

JUL 25 2018

DEPARTMENT OF
WATER RESOURCES

Form No.42-1409-1 (Internet 5/17)

**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 COEUR D'ALENE-SPOKANE RIVER
BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 49576

Claim ID: 95-9119

Date Received: _____

Receipt No: _____

Claim Fee: _____ By: _____

**AMENDED
NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of claimant(s) Avista Corporation Phone (509) 489-0500
Mailing address 1411 East Mission Spokane WA Zip 99220-3727
Street or Box City State
Email address (optional) _____
2. Date of priority: (Only one per claim) 5/1/1941 (Explain priority date selected in Remarks)
Month/Day/Year (YYYY)
3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Spokane River
which is tributary to (b) Columbia River
4. a. Location of point of diversion is: Township 50 N, Range 05 W, Section 4,
SE 1/4 of NE 1/4, Govt. Lot _____, BM, County of Kootenai
Parcel no. 50N05W-042300, 50N05W-034000
Additional points of diversion, if any: T50N, R05W, Sec. 3 NWSW & SWNW, Sec. 3 SWSW
If available, GPS Coordinates _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,
Govt. Lot _____, BM, County of _____
Ending point is: Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,
Govt. Lot _____, BM, 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.
Three dams in the Spokane River with associated hydropower generation facilities.

6. Water is claimed for the following purposes:

	(dates are inclusive MM-DD)	(cfs)	(acre-feet)
For <u>Power Storage</u> purposes from <u>1/1</u> to <u>12/31</u> amount <u> </u> or <u>53,338</u>			
For <u>Power from Storage</u> purposes from <u>1/1</u> to <u>12/31</u> amount <u> </u> or <u>53,338</u>			
For <u> </u> purposes from <u> </u> to <u> </u> amount <u> </u> or <u> </u>			
For <u> </u> purposes from <u> </u> to <u> </u> amount <u> </u> or <u> </u>			

7. Total quantity claimed (a) _____ (cfs) and/or (b) 53,338 (acre-feet)

8. Non-irrigation uses; describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.) _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

[illegible]

Parcel no(s). Same as Line 4.a Total number of acres irrigated

10. In which county(ies) are lands listed above as place of use located? Kootenai

11. Do you own the property listed above as place of use? Yes () No (✓)
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

95-4518, 95-8003, 95-9115, 95-9119 _____ or None ()

13. Remarks (Include an explanation of the priority date selected):

Avista has a perpetual right, granted by the State of Idaho, to occupy and use that portion of the bed of the

Spokane River lying within the area described in the patent issued to Frederick Post in 1894. The priority date

corresponds with the date when the Spokane River was controlled for power generation between elevations

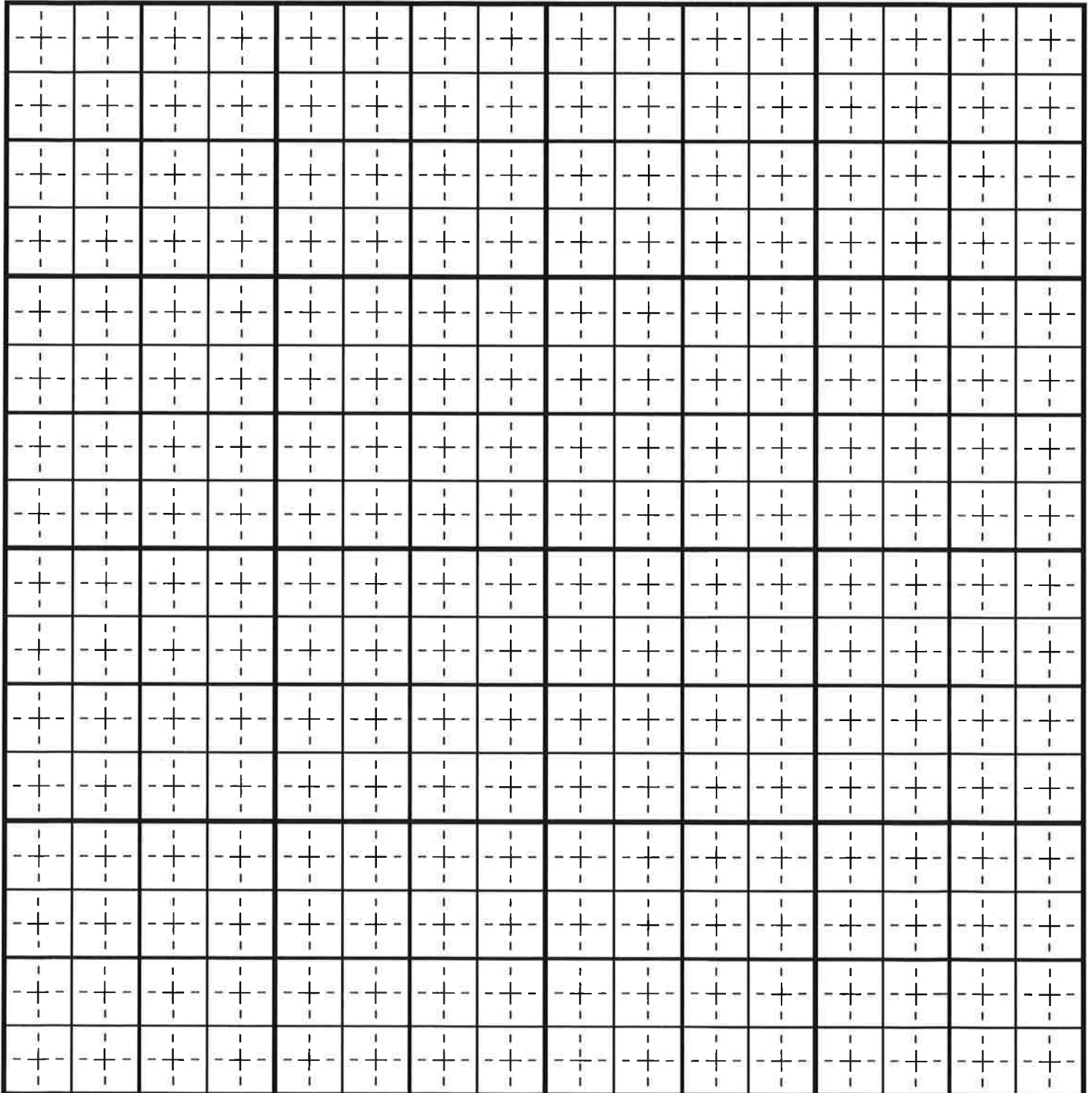
2126.5' and 2128.0' mean sea level as measured at the USGS gaging station located at the City of Coeur

d'Alene near Tubbs Hill. Aviata's operations are further explained in an attached Narrative. Subordination of

Avista's water rights is discussed in a separate attachment.

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 inches equals 1 mile



Name of claimant(s) Avista Corporation

Claim ID 95-9119

14. Basis of claim (Check one) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. **Signature(s)**

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Coeur d'Alene-Spokane River Basin Water System 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: _____

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

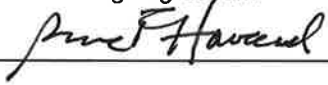
For Organizations: I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the foregoing document in the space below as the

Senior Director of Environmental Affairs of Avista Corporation

Agent's title (Please print)

Name of organization (Please print)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent  Date 7-13-18

Printed Name of Authorized Agent Bruce F. Howard

16. **Notice of Appearance:**

Notice is hereby given that I, (please print) Chris M. Bromley, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature  Date 7/13/2018

Address 380 S. 4th St., Ste. 103, Boise, ID 83702 208-287-0991

Name of claimant(s) Avista Corporation

Claim ID 95-9119

Map Depicting Place of Use and Points of Diversion for Avista Corporation's CSRBA Claim Nos. 95-4518, 95-9115, and 95-9119

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.075 0.15 0.3 Miles



Narrative Regarding CSRBA Claim Nos. 95-4518, 95-9115, and 95-9119

The Avista Corporation ("Avista"), formerly known as the Washington Water Power Company ("Washington Water Power"), operates the Post Falls Hydroelectric Project (the "Project"), for the purpose of generating power from the Spokane River. The following is a brief summary of the claims filed by Avista in the Coeur d'Alene-Spokane River Basin Adjudication ("CSRBA") for power purposes of use.

Avista, as Washington Water Power, first took control of the Spokane River for purposes of generating power in 1907. Control of the Spokane River is typically exercised in late June or early July as the majority runoff from snowmelt into Lake Coeur d'Alene ("Lake") is nearing its end. July 1, 1907 is therefore chosen as the priority date for CSRBA claims nos. 95-4518 and 95-9115 to best represent the moment in time when control of the Spokane River for power generation was achieved. Avista operates the Project related to elevations measured at the USGS gaging station located at the City of Coeur d'Alene near Tubbs Hill and presently numbered by the USGS as gage no. 12415500 (the "USGS gage"). From July 1, 1907 until May 1, 1941, the Project's low pool elevation, as measured at the USGS gage, was 2,120.5 feet mean sea level ("msl"). After taking control of the Spokane River, the Project operated with a high pool elevation of 2,126.5' msl. Avista operated with flexibility to follow load demands as it deemed appropriate. Over time, the variations in summer lake levels became less pronounced, and Avista maintained the summer Lake level near 2126.5' msl, after which time Avista would draft water in the Lake to generate power as well as to create capacity for expected winter and spring precipitation and runoff. Near the end of December or the first part of January, Avista operated the Project to freely pass the flow that is capable of passing through the Lake's natural outlet restriction, allowing the Lake to seek and achieve its natural level with no influence by the Project. For CSRBA claim no. 95-4518, the diversion rate of 4,250 cfs for Power is based on the nameplate ratings for turbines 1-5. For CSRBA claim no. 95-9115, the volume of 213,354 acre-feet for Power Storage and Power from Storage is based on the amount of usable storage between 2,120.5 msl and 2,126.5 msl, which is quantified based on bathymetry.

During World War II, there was a need for additional power generation to support the United States' War effort. On or about May 1, 1941, and in order to generate additional power to support the War effort, Avista raised the Project's high pool elevation from 2,126.5' msl to 2,128' msl. Avista operated near that elevation during the summer, after which Avista would initiate a drawdown as described above. Over time, Avista's summer operations became more consistently managed at or near the elevation of 2128' msl. May 1, 1941 is therefore chosen as the priority date for CSRBA claim no. 95-9119 to best represent the moment in time when Avista stored additional water for power generation by increasing the Project's full pool elevation from 2,126.5' msl and up to 2,128' msl. For CSRBA claim no. 95-9119, the volume of 53,338 acre-feet for Power Storage and Power from Storage is based on the amount of usable storage between 2,126.5' msl and 2,128' msl, which is quantified based on bathymetry.

Avista's Post Falls operations were not part of the original license issued for the Project by the Federal Energy Regulatory Commission ("FERC"). Avista's current FERC license, issued June 2009, includes operating parameters as expressed in the Clean Water Act Section 401 Certification issued by the State of Idaho (the "401 Certificate") and incorporated by FERC. These operations reflect agreements reached between multiple parties, including between Avista and the State of Idaho specifically in the context of the 401 Certificate.

Avista Corporation requests the following subordination condition be included in the Director's Report as to its CSRBA claims nos. 95-4518, 95-9115, and 95-9119:

The use of water confirmed in this right shall be junior and subordinate to permits, licenses, or decrees for all uses within the State of Idaho with a priority date of, or earlier than, July 25, 2018, diverted upstream from all three points of diversion for this right.

The use of water confirmed in this right shall be junior and subordinate to permits, licenses, or decrees for all uses, except for permits, licenses, or decrees for irrigation storage or power purposes, within the State of Idaho with a priority date later than July 25, 2018, diverted upstream from all three points of diversion for this right.

The use of water confirmed in this right shall not be subordinate to permits, license, or decrees within the State of Idaho diverted downstream from all three points of diversion for this right.