

Edl, Michele

From: Edl, Michele
Sent: Tuesday, August 25, 2020 5:03 PM
To: 'AF'; brenda@westford.co; 'C McHugh'
Cc: Jones, Doug; Grimm, Angie; Frederick, Adam
Subject: Amendment for licensing 84-7171
Attachments: 84-7171 app for amend.pdf; 84-7171 cvr ltr.pdf

Ladies and gentlemen,

The attachments to this email are 'early bird' copies of documents which will be mailed from IDWR's state office tomorrow morning, August 26, 2020.

Respectfully,
Michele Edl
208-287-4946



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

August 26, 2020

FORD HYDRO LTD PARTNERSHIP
PO BOX 1432
LEWISTON ID 83501-1432

RE: Water Right Permit No. 84-7171

Dear Permit Holder(s):

I have completed my review of Permit 84-7171 and have made recommendations for licensing the right. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

When I verified the water use developed under Permit 84-7171 earlier this year, I found that certain elements of the permit have been developed differently than were described on the permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Idaho Code § 42-211. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

I found that the following elements were developed differently than described on your permit:

☐ Point(s) of Diversion

☒ Place(s) of Use

☐ Other

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when issued. Please review the amendment form carefully. If you concur with the information presented, please sign and return the form with the filing fee of \$100.00 within fourteen (14) days.

Notice that the license will be issued with both a maximum diversion rate limitation and an annual diversion volume limitation. These limits are based on Idaho Department of Water Resource's Beneficial Use Examination Rule 37.03.02.035 o. which states:

The amount (rate and/or volume) of water shall be limited by the smaller of the permitted amount, the amount upon which the license examination fee is paid, the capacity of the diversion works or the amount beneficially used prior to submitting

proof of beneficial use, including any statutory limitation of the duty of water.

The licensed rate will be limited to 60 cfs (cubic feet per second) which is the rate that you listed on your proof of beneficial use statement and confirmed with evidence demonstrating that the Ford Power Project beneficially used 60 cfs for power production during the development period of the permit, April 30, 1986 - March 30, 1990. But Permit 84-7171 authorized a diversion rate of as much as 100 cfs and the license examination fee you paid is sufficient to cover additional rate. So if more than 60 cfs was beneficially used during the development period and that higher rate can be confirmed by evidence, then the maximum rate limit on the license can be adjusted accordingly.

A volume is required by the Idaho Department of Water Resource's Beneficial Use Examination Rule 37.03.02.035 j. which states:

For each use of water the examiner shall report an annual diversion volume based on actual beneficial use during the development period for the permit. The method of determining the annual diversion volume shall be shown. The annual diversion volume shall account for seasonal variations in factors affecting water use, including seasonal variations in water availability.

In the case of Right 84-7171, the volume limitation is 2780 AFY (acre feet per year). 2780 AFY is in accord with my findings of the extent of beneficial use during the development period of the permit which ended when you submitted proof of beneficial use on March 30, 1990. It is based on records of generation from the Ford Power Project which appear in the Integrated Resource plans provided to the Idaho Public Utilities Commission by the Washington Water Power. If you disagree with this volume amount and you have records which can substantiate that a higher annual volume of water was used while the permit was still active, I would welcome those records and I would adjust the licensed volume limit accordingly.

2780 AFY is less than the annual volume of water that the project has diverted and used in many of the years subsequent to the development period of the permit. Based on records of generation shown in the Integrated Resource plans provided to the Idaho Public Utilities Commission by Washington Water Power and Avista, I estimated that the Ford Power Project may have diverted and used as much as 15,800 AFY.

The license for Permit 84-7171 is limited to the maximum rate and volume of water that were beneficially used during the development period. The evidence I have gathered through this licensing effort indicates that additional beneficial use of water was being made by the Ford Power Project. An additional permit and subsequent water right are necessary if you desire to continue that additional increment of beneficial use.

In summary:

- The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license if it were to be issued today.
- Permit 84-7171 must be amended to correct the legal description for the place-of-use as it was constructed in a different location than the permit authorized.

- The maximum diversion rate on the license is limited to the 60 cfs by your proof statement and the evidence provided. An additional permit would not be required to cover a diversion rate above 60 cfs but below 100 cfs, if you can provide evidence of that rate being used during the development period of the permit.
- 2780 AFY was maximum annual volume of water that had been put to beneficial during the development period of Permit 84-7171, but higher volumes of water were beneficially used after Permit 84-7171 was no longer in effect. An additional permit is required if you intend to continue the beneficial use of more than 2780 AFY.

So, if you plan to divert and use more than 2780 AFY of water in the Ford Power Project, an additional permit to appropriate that water is necessary. The Application for Permit form can be found on our website: <https://idwr.idaho.gov/>.

If you have questions about either the permit amendment process or the process for applying for a new permit, please call me at (208) 287-4946 or email me at michele.edl@idwr.idaho.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michele D. Edl".

Michele D. Edl

Enclosure(s): Application for Amendment

ec: IDWR Northern Region
McHugh-Bromley

State of Idaho
Department of Water Resources
Application for Amendment
(For Licensing Purposes)
Water Right No. 84-7171

Priority: June 30, 1983

Maximum Diversion Rate: 60.0 CFS
Maximum Diversion Volume: 2780.0 AF

The owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 84-7171

FORD HYDRO LTD PARTNERSHIP PO BOX 1432 LEWISTON ID 83501-1432

requests the permit be changed as follows:

Source: JIM FORD CREEK

Tributary: CLEARWATER RIVER

Beneficial Use

POWER

Period of Use

01/01 to 12/31

Rate of Diversion

60.0 CFS

Annual Volume

2780.0 AF

Location of Point(s) of Diversion

JIM FORD CREEK SW¼ SW¼, Sec. 10, Twp 35N, Rge 04E, B.M. CLEARWATER County

Place of Use: POWER

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
35N	04E	9		X																

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed this _____ day of _____, 20____.

(Signature)

State of Idaho
Department of Water Resources
Application for Amendment
(For Licensing Purposes)
Water Right No. 84-7171

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100 Received by _____ # _____ Date _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 84-7171 with the following:

Conditions of Approval

1. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
2. Use of water under this right shall be non-consumptive.
3. This right does not grant any right-of-way or easement across the land of another.
4. The term of this water right shall run concurrently with Ford Power Project license #7986 issued by the Federal Energy Regulatory Commission (FERC), which expires on December 31, 2035. The term shall automatically extend to run concurrently with any annual renewals of the project's FERC license. Prior to the issuance of a subsequent or new FERC license for the project, the Director may review the water right license and may issue an order canceling all or any part of the use, establishing a new term, or revising, adding or deleting conditions under which the water right may be exercised. The order shall take effect on the date the current term, as may be extended through annual renewals, expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the project's subsequent or new FERC license and any prior conditions on the water right license shall remain in effect.
5. The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

This amendment is issued pursuant to the provisions of Idaho Code § 42-211.

Signed this _____ day of _____, 20_____.

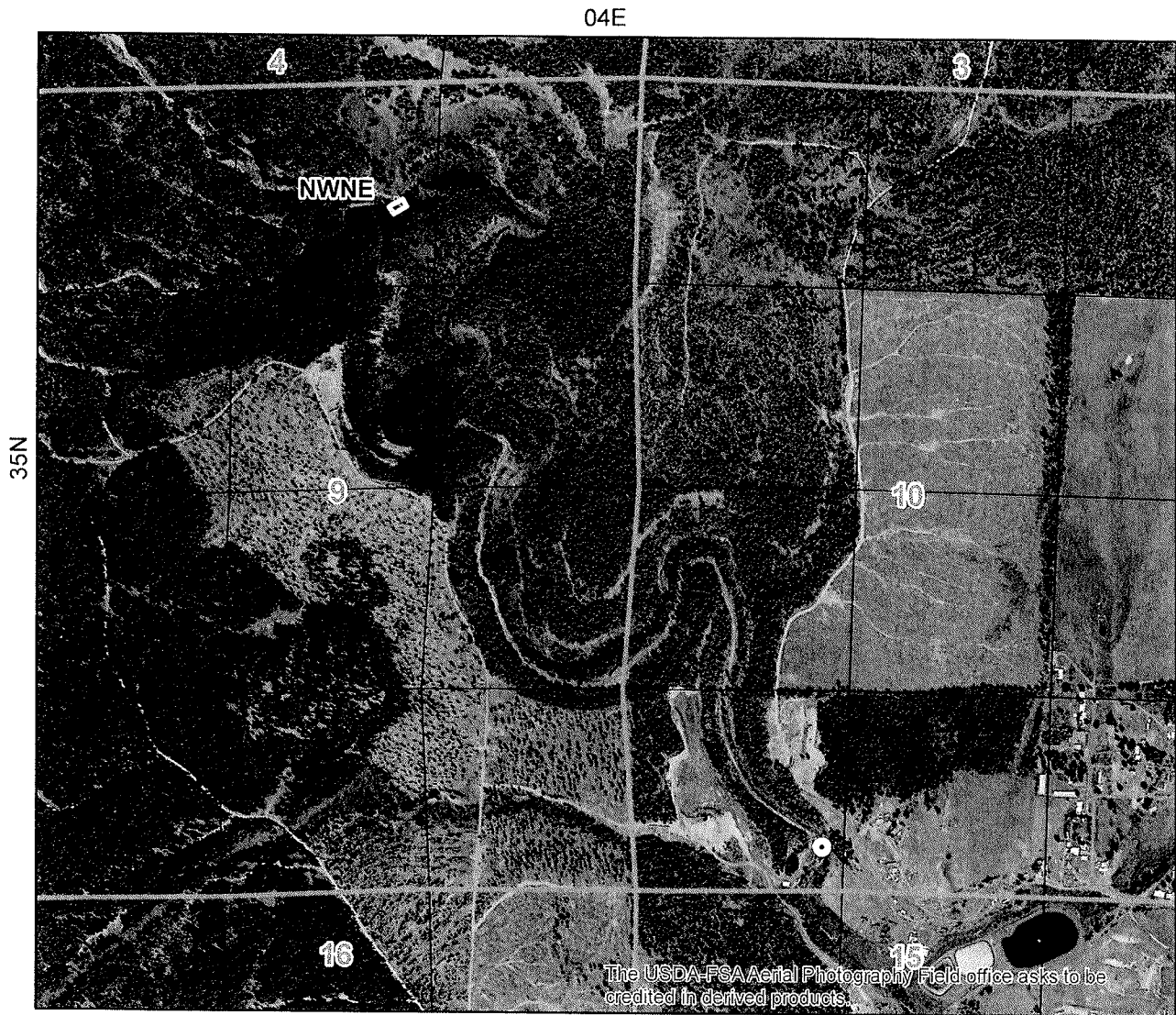
ANGELA GRIMM
Water Rights Section Manager

State of Idaho
Department of Water Resources

Attachment for Application to Amend a Permit

84-7171

This map depicts the POWER place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary

- Townships
- PLS Sections
- Quarter Quarters

0 0.15 0.3 0.6 Miles

