California Department of Fish and Game, U.S. Fish and Wildlife Service or the U.S. Forest Service, without prior notification. (0400999)

27. Permittee shall obtain a Special Use Permit from the U.S. Forest Service prior to any construction of a land disturbing nature on public lands. (0450500)

28. Permittee shall, within one year from the date of this permit and before beginning any activities of a land disturbing nature, prepare the following plans and conduct the indicated studies, all subject to the approval of the U.S. Forest Service:

a. Fish and Wildlife Habitat Mitigation Plan
b. Project Induced Recreation Plan
c. Water Quality Study of Ward Creek
d. Erosion, Stream Sedimentation, Dust, and Soil Movement Plan
e. Solid Waste and Wastewater Treatment and Disposal Plan
f. Tunnel Spoil, Slide, and Excess Construction Materials Storage and Disposal Plan
g. Visual Quality Plan
h. Sensitive, Threatened and Endangered Species Survey and Mitigation Plan
i. Hazardous Substances Storage and Spill Prevention and Cleanup Plan

Permittee shall submit copies of the U.S. Forest Service approved plans and study results to the State Water Resources Control Board. (0390500)

29. Permittee shall bury the transmission line from the powerhouse to the private land boundary. The location and depth of the burial of the transmission line shall be subject to U.S. Forest Service approval. (0400500)

30. If permittee discovers any previously unidentified archeological or historic sites during the course of construction or developing project works or other facilities at the project, permittee shall stop all construction and development activities in the vicinity of the sites, and shall consult a qualified cultural resources specialist, the State Historic Preservation Office and, if on federal land, the U.S. Forest Service concerning the eligibility of the sites for listing in the National Register of Historic Places and the need for implementing measures to avoid the sites or to mitigate effects on the sites. (0380500)

31. The State Water Resources Control Board reserves jurisdiction to modify the terms and conditions of this permit to mitigate any adverse impacts identified by the U.S. Forest Service or other appropriate agencies, including the Board, from the various plans and studies required under this permit. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (000M001)

This permit is issued and permittee takes it **subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: AUGUST 03 1987

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh

Chief, Division of Water Rights

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