

RECEIVED

DEPARTMENT OF WATER RESOURCES

FEB 12 2019**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) IDWR / NORTH Avista Corporation Phone 509 495-2941
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address P.O. Box 3727, MSC-1 City Spokane
 State WA ZIP 99220-3727 Email bruce.howard@avistacorp.com
2. Name of representative, if any Chris Bromley Phone (208)287-0991
 Mailing address 380 South 4th Street, Suite 103 City Boise
 State ID ZIP 83702 Email cbromley@mchughbromley.com
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☒ Send original correspondence to the applicant and copies to the representative.
- b. ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Clark Fork River which is a tributary of Lake Pend Oreille

4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
55N	3E	27			SE	NE	Bonner	Clark Fork River	Cabinet Gorge Dam
55N	3E	27			NE	SE	Bonner	Clark Fork River	Cabinet Gorge Dam
55N	3E	27			NW	SE	Bonner	Clark Fork River	Cabinet Gorge Dam
55N	3E	27			SW	NE	Bonner	Clark Fork River	Cabinet Gorge Dam

5. Water will be used for the following purposes:

Amount 3,300 cfs for Hydro-electric power purposes from 1-1 to 12-31 (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

6. Total quantity to be appropriated is (a) 3,300 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

7. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source. Cabinet Gorge Dam
- b. Height of storage dam 208 feet; active reservoir capacity 3,200 acre-feet; total reservoir capacity 105,000 acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No
- 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 sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ _____ Received by _____ Receipt No. _____ Date _____

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. 95-100ft. of head, 31,900kW capacity

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).

d. Domestic; show number of households _____

e. Other; describe fully. _____

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
55N	3E	27				P													
55N	3E	27			P														
55N	3E	27													P				
55N	3E	27														P			

Total number of acres to be irrigated: _____

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 96-2269, 96-2179, 96-2180 & 96-4565

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant & State of Idaho

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Idaho Department of Lands Term Lease No. 6853 (copy attached)

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. This application is for water that is over and above the quantities of the rights listed in Item 10.

The ability to use this additional water is a result of improvements in in efficiencies of the generating equipment

installed at the dam. It is authorized under the terms of the FERC license orders dated February 13, 2004 and July 13, 2006 (copies attached). This is an instantaneous diversion application. No refill plan is required.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Maria M. Durkin

Signature of Applicant

Marin Durkin, Sr VP General
Print Name (and title, if applicable) Counsel, Corporate
Secretary & CEO

Signature of Applicant

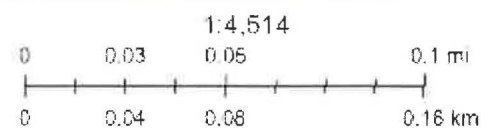
Print Name (and title, if applicable)

Application for Water Right



6/30/2020 2:40:15 PM

- POD/POU
- Township/Range
- Counties
- Idaho Outline
- Quarter Quarter
- Section
- Idaho Mask



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JUL 01 2020

IDWR/NORTH

Source: Esri, Maxar, GeoEye, Earthstar, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, Created by NRCS from 1:24,000 scale USGS topographic maps, and other public resources.

Corrected

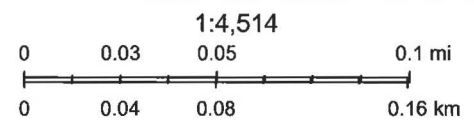
ArcGIS Web Map



9/10/2018 10:18:16 AM

- Quarter Quarter
- Section
- Township/Range

Original



Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

RECEIVED

JUN 07 2018

IDWR / NORTH

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 96-9705

1. Name of applicant(s) Avista Phone 509 495-8941
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address Box 3727, Spokane WA 99220-3727 Email see remarks
2. Name of representative, if any _____ Phone 509 495-8941
 Mailing address _____ Email _____
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☐ Send original correspondence to the applicant and copies to the representative.
- b. ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant.
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4. Location of point(s) of diversion:

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- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by Ja Date 6-7-18 Time _____ Preliminary check by _____
 Fee \$ 12,210.00 Receipted by Ja Receipt No. N033474 Date 6-7-18

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a. Hydropower; show total feet of head and proposed capacity in kW. 95-100ft. head, 31,900 kW capacity

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55N	3E				P											P			

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b. Who owns the land to be irrigated or place of use? State of Idaho

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Idaho Department of Lands Term Lease No. 6853 (Copy attached)

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. This application is for water that is over and above the quantities of the rights listed in Item 10.

The ability to use this additional water is a result of improvements in efficiencies of the generating equipment

installed at the dam. It is authorized under the terms of the FERC license orders dated Feb. 13, 2004 and July 13,

2006. The contact person at Avista is Michele Drake. Her email address is michele.drake@avistacorp.com

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Michele Drake

Signature of Applicant

Michele Drake

Print Name (and title, if applicable)

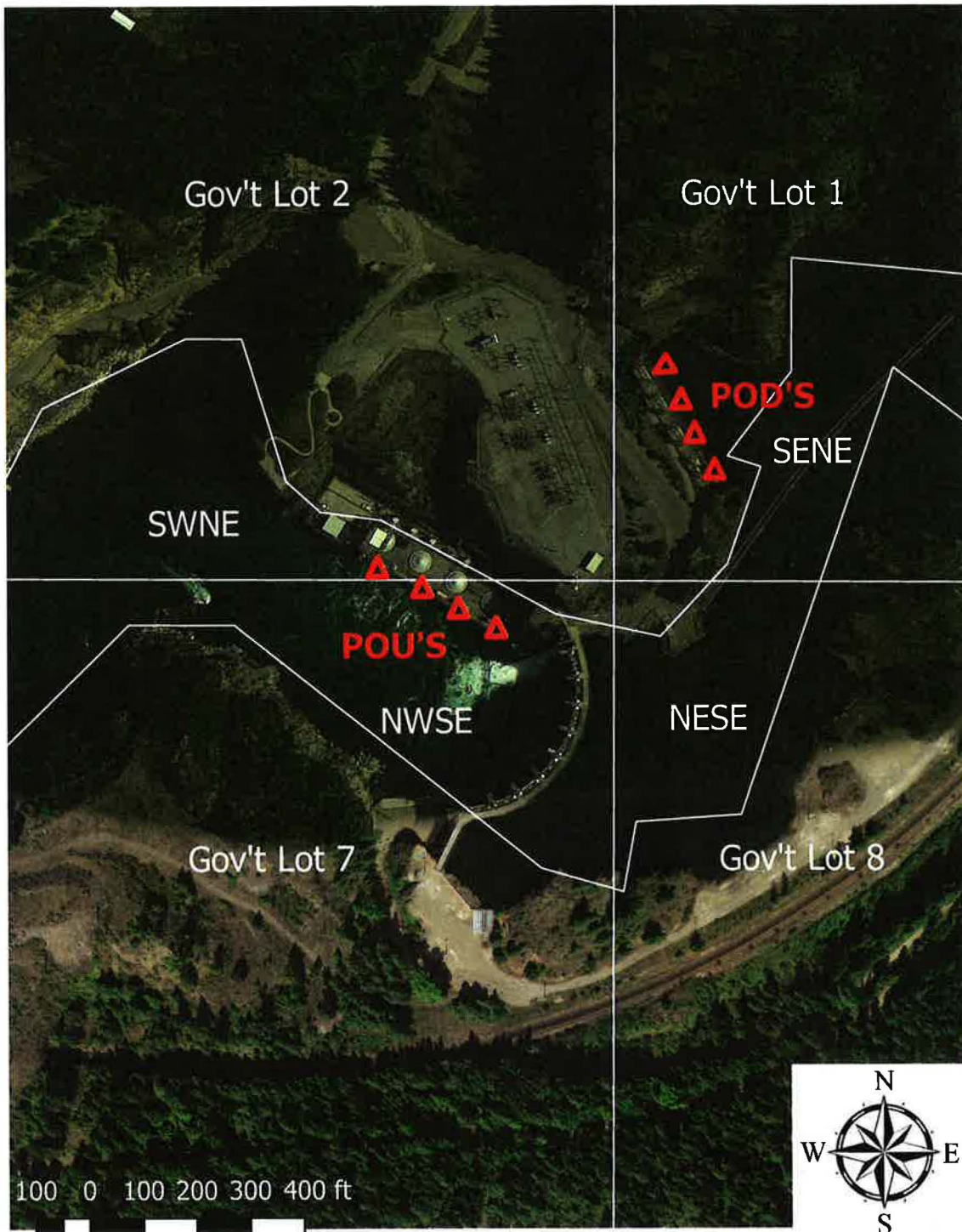
supervisor, hydro compliance

Signature of Applicant

Print Name (and title, if applicable)

Avista Cabinet Gorge Application for Permit

T55N R3E Section 27





788365

STATE OF IDAHO

TERM EASEMENT NO. 6853

300 N. 6th St., Suite 103
PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-3698

I.D.L.
FILED BY

2010 FEB 25 P 2:18

MARIE SCOTT
BONNER COUNTY RECORDER

DEPUTY

THIS INDENTURE, made this 17th day of February 2010, by and between the **STATE OF IDAHO, Department of Lands**, 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050, acting by and through the State Board of Land Commissioners, (Grantor), and **AVISTA CORPORATION**, P.O. Box 3727 (MSC 25), Spokane, Washington 99220, (Grantee);

WITNESSETH: That for and in consideration of a one-time administrative fee in the amount of TWO THOUSAND SIX HUNDRED SIXTEEN and 00/100ths DOLLARS (\$2,616.00), lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee, their successors and assigns, a non-exclusive easement for the purpose of operating and maintaining a hydroelectric dam over and across the following described lands situated in **BONNER COUNTY**, State of Idaho, so much of the following described lands which were below the natural or ordinary high water mark on the date the State of Idaho was admitted to the Union with the right to additions thereto and subject to deletions there from which have occurred, causing the boundary of the state's ownership to change, to-wit:

A strip of land 700 feet wide lying 550 feet northwesterly (downstream) and 150 southeasterly (upstream) of the following described line which contains Cabinet Gorge Dam and aprons built across the submerged original Clark Fork River channel, located in Section 27, Township 55 North, Range 3 East Boise Meridian, Bonner County, Idaho:

Beginning at the East Quarter Corner of said Section 27, thence North 51° 18' 13" East 868.95 feet to a point known as State Line Monument 83 between Idaho and Montana;

Thence South 73° 51' 32" West 2,106.02 feet to a point (instrumentation Pt. 5) on the northerly side of Cabinet Gorge Dam. Said point being the True Point of Beginning;

Thence South 41° 37' 07" West 390.77 feet to a point (instrumentation Pt. 1) on the southerly side of Cabinet Gorge Dam. Said point being the terminus of the above described line.

Containing 6.27 acre, more or less and as illustrated on the attached Exhibit "A".

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I. DURATION: This easement shall remain in effect for the term of Federal Energy Regulatory commission, hereinafter FERC, License Number 02058 for the Clark Fork Project or until March 1, 2046. (A) This license is issued to Avista Corporation (Licensee) for a period of 45 years, effective March 1, 2001, to operate and maintain the Clark Fork Project No. 2058. This license is subject to the terms and conditions of the Federal Power Act (FPA), which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the FPA. This easement shall be subject to the terms and provisions of the requirements of Grantees' license with FERC, as granted or later amended.

If the project is re-licensed by FERC, the easement shall be renewed subject to the Grantor's rules and regulations in place at the time of renewal.

II. PURPOSE: This easement is granted for the following purpose: Operating, and maintaining a hydroelectric project, known as the Cabinet Gorge Hydroelectric Development of the Clark Fork Project. Construction and installation and/or alterations may commence only after Grantor has received maps of the facilities located or to be located within the easement area.

III. PROJECT WORKS: Project works for Cabinet Gorge Hydroelectric Development consist of:

A 395-foot-long, 208-foot-high concrete gravity arch dam; a saddle dam, located in a depression near the south abutment, consisting of a 75-foot-long, 12-foot-high concrete gravity section, buttressed by earth fill on the downstream face; a 3,200-acre reservoir with a gross storage capacity of 105,000 ac-ft at full pool elevation of 2,175 feet, and an active storage capacity of 42,780 ac-ft in the top 15 feet of the reservoir (no minimum reservoir elevation is established); four 27-foot-diameter, concrete-lined penstocks ranging in length from 447 feet to 564 feet with the last 110 to 155 feet steel-lined; a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing three fixed-blade propeller turbines rated at 70,500 hp each, and one Kaplan turbine runner rated at 86,290 hp, and generators producing a total of about 263.2 MW at full turbine capacity and full pool; a structure northeasterly within the river channel being a movable trash boom, along with a boater safety cable; six (6) 230 kV transmission power lines and appurtenant facilities.

Appurtenant facilities include an operations and maintenance warehouse, office buildings, communications lines, storage areas, access roads, recreational facilities and protection, mitigation, enhancement measures.

IV. LIMITED PURPOSE: If the Grantee desires to use the easement for an additional or different purpose than the one specified herein, the Grantee shall make a request in writing to the Grantor. If approved, at Grantor's discretion, the original easement shall either be amended, or canceled and replaced by a new easement.

51505

The Grantee may allow its agents, licensees, and contractors, hereinafter referred to as Permittees, to exercise the rights granted herein. This easement does not give the Grantee authority to permit third party use of the easement area for any permanent purpose. Only the Grantor may authorize third party use. The Grantor may permit third party use only on the condition that said use shall not interfere with the Grantee's rights as hereby authorized. Third party use is herein defined as those wanting use of the easement area other than the Permittees of the Grantee.

V. FEES: Grantees shall pay to the Grantor a one-time fee of ONE THOUSAND THREE HUNDRED and 00/100ths DOLLARS (\$1,300.00) and a one-time royalty payment of ONE THOUSAND THREE HUNDRED SIXTEEN and 00/100ths DOLLARS (\$1,316.00). This payment is based upon a FIVE DOLLAR (\$5.00) per megawatt of installed capacity X 263.2 megawatt rating.

VI. ADDITIONAL RIGHTS RESERVED TO THE GRANTOR: It is understood and acknowledged that all rights are contingent upon all parties' compliance with applicable provisions of the FERC license for Project No. 02058 issued to Grantees on March 1, 2001, and as such license may be amended. All individuals or entities authorized by the Grantor to enter upon or to cross this easement shall insure against damage to the easement or Grantees' property in the sum of one million dollars (\$1,000,000.00).

The Grantor expressly reserves the following rights:

A. Oil and gas, geothermal, and all other mineral rights.

B. To grant additional easements over or leases, permits or licenses upon the easement area, provided that such easement, lease, license, or other use shall not unreasonably interfere with the Grantees' use of its easement.

C. The Grantor, its agents, contractors, lessees, permittees, and other authorized individuals and entities may enter upon and across the easement area to inspect the improvements and for other lawful uses, so long as such use does not unreasonably interfere with Grantees' use of this easement. For national security purposes Grantor shall coordinate any access to the Cabinet Gorge Hydroelectric Development with the Grantee. In addition to the insurance provided above, all those authorized by the Grantor to use the easement area shall be bonded in an amount sufficient to insure that access roads shall be maintained in and restored to the condition they were in prior to commencement of any subsequent grant for multiple usage of the described area.

VII. RESPONSIBILITY - HOLD HARMLESS CLAUSE: Grantees shall indemnify and hold harmless Grantor against any and all liability, claims and expenses of any kind, including reasonable attorney fees, for any injury to any person or damage to property caused by any negligent or other wrongful act of Grantees, or their officers, employees, agents, or invitees in connection with the activities of the easement. Grantor shall indemnify and hold harmless Grantees against any and all liability, claims and expenses of any kind, including reasonable attorney fees, for any injury to any person or damage

51565

to property caused by any negligent or other wrongful act of Grantor, or its officers, employees, agents or invitees in connection with the activities of the easement. The party seeking indemnification under this provision shall give the other party written notice of the claim for indemnification within ten (10) working days after it receives notice or has knowledge of the claim and shall give the other party a reasonably opportunity to defend against the claim including cooperation in the defense of the claim. Grantees shall not be considered an agent of the Grantor in the construction, operation, maintenance or use of the easement area or the facilities, structures, or improvements situated thereon.

VIII. DEFAULT: If at any time the Grantees are in default of any of the terms of this agreement then the Grantor shall notify the Grantees as to the nature and extent of said default by certified letter. The Grantees shall then have a period of ninety (90) days after the date of receipt of said certified letter in which to remedy or to challenge any alleged default. If the Grantees are proceeding in good faith to cure any acknowledged default the Grantor may extend the 90-day provision to any degree which it deems proper. In the event of an unsatisfactory cure of a default by the Grantees within the time limit or extensions thereof, then any Secured Party shall have further ability to cure said default as per the provisions of item XVII which follow in this agreement. If at any time the Grantor is in default of any of the terms of this agreement then the Grantees shall notify the Grantor as per the terms of this provision and all other terms of this provision shall apply.

IX. ASSIGNMENT: The Grantees shall not sublet all or any part of the easement or assign or transfer this easement or any interest therein, except as follows:

Subject to the prior written consent of the Grantor which shall not be unreasonably delayed or denied, the Grantees may assign this easement to an assignee who agrees to perform all of Grantees' obligations under this agreement.

The Grantees may mortgage or otherwise create a security interest in the Grantees' interest in this easement to secure indebtedness incurred by the Grantees, or to secure the Grantees' obligations to a third party under a lease to the Grantees of the improvements constituting the Project, in the event that any or all of the improvements are constructed or acquired by the third party and leased by it to the Grantees.

X. MORTGAGES: In the event that the Grantees shall mortgage or otherwise create a security interest in its interest in the easement as permitted in Article IX, the holder of the mortgage or security interest (the "Secured Party") shall notify the Grantor by certified letter of the creation of such mortgage or security interest and the name and address for the service of notice upon the Secured Party. The Grantor hereby agrees for the benefit of the Secured Party that:

Upon serving the Grantees with any notice of default, Grantor shall simultaneously serve a copy of such notice upon the Secured Party. No notice to the Grantees shall be effective unless a copy is also served upon the Secured Party.

51505

In the event of any default by the Grantees hereunder, the Secured Party shall at its option have the right to perform any of the Grantees' covenants, to cure any defaults by the Grantees, and/or to exercise any election, option or right conferred upon the Grantees by the terms of this easement.

The Grantor will not terminate this easement or the Grantees' right of possession for any default of the Grantees if within a period of thirty (30) days after the expiration of the period of time within which the Grantees might cure said default under the provisions of this easement, the Secured Party cures the default or causes the default to be cured, or if within a period of thirty (30) days after the expiration of the period of time within which the Grantees might commence to eliminate the cause of such default, the Secured Party proceeds diligently and with reasonable dispatch to eliminate the cause of the default.

The Grantor will not terminate this easement if the Secured Party takes possession of the easement upon default by the Grantees under the terms of the mortgage, provided that the fees due and payable under this easement shall continue to be paid and the other covenants, conditions and agreements of this easement on the Grantees' part to be kept and performed shall continue to be kept and performed. Secured Party shall have a period of thirty (30) days after taking possession within which to commence performance.

No right, privilege or option available to the Grantees to cancel or terminate this easement shall have been exercised effectively unless joined in by the Secured Party.

Notwithstanding anything to the contrary herein, upon the occurrence of any event of default, the Grantor shall take no action to effect a termination of this easement without first giving to the Secured Party a reasonable time within which either to obtain possession of the easement (including possession by a receiver) or to institute, prosecute and complete foreclosure proceedings or otherwise acquire the Grantees' interest under this easement with diligence.

The Secured Party, upon obtaining possession or acquiring the Grantees' interest under this easement, shall be required promptly to cure all defaults then reasonably susceptible of being cured by the Secured Party.

In the event of the termination of this easement, the Grantor shall serve upon the Secured Party written notice that the easement has been terminated. The notice shall include a statement of any and all sums which would be due under this easement but for such termination and of all other defaults, if any, under this easement then known to the Grantor. If within thirty (30) days after the Grantor's notice, the Secured Party shall request a new easement, the Grantor shall enter into a new easement with the Secured party, or its designee, in accordance with and upon the following terms and conditions: the new easement shall be prepared at the reasonable cost of the Grantees, named therein, the new easement shall be effective as of the date of termination of this

51505

easement, the new easement shall be for the same term of this easement and at its same rent, agreements, terms, covenants, and conditions, the new easement shall require the Grantees named herein to perform any unfulfilled obligation of the Grantees under this easement which is reasonably susceptible of being performed by such Grantees.

Upon the execution of such new easement, the Grantees named therein shall pay any and all sums which would, at the time of its execution, be due under this easement but for such termination and shall pay all expenses, including reasonable counsel fees, court costs and disbursements incurred by the Grantor in connection with such default and termination, the recovery of possession of the easement, and the preparation, execution and delivery of the new easement.

XI. INSURANCE: Grantees shall secure and maintain during the tenure of this easement, public liability, property damage, and products liability insurance at least in the sum of one million dollars (\$1,000,000.00) for injury or death; and in the sum of one million dollars (\$1,000,000.00) for damages to property and products damage caused by an occupancy, use operations or any other activity upon the easement area carried on by the Grantees, its assigns, agents, operators or contractors. The Grantee may meet this requirement through a reasonable program of self insurance. A self insured Grantee shall provide sufficient evidence to the Grantor that the self insured maintains a fully funded reserve account, sufficient to meet reasonably anticipated claims of not less than One Million Dollars (\$1,000,000.00) that indemnifies the State and the Department of Lands from third party liability claims for bodily injury and property damage. The Grantor, and Avista Corporation, and their assigns shall each be named insured in all instances.

A signed, completed certificate of insurance shall be submitted to the Director of the Department of Lands prior to the execution of this easement.

XII. WASTE: Grantees shall not allow waste to accumulate upon the easement area. Grantees shall, at all times, keep the premises free from abandoned machinery, motor vehicles, refuse and other unsightly materials. Grantees shall gate the access to the powerhouse and intake structure.

XIII. REVERSION FOR NON-USE: In the event that the easement is not used for the purpose for which it was granted, for any five (5) year period, the easement is presumed abandoned and shall automatically terminate. The Grantor shall notify the Grantees and the Secured Party, if any, in writing of the termination. The Grantees and the Secured Party, if any, shall have thirty (30) calendar days from the date of notification to reply in writing to the Grantor to show cause why the easement should be reinstated. Within sixty (60) calendar days of receipt of the statement to show cause, the Grantor shall notify the Grantees and the Secured party in writing as to the Grantor's decision concerning reinstatement. The Grantees or the Secured party shall have thirty (30) calendar days of receipt of the Grantor's decision to appeal an adverse decision to the State Board of Land Commissioners.

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XIV. RELINQUISHMENT: The Grantees may relinquish this easement by filing a written relinquishment with the Grantor. Thirty (30) days thereafter, the Grantees shall be relieved of liability under this easement, timely removal of equipment and improvements and/or the release of the performance bond for the removal of equipment and improvements if required by the Grantor, the reclamation of the premises, and compliance with all other duties and payments of all liabilities required by this easement or by law or regulation, which accrued prior to the filing of the relinquishment.

XV. COVENANT: It is mutually understood and agreed by the parties that all of the terms, covenants, conditions, and obligations in this easement contained are of the essence and shall be binding upon the heirs, executors and assigns of this easement.

XVI. COMPLIANCE WITH APPLICABLE LAWS: All applicable laws and regulations of the United States and the State of Idaho and its political subdivisions are incorporated herein by reference except as lawfully varied by the contractual terms of this easement. Grantees shall comply with all such applicable laws and regulations.

XVII. TERMINATION: Except as provided in paragraph VI above, the Grantor may terminate this easement for any material breach of its terms ninety (90) days after written notice of default has been given to the Grantees and Secured party, unless the breach has been cured to the Grantor's satisfaction before the ninety (90) day period has expired.

In the event that Grantor declares a termination of the easement, pursuant to the terms of this easement, thereafter the easement shall be completely and finally extinguished and all right and title thereto shall automatically revert to the Grantor or to the record owner of the Grantor's interest in the lands subject to this easement; provided that the Grantees shall remain bound to comply with all duties and liabilities required by this easement or by law, which accrued prior to the date of extinguishment; the Grantees and/or Secured Party shall quietly and peaceably surrender possession of the easement to the Grantor; and the Grantor may pursue all other remedies at law and in this easement.

XVIII. FORCE MAJEURE: In the event that any performance required of either party by this easement is delayed by any reason beyond its control, including but not limited to fire, flood, storms, strikes, labor disputes, riots, insurrection, inability to procure materials or the act of omission of the other party, the affected party shall notify the other party of the delay and the reasons for it. The time for which the affected performance is required shall be excused and/or extended for the amount of time the performance is delayed. Nothing in this paragraph shall excuse the Grantees from making timely payment of the fees due under this easement.

XIV. NOTICE: All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered in hand to such party or mailed by certified or registered mail, postage prepaid, return receipt

51505

State of Idaho
Term Easement No. 6853
Page 8 of 11

requested, addressed:

If to the Grantees: Avista Corporation
Attn: Real Estate Department
P.O. Box 3727 (MSC 25)
Spokane, Washington 99220

If to the Grantor: Director
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, ID 83720-0050

or, in each case to such other address as may be specified in a written notice delivered in compliance with the foregoing requirements.

XX. AUTHORITY:

This easement is issued by the authority of the rules for easements on submerged lands and formerly submerged lands IDAPA 20.03.09 dated July 1993.

XXI. FEDERAL ENERGY REGULATORY COMMISSION (FERC) REGULATION:

Both parties recognize that the Project and therefore this easement are subject to the regulatory jurisdiction of FERC. Any performance required under this easement is expressly conditioned on it being in compliance with FERC rules, regulations, or orders. If any performance under this easement requires FERC approval, that performance is conditioned upon the receipt of that approval. Both parties shall take all reasonable and appropriate steps to insure that the performance required under this contract are within FERC rules, regulations and orders and that applications for required approvals are filed in a timely manner.

XXII. ACCEPTANCE:

Use of this easement Grantee constitutes acceptance of the easement and agreement to be bound by the terms hereof.

51565

IN WITNESS WHEREOF, the Grantee has caused these presents to be duly executed
the day and year first above written.

AVISTA CORPORATION

Donald J. Malisani

STATE OF Washington)
) ss.
COUNTY OF Spokane)

On this 22nd day of January, 2010, before me, a Notary Public in
and for said county and state, personally appeared Donald J. Malisani,
known to me to be the Real Estate Dept. mgr. of AVISTA CORPORATION, that
executed the same instrument and acknowledged to me that they executed the same
for and on behalf of said corporation.




Theodore M. Baker
THEODORE M. BAKER
NOTARY PUBLIC for Washington
Spokane
Residing at Meach, WA
My Commission expires: 1/31/12

51505

IN WITNESS WHEREOF, the State Board of Land Commissioners has caused these presents to be executed by its President, the Governor of the State of Idaho, and countersigned by the Secretary of State and the Director, Idaho Department of Lands.

STATE BOARD OF LAND COMMISSIONERS

STATE BOARD OF LAND COMMISSIONERS


Governor of the State of Idaho and President
of the State Board of Land Commissioners

Countersigned:

Ben Zeman
Secretary of State


Director, Idaho Department of Lands



* * * * *

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 17th day of February, 2010, before me, a Notary Public in and for said State, personally appeared C.L. "BUTCH" OTTER, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners; **BEN YSURSA**, known to me to be the Secretary of State for the State of Idaho; and **GEORGE B. BACON**, known to me to be the Director of Department of Lands of the State of Idaho, that executed the same instrument and acknowledged to me that such State of Idaho and State Board of Land Commissioners executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year written above.



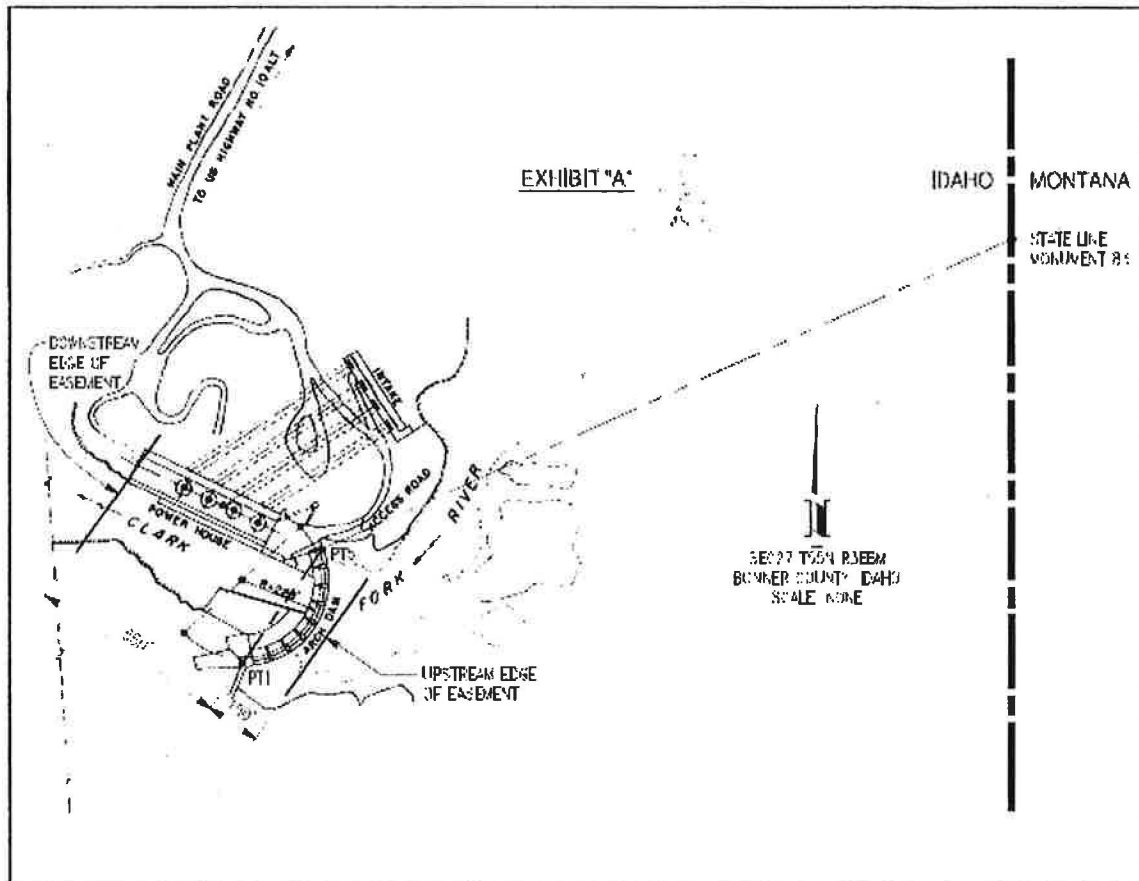
Vanessa Wilson

NOTARY PUBLIC for Idaho

Residing at Besse, Idaho

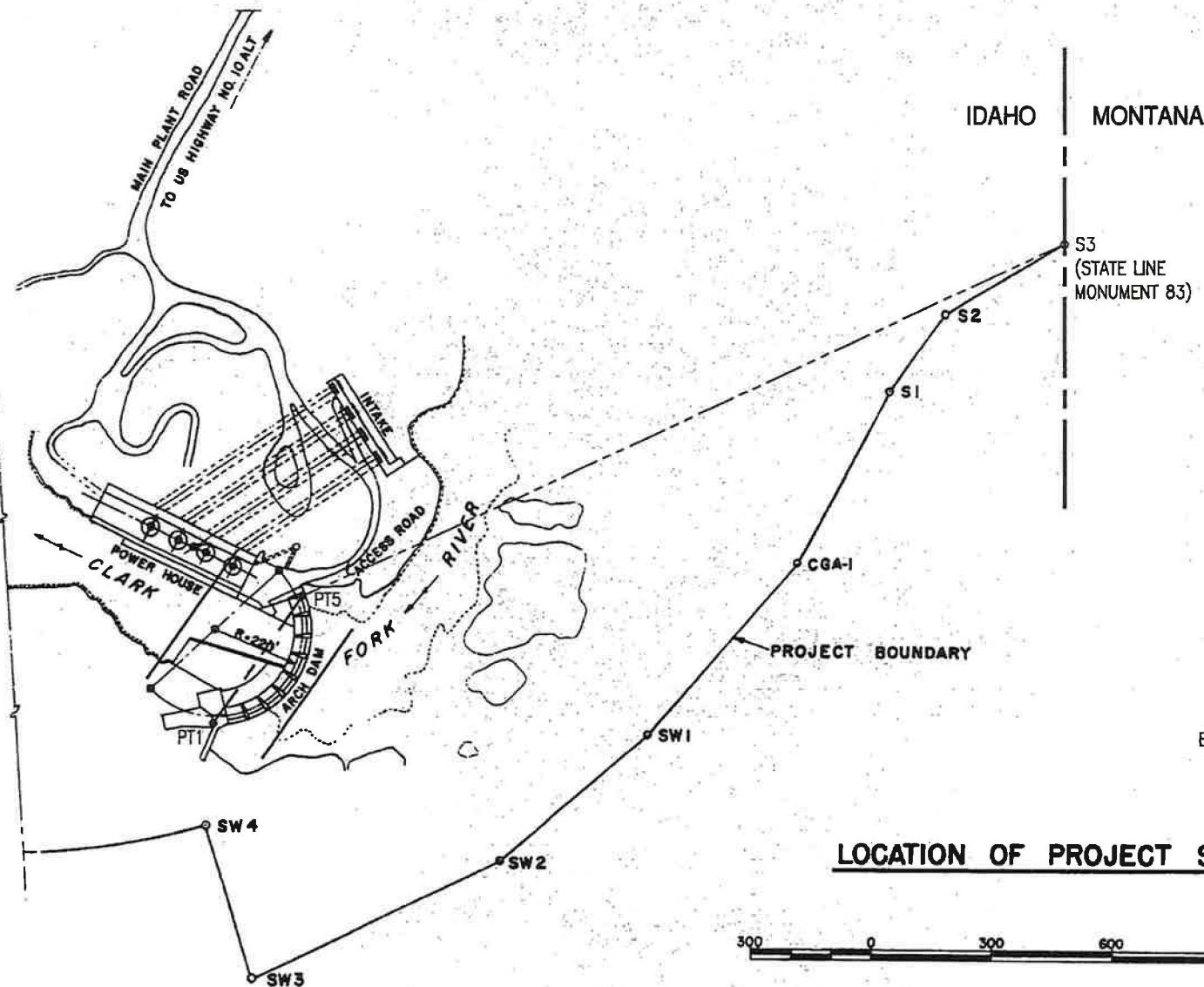
My Commission expires: 8-11-2014

51505

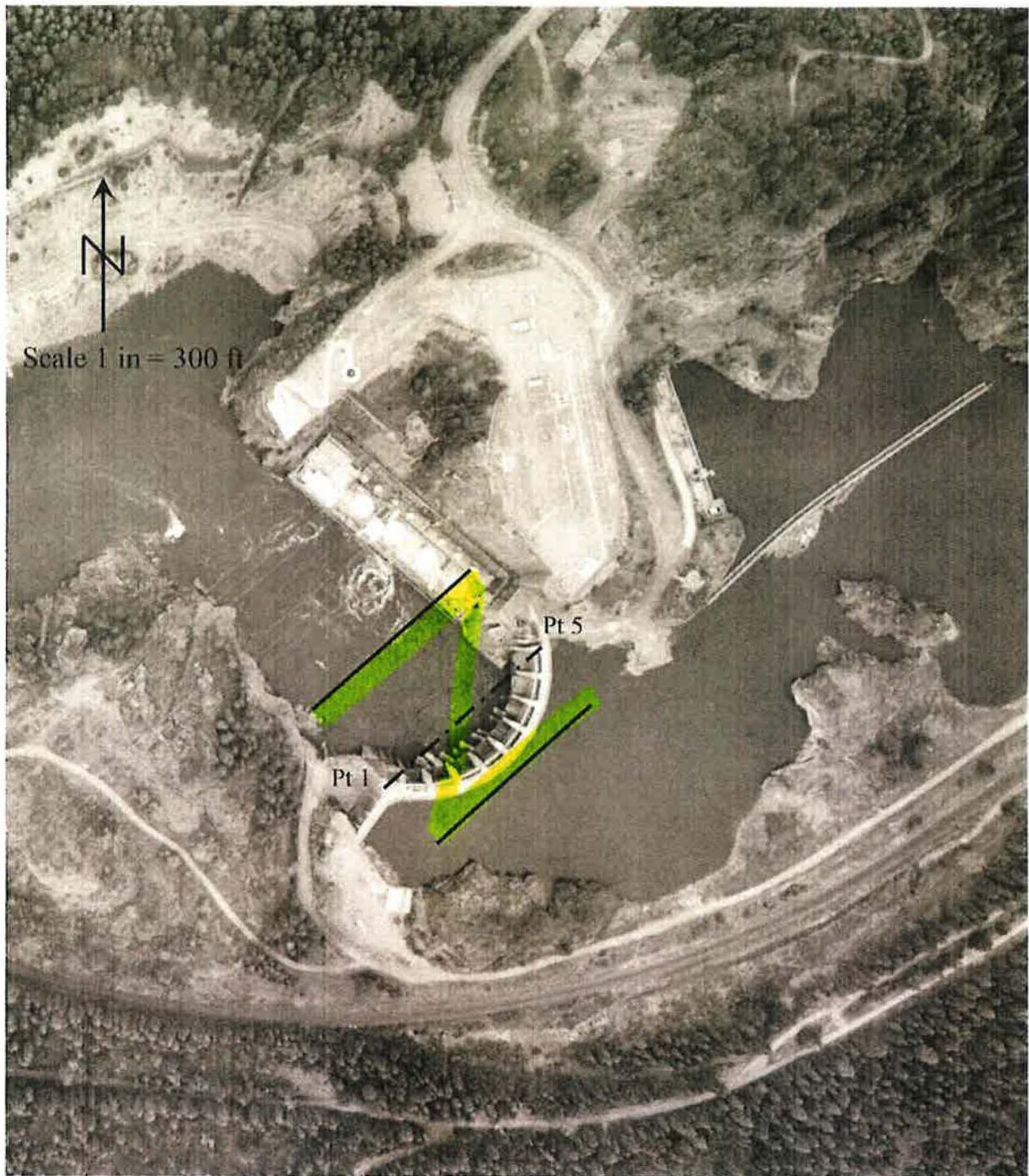


51565

51505



LOCATION OF PROJECT STRUCTURES



51505 Easement Area
350' x 391'
3.14 acres

UNITED STATES OF AMERICA 106 FERC ¶ 62,106
FEDERAL ENERGY REGULATORY COMMISSION

Avista Corporation

Project No. 2058-038

ORDER AMENDING LICENSE AND REVISING ANNUAL CHARGES

(Issued February 13, 2004)

On July 18, 2003, Avista Corporation, licensee for the Clark Fork Project, FERC No. 2058 filed an amendment application to amend the authorized installed capacity of the project. The project is located on the Clark Fork River in Bonner County, Idaho and Sanders County, Montana.

BACKGROUND

A new license, issued on February 23, 2000, authorized the project with two developments, the Noxon Rapids and the Cabinet Gorge for a total authorized capacity of 697 MW.¹ The developments adjoin one another over a distance of 58 miles on the Clark Fork River. The Noxon Rapids Development includes a semi-outdoor concrete powerhouse integral with the dam and containing five Francis turbines, four rated at 130,800 horsepower (hp) (98.1 MW), each and one rated at 167,500 hp (125.6 MW), and generators producing a total of about 466 MW at full turbine capacity and full pool. The Cabinet Gorge Development includes a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing four turbines: three fixed-blade propeller turbines rated at 70,500 hp (52.9 MW) each, and one Kaplan turbine runner rated at 86,290 hp (64.7 MW), and generators producing a total of about 231 MW at full turbine capacity and full pool.

Prior to licensing, in an order issued March 17, 1995,² the Commission authorized the upgrade of Unit 3 at the Cabinet Gorge Development. The upgrade consisted of the replacing the turbine runner and rewinding the generator. The installed capacity of the turbine Unit 3 was amended to 83,000 hp (62.2 MW), and the installed capacity of the generator was amended to 59.4 MW. However, the license order of 2000 describes the turbine capacity of Unit 3 as 70,500 hp (52.9 MW).

¹ See, 90 FERC & 61,167 (2000).

² See, 70 FERC & 62,176 (1995).

Project No. 2058-038

- 2 -

PROPOSED AMENDMENT

In its application, the licensee requests an amendment of the license to revise the authorized installed capacity at the Cabinet Gorge Development to reflect the tested performance in Unit 3, and for an efficiency upgrade of Unit 2.

The licensee explains that the Unit 3 turbine upgrade that was approved in 1995 was delayed several years, mainly due to budget constraints. The Unit 3 upgrade project began in January 1999 and finished in March 2001. However, after the upgrade, the turbine unit was tested resulting in a 10 MW capacity increase. Therefore, in the filing, the licensee requests an amendment of the license to revise the authorized installed capacity of Unit 3.

In addition to updating the license to reflect the installed capacity of Unit 3, the licensee requests an amendment to increase the installed capacity of Unit 2. The licensee proposes to replace the existing propeller-type turbine runner with a modern mixed-flow runner. The Unit 2 generator will be rewound to accommodate the higher turbine output. Additional improvements associated with the proposed upgrade will include replacement of neutral current transformers and refurbishing of turbine generator parts to like-new condition.³ In the application, the licensee indicates that the completed upgrade of Unit 3 and the proposed upgrade of Unit 2 would result in a change of the total hydraulic capacity from 36,000 cfs to about 37,400 cfs at a normal pool elevation of 2,175 feet.

CONSULTATION

On November 5, 2003, the Commission issued a public notice concerning the proposed amendment application. The notice set December 5, 2003, as the deadline for filing protests and motions to intervene. In a letter filed December 3, 2003, the United States Department of the Interior states no comments to the proposed amendment. In a letter filed December 16, 2003, the Idaho Fish and Game commented that the proposed capacity increase will not impact fish, and recommends the licensee to operate the project in accordance with licensing conditions. No other comments or motions to intervene were received.

³ Through a telephone communication on February 5, 2004, the Licensee informed staff they have started the upgrade work on Unit 2 in January 2004.

Project No. 2058-038

- 3 -

DISCUSSION

A. Installed Capacity

In the filing the licensee submitted a revised exhibit A, which reflects the changes in the generating units at the project. The revised exhibit A includes a table describing principal features of the generating units currently in operation for both developments. In reviewing the capacities for the Cabinet Gorge Development project, staff found that the completed Unit 3 turbine upgrades resulted in a capacity increase from 62.2 MW⁴ to 72.2 MW. The proposed upgrade of turbine Unit 2 would result in a capacity increase from 52.9 MW to 72.2 MW. According to Commission's regulations at 18 CFR § 11.1 (2) (i), the authorized installed capacity means the lesser of the ratings of the generator or turbine units. Therefore, staff determined the authorized installed capacity for annual charges purposes should be revised as shown in the table 1 below:

Table 1.

Development	Unit No.	Turbine (T)		Generator (G)		Authorized Capacity (MW)
		Rated Output (MW)		Nameplate Capacity (MW)		
		Licensed	Proposed	Licensed	Proposed	
Noxon Rapids	1	98.1	98.1	91.8	91.8	91.8 (G)
	2	98.1	98.1	76.8	76.8	76.8 (G)
	3	98.1	98.1	91.8	91.8	91.8 (G)
	4	98.1	98.1	91.8	91.8	91.8 (G)
	5	125.6	125.6	114.0	114.0	114.0 (G)
Cabinet Gorge	1	64.7	64.7	59.4	59.4	59.4 (G)
	2	52.9	72.2	53.1	73.2	72.2 (T)
	3	62.2	72.2	59.4	73.2	72.2 (T)
	4	52.9	52.9	59.4	59.4	52.9 (T)
Total						722.9

Based on the limiting factor of turbine/generator capacity, the completed upgrade of Unit 3, and the proposed upgrade of Unit 2 would increase the Cabinet Gorge Development installed capacity from 231.3 MW to 256.7 MW. The project's total authorized capacity would increase from 697 MW to 722.9 MW. As such, we will amend in ordering paragraph (E) of this order the annual charges of the license under Article 201.

⁴ Unit 3 capacity as authorized by the 1995 order (70FERC ¶ 62,176).

Project No. 2058-038

- 4 -

B. Revised Exhibits

In the filing, the licensee submitted two revised exhibit F drawings for approval with the Commission. The revised drawings show the powerhouse and the one line diagram, and reflecting both the installed capacity of Unit 3, and the proposed Unit 2 upgrade at the Cabinet Gorge Powerhouse. The revised drawings conform to the Commission's rules and regulations, and are approved and made a part of the license, as we are requiring in ordering paragraph (G).

C. Environmental Considerations

Discharges from the Cabinet Gorge development vary seasonally as well as hourly. Historical data from the U.S. Geological Survey gaging stations on the Clark Fork River provide a record of streamflow. The data indicates that during late spring and early summer, flows generally exceed the hydraulic capacity of the Cabinet Gorge development. At such times, the peaking operations of the facility become essentially negligible as the project generally operates run-of-river and any excess flow is spilled. It is at these times that the increased hydraulic capacity would generally be used. When flows are less than the current hydraulic capacity of the project, other license requirements such as maximum and minimum forebay elevations and minimum project discharges, preclude the licensee from operating at full capacity. The increased capacity in Unit 3 and the proposed upgrade to Unit 2 would have limited use during low flow periods.

The licensee is required to release 5,000 cfs minimum flow. The minimum flow helps reduce the range of daily flow fluctuations downstream caused by peaking operations. The minimum flow and reservoir drafting requirements remain unchanged under the licensee's proposed amendment request; therefore, the volume of water discharged, when inflow is less than the hydraulic capacity of the development, should remain unchanged but could occur over a shorter time frame. The small incremental difference between the current maximum hydraulic capacity and the proposed maximum capacity should not cause any appreciable difference in the downstream flow fluctuations which are attenuated by the minimum flow releases. Consequently, there should be no substantial impacts to fisheries resources below the project and also negligible changes in downstream erosion rates. Similarly, with no changes in the operational requirements of the project, an increase in turbine efficiency should have no affect on recreation or terrestrial resources.

Project No. 2058-038

- 5 -

When flow is spilled, concerns regarding dissolved gas super saturation are an issue at the Cabinet Gorge development. Those concerns were taken into account at the time of relicensing. The licensee, under the approved protection, mitigation and enhancement measures, is required to implement a number of actions related to total dissolved gas levels at the project. With the increased capacity in Unit 3, the proposed upgrade to unit 2, and the added hydraulic capacity, the Cabinet Gorge development would spill less water during high river flows and pass it through the turbines. This would help ameliorate gas super saturation below the Cabinet Gorge dam and improve water quality.

The licensee prepared the amendment application in consultation with the project's management committee which is comprised of state and federal resource agencies. No objections to the amendment request were received. There is no evidence to suggest that the increased capacity in Unit 3 and the proposed upgrade of unit 2 at the Cabinet Gorge development would have any substantial affects on the environmental resources of the project. During times when inflow exceeds the hydraulic capacity of the project, there could be a positive impact to water quality as more flow is passed through the turbines and less spilled reducing the potential for gas super saturation. Accordingly, the proposed amendment request does not constitute a major federal action significantly affecting the quality of the human environment.

SUMMARY

Our review found the change in installed and hydraulic capacities of the project would not have any adverse environmental impacts. This order approves the proposed increase of the project's installed generating capacity to 722.9 MW.

This order revises Article 201 of the license, regarding the annual charges for the purpose of reimbursement to the United States Government for the costs of administration of Part I of the Federal Power Act. The annual charges for the project will be based on: an installed capacity of 703.5 MW, effective on January 1, 1999, which is the starting date of Unit 3 capacity upgrade; and 722.9 MW, effective on January 1, 2004, which is the starting date of Unit 2 capacity upgrade.⁵ Furthermore, in ordering paragraph (F) of

⁵ International Falls Power Co., 66 FERC ¶ 61,086 at 61,117 (1994). The order states that, "With respect to substantial changes in installed capacity that receive prior approval, the effective date for revised annual charges will be the date of the commencement of construction of the revised capacity."

Project No. 2058-038

- 6 -

this order we are requiring the licensee to install new capacity nameplates on the upgraded units and submit photos of the new nameplate.

The Director orders:

(A) The license for the Clark Fork Project, FERC No. 2058, is amended as provided in this order, effective the first day of the month in which this order is issued.

(B) The revised exhibit A, project description, filed on July 18, 2003, conforms to the Commission's rules and regulations and is approved and made part of the license, superseding the existing exhibit A.

(C) The authorized installed capacity for the Clark Fork Project is 722.9 MW.

(D) The project description in ordering paragraph (B)(2) of the license is revised, in part, as follows:

The Cabinet Gorge Development, consisting of:...a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing: one Vertical Kaplan and three Vertical Propeller turbines with a total hydraulic capacity of 37,400 cfs at normal pool elevation of 2175 ft, connected to four generators with a total rated capacity of 265.2 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

(E) Article 201 of the license for the Clark Fork Project is revised to read:

Article 201. The licensee shall pay the United States an annual charge, for the purposes of reimbursing the United States for the Cost of administration of Part I of the federal Power Act, as determined in accordance with the provisions of the Commission's regulations in effect from time to time, as follows:

1. Effective December 1, 1999, the authorized installed capacity for that purpose is 703.5 MW.
2. Effective January 1, 2004, the authorized installed capacity for that purpose is 722.9 MW.
3. For the purpose of recompensing the United States for the use, occupancy and enjoyment of 1,269 acres of its lands, the Licensee shall pay a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time.

Project No. 2058-038

- 7 -

(F) Within 30 days of the date of completion of upgrades on the Cabinet Gorge Development the licensee shall install capacity nameplates on the upgraded generating units to reflect the capacities authorized in this order. Within 30 days of installation of the nameplates, the licensee shall provide photographs of the new nameplates to the Commission and the Commission's Portland Regional Office.

(G) The following exhibit F drawings, filed on July 18, 2003, conform to the Commission's rules and regulations, and are approved and made a part of the license. The superseded drawings are eliminated from the license.

EXHIBIT	FERC DRAWING No.	FERC DRAWING TITLE	SUPERSEDED FERC DRAWING No.
F-4	2058-1079	CABINET GORGE, POWERHOUSE- CROSSECTION	2058-1043
F-14	2058-1080	CABINET GORGE ONE-LINE DIAGRAM	2058-1053

(H) Within 90 days of the date of issuance of this order, the licensee shall file three original sets of aperture cards of the approved drawing. All aperture cards should be reproduced on silver or gelatin 35 mm microfilm. All microfilm should be mounted on a type D (3 3/4" x 7 1/4") aperture card.

Prior to microfilming, the FERC Drawing Number (2058-1079 and 2058-1080) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number should be typed in the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (i.e., F-4 and F-14), Drawing Title, and date of this order should be typed in the upper left corner of each aperture card. See Figure 1.

Project No. 2058-038

- 8 -

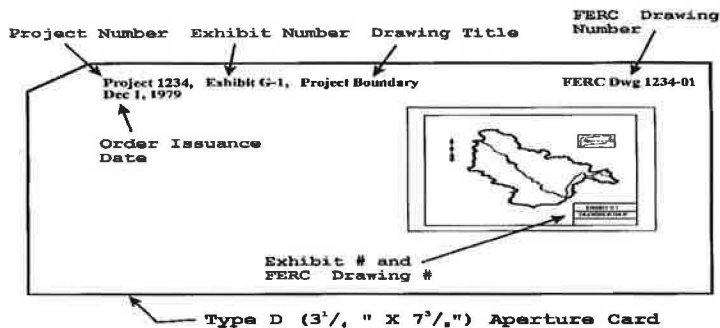


Figure 1 Sample Aperture Card Format

Two original sets of aperture cards should be filed with the Secretary of the Commission. The remaining set of aperture cards should be filed with the Commission's Portland Regional Office.

(I) This order constitutes final agency action. Requests for a rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. ' 385.713.

Mohamad Fayyad
Engineering Team Lead
Division of Hydropower Administration
and Compliance

UNITED STATES OF AMERICA 116 FERC ¶62,028
FEDERAL ENERGY REGULATORY COMMISSION

Avista Utilities

Project No. 2058-045

ORDER AMENDING LICENSE AND REVISING ANNUAL CHARGES

(Issued July 13, 2006)

On April 14, and supplemented on May 26, 2006, Avista Utilities (Avista), licensee for the Clark Fork Project, FERC No. 2058 filed a request for an amendment for the project. The project is located on the Clark Fork River in Bonner County, Idaho and Sanders County, Montana.

BACKGROUND

A new license, issued on February 23, 2000,¹ authorized the project with two developments, the Noxon Rapids and the Cabinet Gorge. The developments adjoin one another over a distance of 58 miles on the Clark Fork River. In an order issued February 13, 2004,² the Commission amended the installed capacity at the Cabinet Gorge Development to reflect the upgrade of two existing units in the powerhouse (Units 2 and 3). The installed capacity at the Cabinet Gorge Development was revised from 231.3 MW to 256.7 MW, and the total installed capacity of the project was revised from 697.0 MW to 722.9 MW.

PROPOSED AMENDMENT

In its application, Avista requests an amendment of the license to further revise the authorized installed capacity of the project to reflect the proposed upgrade of an existing unit (Unit 4) at the Cabinet Gorge Powerhouse. Avista explains that the proposed upgrade would result in additional efficiency increase at the Cabinet Gorge Development, without changing total daily discharge or water surface elevations in the forebay. The work will include repair of the discharge ring, turbine generator bearings, thrust bearing runner plate, turbine shaft, and wicket gates. Avista is not planning to rewind the generator, since it was already rewound in 1992.

¹ See, 90 FERC ¶ 61,167 (2000).

² See, 106 FERC ¶ 62,106, Order Amending License and Revising Annual Charges (2004).

Proc. NO. 2006-0260
A

In addition, Avista is requesting a revision of the installed capacity at the Noxon Rapids Development to reflect the rewinding of generator Unit 3. Avista explains in the filing, that Unit 3 generator stator began showing signs of failure. Therefore, Avista rewound the generator from August 2004 to March 2005. The improvement increased the overall plant efficiency, but it did not impacted in the operation of the project. Along with the application, Avista included a photo of the new nameplate capacity of the unit as a result of the upgrade. Avista indicates that the proposed upgrade of Unit 4 at the Cabinet Gorge Powerhouse and the completed upgrade of Unit 3 at Noxon Rapids Powerhouse will not result in a change of the total hydraulic capacity, which remains at 88,830 cubic feet per second (cfs), as authorized in the license.

CONSULTATION

On May 5, 2006, the Commission issued a public notice concerning the proposed amendment application. The notice set June 5, 2006, as the deadline for filing protests and motions to intervene. In a letter filed May 31, 2006, the United States Department of the Interior states no comments to the proposed amendment. No other comments or motions to intervene were received.

DISCUSSION

A. Installed Capacity

In the May 26, 2006, supplemental filing, Avista submitted a revised Exhibit A, which reflects the changes in the generating units at the project. The revised Exhibit A includes a table describing principal features of the generating units currently in operation for both developments. In reviewing the capacities for the Cabinet Gorge Development project, staff found that the proposed upgrade of turbine Unit 4 will increase its capacity from 52.9 MW to 65.1 MW. In addition, as a result of the rewinding of generator Unit 3, of the Noxon Rapids Development, its installed capacity increased from 91.8 MW to 99.0MW.

According to 18 CFR § 11.1 (2) (i), the authorized installed capacity means the lesser of the ratings of the generator or turbine units. Therefore, staff determined the authorized installed capacity for annual charges purposes should be revised as shown in the Table 1 below:

Table 1.

Development	Unit No.	Turbine (T)		Generator (G)		Authorized Capacity (MW)
		Rated Output (MW)		Nameplate Capacity (MW)		
		Licensed	Proposed	Licensed	Proposed	
Noxon Rapids	1	98.1	98.1	91.8	91.8	91.8 (G)
	2	98.1	98.1	76.8	76.8	76.8 (G)
	3	98.1	98.1	91.8	99.0	98.1 (T)
	4	98.1	98.1	91.8	91.8	91.8 (G)
	5	125.6	125.6	114.0	114.0	114.0 (G)
Sub Total						472.5
Cabinet Gorge	1	64.7	64.35	59.4	59.4	59.4 (G)
	2	72.2	72.2	73.2	73.2	72.2 (T)
	3	72.2	72.2	73.2	73.2	72.2 (T)
	4	52.9	65.1	59.4	59.4	59.4 (G)
Sub Total						263.2
Total						735.7

The table includes a revision to the installed capacity of turbine Unit 1 at the Cabinet Gorge Development from 64.7 MW to 64.35 MW. Avista explains in its filing, that the figure had to be adjusted to match the existing nameplate rating. Based on the limiting factor of turbine/generator capacity, we found that the revision will not impact the authorized installed capacity of the unit since it is limited by the generator rating of 59.4 MW. In addition the proposed upgrade of Unit 4 at the Cabinet Gorge Development, and the upgrade of Unit 3 at the Noxon Rapids Development would increase the installed capacity at the Cabinet Gorge Development from 256.7 MW to 263.2 MW, and at the Noxon Rapids Development from 466.2 MW to 472.5 MW. Consequently, the project's total authorized capacity will increase from 722.9 MW to 735.7 MW. Due to the changes in stalled capacity, we will revise the annual charges under Article 201 of the license, for the purpose of reimbursement to the United States Government for the costs of administration of Part I of the Federal Power Act. The revised annual charges will be effective the date of commencement of construction of the revised capacity.³ As such, the annual charges will be revised as follows:

³ International Falls Power Co., 66 FERC ¶ 61,086 at 61,117 (1994). The order states that, "With respect to substantial changes in installed capacity that receive prior approval, the effective date for revised annual charges will be the date of the commencement of construction of the revised capacity."

1. The annual charges for the project will be based on an installed capacity of 729.2 MW, effective on August 1, 2004, which is the starting date of Unit 3 capacity upgrade, as shown in ordering paragraph (D).

2. The annual charges for the project will be based on an installed capacity of 735.7 MW, effective on the date of start of construction of Unit 4 capacity upgrade. As such, we are requiring the licensee in ordering paragraph (F), to notify the Commission, within 30 days from the start of such construction, of the exact date of commencement of Unit 4 upgrade. We will use such date to further amend license Article 201.

B. Revised Exhibits

In the filing, Avista submitted a revised Exhibit A, and two revised exhibit F drawings for approval by the Commission. The revised Exhibit A describes the installed capacity of the generating units at both developments. The revised Exhibit A conforms to the Commission's rules and regulations, and is approved as shown in ordering paragraph (B) of this order. The revised drawings show the powerhouse and the one line diagram reflecting the proposed upgrade of Unit 4 at Cabinet Gorge Powerhouse. The revised drawings conform to the Commission's rules and regulations, and are approved and made part of the license as shown in ordering paragraph (H) of this order.

C. Environmental Review

The Noxon Rapids Development is located upstream from the Cabinet Gorge Dam. During normal operation, the Noxon Reservoir is typically drawdown on a daily basis and refilled over the weekend when demand is lower. The efficiency upgrade, by way of a generator rewind at the Noxon Rapids Powerhouse, does not affect the hydraulic capacity of Unit No. 3 and therefore, does not change flow through the project. The current operation would remain unchanged. The amendment application indicates that with all five turbines operating at full gate, the total hydraulic capacity of the development would remain approximately 51,430 cfs; consequently, it is expected that there would be no environmental impacts associated with the rewind work at the Noxon Rapids Powerhouse.

Flows exiting the Noxon Rapids Development immediately enter the Cabinet Gorge Reservoir. The reservoir is drawn down approximately three to five feet during the week with a seven foot maximum drawdown. A continuous minimum flow of 5,000 cfs is released below the dam, and the current hydraulic capacity of the Cabinet Gorge

Development is 37,400 cfs. The proposed changes to Unit No. 4 include repairing the discharge ring, turbine generator bearings, thrust bearing runner plate, turbine shaft, and wicket gates. These changes would improve the unit's efficiency. None of the changes would modify the maximum flow through the unit; therefore, the hydraulic capacity would remain essentially the same at 37,400 cfs. Further, the proposed changes would not affect or change the current mode of operation at the development, therefore, it is expected that the modifications should not adversely affect water quality or environmental resources.

SUMMARY

This order approves the capacity upgrades to Units 3 and 4, which revises the authorized installed capacity of the project from 722.9 MW to 735.7 MW. In ordering paragraph (C) we are amending the project description reflecting the revised capacities at both developments. In ordering paragraph (E) we are requiring the licensee to start construction of the Unit 4 upgrades within two years, and complete construction within four years from the date of this order. Furthermore, in ordering paragraph (G), we are requiring the licensee to install new capacity nameplates on the upgraded unit and submit photo of the new nameplate.

The Director orders:

(A) The application to amend the license for the Clark Fork Project, FERC No. 2058 to increase the project's installed capacity, as filed April 14 and supplemented on May 26, 2006, is approved as provided in this order.

(B) The revised exhibit A, project description, filed on May 26, 2006, conforms to the Commission's rules and regulations and is approved and made part of the license, superseding the existing exhibit A.

(C) The project description in ordering paragraph (B)(2) of the license is revised, in part, as follows:

The Cabinet Gorge Development, consisting of:...; "a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing: one Vertical Kaplan and three fixed-blade propeller turbines with a total hydraulic capacity of 37,400 cfs at normal pool elevation of 2,175 feet, connected to four generators with a total rated capacity of 263.2 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

The Noxon Rapids Development, consisting of:...; "a 485-foot-long by 190-foot-wide semi-outdoor powerhouse, containing: five Vertical Francis turbines with a total hydraulic capacity of 51,430 cfs at normal pool elevation of 2,331 feet, connected to five generators with a total rated capacity of 472.5 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

(D) Article 201 of the license for the Clark Fork Project is revised by replacing items 1 and 2 with new item 1, and by renumbering item 3 as 2, to read:

Article 201. The licensee shall pay the United States an annual charge, effective, for the purposes of reimbursing the United States for the Cost of administration of Part I of the federal Power Act, as determined in accordance with the provisions of the Commission's regulations in effect from time to time, as follows:

1. Effective August 1, 2004, the authorized installed capacity for that purpose is 729.2 MW.
2. For the purpose of recompensing the United States for the use, occupancy and enjoyment of 1,269 acres of its lands, the licensee shall pay a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time.

(E) The licensee shall start the upgrade of Unit 4 at the Cabinet Gorge Development within two years from the date of this order and complete construction within four years from the date of this order.

(F) Within 30 days after the start of construction of Unit 4 upgrade, the licensee shall notify the Commission of the date the unit upgrade began. The filing should include written documentations and photographs of all work performed since the start of construction. The date of commencement of construction will be used to further amend Article 201 of the license.

(G) Within 30 days of the date of completion of the upgrade in Unit 4 at the Cabinet Gorge Development the licensee shall install a nameplate on the upgraded generating units to reflect the capacity authorized in this order. Within 30 days of installation of the nameplate, the licensee shall provide photographs of the nameplate for verification to the Commission and the Commission's Portland Regional Office.

(H) The following exhibit F drawings, filed on April 14, 2006, conform to the Commission's rules and regulations, and are approved and made a part of the license. The superseded drawings are eliminated from the license.

EXHIBIT	FERC DRAWING No.	FERC DRAWING TITLE	SUPERSEDED FERC DRAWING No.
F-4	2058-1081	CABINET GORGE, POWERHOUSE- CROSSECTION	2058-1080
F-14	2058-1082	CABINET GORGE ONE-LINE DIAGRAM	2058-1081

(I) Within 45 days of the date of issuance of this order, the licensee shall file the approved exhibit drawings in aperture card and electronic file formats.

a) Three sets of the approved exhibit drawings shall be reproduced on silver or gelatin 35mm microfilm. All microfilm shall be mounted on type D (3-1/4" X 7-3/8") aperture cards. Prior to microfilming, the FERC Drawing Number (i.e., P-2058-1081 and P-2058-1082) shall be shown in the margin below the title block of the approved drawings. After mounting, the FERC Drawing Number shall be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit F-4 and F-14, Drawing Title, and date of this order shall be typed on the upper left corner of each aperture card. See Fig. 1.

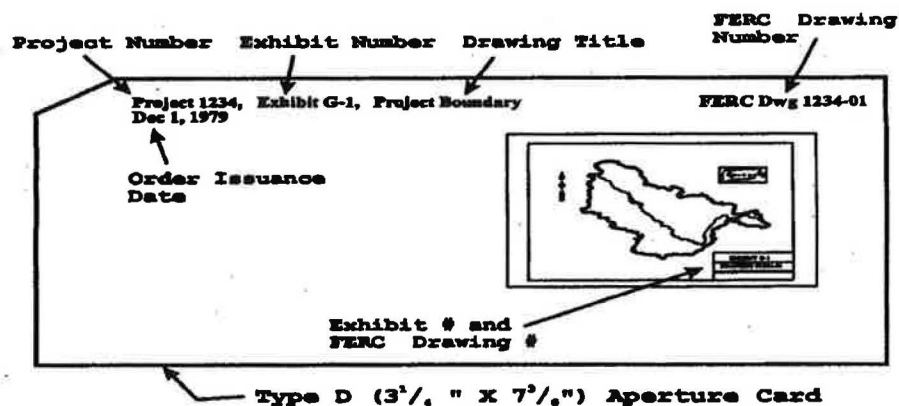


Figure 1 Sample Aperture Card Format

Two of the sets of aperture cards shall be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's Division of Dam Safety and Inspections Portland Regional Office.

b) The licensee shall file two separate sets of exhibit drawings in electronic raster format with the Secretary of the Commission, ATTN: OEP/DHAC. A third set shall be filed with the Commission's Division of Dam Safety and Inspections Portland Regional Office. The drawings must be identified as **(CEII) material under 18 CFR § 388.113(c)**. Each drawing must be a separate electronic file, and the file name shall include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this order, and file extension [i.e., 2058-1081, F-4, Cabinet Gorge Powerhouse-Cross Section, MM-DD-2006.TIF]. Electronic drawings shall meet the following format specification:

IMAGERY - black & white raster file
FILE TYPE - Tagged Image File Format, (TIFF) CCITT Group 4
RESOLUTION - 300 dpi desired, (200 dpi min.)
DRAWING SIZE FORMAT - 24" X 36" (min), 28" X 40" (max)
FILE SIZE - less than 1 MB desired

(J) This order constitutes final agency action. Requests for a rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Mohamad Fayyad
Engineering Team Lead
Division of Hydropower Administration
and Compliance



1411 East Mission Avenue
PO Box 3727
Spokane, WA 99220-3727

RECEIVED

JUN 07 2018

IDWR / NORTH

June 6, 2018

Idaho Department of Water Resources
Attn: Tammy Alleman
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815-7763

***Subject: Application for Permit to appropriate the Public Waters of the State of Idaho,
Cabinet Gorge Hydroelectric Development***

Dear Ms. Alleman:

Please find enclosed for processing, the following items provided by Avista:

1. Application for Permit;
2. Check No. 1361217 in the amount of \$12,210.00 for the application fee;
3. Idaho Department of Lands Term Lease No. 6853, referenced in application item 11 c;
4. FERC License Order dated February 13, 2004;
5. FERC License Order dated July 13, 2006 (FERC license orders are referenced in application item 12); and
6. Map of Proposed Project, required by application item 14.

Avista would like to thank you in advance for your anticipated consideration of this matter. Should you have any questions or concerns regarding the Application for Permit, or any of the above-referenced enclosures, please do not hesitate to contact me.

Sincerely,

Michele Drake
Supervisor, Hydro Compliance Services
(509) 495-8941

No. C 4651	Due no later than Mar 31, 2018 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed.		C T CORPORATION SYSTEM 921 S ORCHARD ST STE G BOISE ID 83705			
	AVISTA CORPORATION SUSAN Y FLEMING PO BOX 3727 SPOKANE WA 99220 USA		3. <u>New</u> Registered Agent Signature:*			
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
PRESIDENT	DENNIS P VERMILLION	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
SECRETARY	MARIAN M DURKIN	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	R JOHN TAYLOR	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	HEIDI B STANLEY	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	KRISTIANNE BLAKE	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	ERIK J ANDERSON	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	SCOTT L MORRIS	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	MARC F RACICOT	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	REBECCA A KLEIN	1411 E. MISSION AVE	SPOKANE	WA	USA	99292
DIRECTOR	DONALD C BURKE	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	JANET D WIDMANN	1411 E. MISSION AVE	SPOKANE	WA	USA	99202
DIRECTOR	SCOTT H MAW	1411 E MISSION AVE	SPOKANE	WA	USA	99202
5. Organized Under the Laws of: WA C 4651		6. Annual Report must be signed.* Signature: Susan Y. Fleming Name (type or print): Susan Y. Fleming Date: 02/09/2018 Title: Assistant Corporate Secretary				
Processed 02/09/2018		* Electronically provided signatures are accepted as original signatures.				



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

August 14, 2020

AVISTA CORP
PO BOX 3727
SPOKANE, WA 99220-3727

RE: Application for Permit No. 96-9705

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notices for the application were publicized in the POST REGISTER on 7/15/2020 and 7/22/2020 and the TIMES NEWS, IDAHO STATESMAN, and the LEWISTON TRIBUNE, on 7/16/2020 and 7/23/2020. **Unfortunately, the legal advertisement did not get publicized in the Bonner County Daily Bee when we had requested it on 7/16/2020 & 7/23/2020.**

A legal notice of the application has been prepared and is scheduled for publication in the **BONNER COUNTY DAILY BEE on 8/20/2020 and 8/27/2020.** Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in blue ink that reads 'Tammy Alleman'.

Tammy Alleman
Administrative Assistant

CC:

CHRIS M BROMLEY
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE, ID 83702

Alleman, Tammy

From: Alleman, Tammy
Sent: Friday, August 14, 2020 10:58 AM
To: 'bcdblegals@cdapress.com'
Subject: Legal Notice
Attachments: Legal Notice for 96-9705, 96-9814, & 96-9819.docx

Please publish the enclosed legal notice in the **Bonner County Daily Bee** on the dates indicated **August 20th & August 27th, 2020** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Please send a proof once you have the article ready for print for our review.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before **September 8, 2020**. Your cooperation is appreciated.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

96-9705

AVISTA CORP
PO BOX 3727
SPOKANE, WA 99220-3727
Point of Diversion NESE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Point of Diversion NWSE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Point of Diversion SWNE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Point of Diversion SENE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Use: POWER
01/01 to 12/31
Total Diversion: 3300 CFS
Date Filed: 06-07-2018
Place Of Use: POWER
T55N R03E S27
NESE,NWSE,SWNE,SENE

96-9814

MICHELE H WILSON
MIKE J HAYDEN
758 MEADOWOOD RD
SANDPOINT, ID 83864-4953
Point of Diversion SENW
S32 T59N R01E
BONNER County
Source UNNAMED STREAM
Tributary GOLD CREEK
Use: IRRIGATION
04/01 to 10/31
Total Diversion: 0.12 CFS
Date Filed: 07-06-2020
Place Of Use: IRRIGATION
T59N R01E S32 SENW
Total Acres: 4

96-9819

RANDALL J SCHULER
JANET I SCHULER
420 SNUG HBR
SANDPOINT, ID 83864-6342
Point of Diversion L1(SESE)
S26 T57N R03W
BONNER County
Source PEND OREILLE RIVER
Tributary COLUMBIA RIVER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 08-10-2020
Place Of Use: DOMESTIC
T57N R03W S26
L1(SESE)

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 9/8/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 8/20/2020 and 8/27/2020



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763

Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

July 8, 2020

AVISTA CORP
PO BOX 3727
SPOKANE, WA 99220-3727

RE: Application for Permit No. 96-9705

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the POST REGISTER on 7/15/2020 and 7/22/2020 and the TIMES NEWS, IDAHO STATESMAN, LEWISTON TRIBUNE, and BONNER COUNTY DAILY BEE on 7/16/2020 and 7/23/2020. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Tammy Alleman
Administrative Assistant

CC:
CHRIS M BROMLEY
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE, ID 83702

Alleman, Tammy

From: Alleman, Tammy
Sent: Friday, July 10, 2020 12:46 PM
To: 'Chantilly.Higbee@deq.idaho.gov'; 'Anna.Moody@deq.idaho.gov'; 'Horsmon,Merritt'; 'Mike Ahmer'; 'Amidy Fuson'; Skoro, Emily; Golden, Kala
Subject: Request for Comments for WR#96-9705

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right applications. You can find copies of the applications at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of the application(s), you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication. The deadline for comments on the applications is August 3, 2020.

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the applications.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

Alleman, Tammy

From: Alleman, Tammy
Sent: Wednesday, July 8, 2020 1:04 PM
To: 'bcdblegals@cdapress.com'
Subject: FW: Legal Notice
Attachments: BCDB Legal Notice for 96-9705 & 96-9814.docx

CORRECTION

From: Alleman, Tammy
Sent: Wednesday, July 8, 2020 1:01 PM
To: 'bcdblegals@cdapress.com' <bcdblegals@cdapress.com>
Subject: Legal Notice

Please publish the enclosed legal notice in the **Bonner County Daily Bee** on the dates indicated **July 16th & July 23rd, 2020** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Please send a proof once you have the article ready for print for our review.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before **August 3, 2020**. Your cooperation is appreciated.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

96-9705

AVISTA CORP
PO BOX 3727, MSC-1
SPOKANE, WA 99220-3727
Point of Diversion NESE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Point of Diversion NWSE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Point of Diversion SWNE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Point of Diversion SENE
S27 T55N R03E
BONNER County
Source CLARK FORK RIVER
Tributary LAKE PEND OREILLE
Use: POWER
01/01 to 12/31
Total Diversion: 3300 CFS
Date Filed: 06-07-2018
Place Of Use: POWER
T55N R03E S27
NESE,NWSE,SWNE,SENE

96-9814

MICHELE H WILSON
MIKE J HAYDEN
758 MEADOWOOD RD
SANDPOINT, ID 83864-4953
Point of Diversion SENW
S32 T59N R01E
BONNER County
Source UNNAMED STREAM
Tributary GOLD CREEK
Use: IRRIGATION
04/01 to 10/31
Total Diversion: 0.12 CFS
Date Filed: 07-06-2020
Place Of Use: IRRIGATION
T59N R01E S32 SENW
Total Acres: 4

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 8/3/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/16/2020 and 7/23/2020

Alleman, Tammy

From: Alleman, Tammy
Sent: Wednesday, July 8, 2020 1:03 PM
To: 'legals@lmtribune.com'
Subject: Legal Notice
Attachments: Lewiston Tribune(Statewide) Legal Notice for 84203, 84206 & 96-9705.docx

Please publish the enclosed legal notice in the **Lewiston Tribune** on the dates indicated **July 16th & July 23rd, 2020** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Please send a proof once you have the article ready for print for our review.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before **August 3, 2020**. Your cooperation is appreciated.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84203**

CITY OF LEWISTON, PO BOX 617, LEWISTON, ID 83501 has filed Application No. 84203 for changes to the following water rights within NEZ PERCE County(s): Right No(s). 86-4034A, 86-4034B, 86-7090; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows:

This transfer proposes to correct the City of Lewiston's surface water rights 86-4034 A, 86-4034 B, and 86-7090 to show the correct location and number of points of diversions.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84206**

CITY OF LEWISTON, PO BOX 617, LEWISTON, ID 83501 has filed Application No. 84206 for changes to the following water rights within NEZ PERCE County(s): Right No(s). 85-2099, 85-2131, 85-4017, 85-4019, 85-7015, 85-7158, 85-7601, 86-4032; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows:

This transfer proposes to add a well to the City of Lewiston's existing groundwater rights in the SENE of Section 7, Twp 35N, Rge 05W.

The following application has been filed to appropriate the public waters of the State of Idaho:

96-9705

AVISTA CORP

PO BOX 3727, MSC-1

SPOKANE, WA 99220-3727

Point of Diversion NESE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Point of Diversion NWSE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Point of Diversion SWNE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Point of Diversion SENE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Use: POWER

01/01 to 12/31

Total Diversion: 3300 CFS

Date Filed: 06-07-2018

Place Of Use: POWER

T55N R03E S27

NESE,NWSE,SWNE,SENE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222 and 42-203A. Any protest against the proposed changes or the approval of the application must be filed with the Department of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 8/3/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director Published on 7/16/2020 and 7/23/2020

Alleman, Tammy

From: Alleman, Tammy
Sent: Wednesday, July 8, 2020 1:31 PM
To: 'TWF Legals'
Subject: Legal Notice
Attachments: Statewide Legal Notice for 84203 & 96-9705.docx

Please publish the enclosed legal notice in the **Times News** on the dates indicated **July 16th & July 23rd, 2020** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Please send a proof once you have the article ready for print for our review.

An affidavit of publication must be submitted to the Northern Region Office of IDWR along with the publication bill. Please send the affidavit and bill to this office before **August 3, 2020**. Your cooperation is appreciated.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

Alleman, Tammy

From: Alleman, Tammy
Sent: Wednesday, July 8, 2020 1:30 PM
To: 'BOI Legals'
Subject: Legal Notice
Attachments: Statewide Legal Notice for 84203 & 96-9705.docx

Please publish the enclosed legal notice in the **Idaho Statesman** on the dates indicated **July 16th & July 23rd, 2020** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Please send a proof once you have the article ready for print for our review.

An affidavit of publication must be submitted to the Northern Region Office of IDWR along with the publication bill. Please send the affidavit and bill to this office before **August 3, 2020**. Your cooperation is appreciated.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

Alleman, Tammy

From: Alleman, Tammy
Sent: Wednesday, July 8, 2020 1:27 PM
To: 'LEGALNOTICES@POSTREGISTER.COM'
Subject: Legal Notice for IDWR Northern Region Office Coeur d'Alene
Attachments: Statewide Legal Notice for 84203 & 96-9705.docx

Please publish the enclosed legal notice in the **Post Register** on the dates indicated **July 15th & July 22nd, 2020** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Please send a proof once you have the article ready for print for our review.

An affidavit of publication must be submitted to the Northern Region Department along with the publication bill. Please send the affidavit and bill to this office before **August 3, 2020**. Your cooperation is appreciated.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84203**

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This transfer proposes to correct the City of Lewiston's surface water rights 86-4034 A, 86-4034 B, and 86-7090 to show the correct location and number of points of diversions.

The following application has been filed to appropriate the public waters of the State of Idaho:

96-9705

AVISTA CORP

PO BOX 3727, MSC-1

SPOKANE, WA 99220-3727

Point of Diversion NESE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Point of Diversion NWSE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Point of Diversion SWNE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Point of Diversion SENE

S27 T55N R03E

BONNER County

Source CLARK FORK RIVER

Tributary LAKE PEND OREILLE

Use: POWER

01/01 to 12/31

Total Diversion: 3300 CFS

Date Filed: 06-07-2018

Place Of Use: POWER

T55N R03E S27

NESE,NWSE,SWNE,SENE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208)762-2800; or for a full description of the right(s), please see

<https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222 and 42-203A. Any protest against the proposed changes or the approval of the application must be filed with the Department of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 8/3/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/16/2020 and 7/23/2020

Frederick, Adam

From: Drake, Michele <Michele.Drake@avistacorp.com>
Sent: Wednesday, July 1, 2020 7:54 AM
To: Frederick, Adam
Subject: RE: [External] RE: update on Cabinet Gorge
Attachments: 2020-07-01 Revised Map.pdf

Adam,
Hope you had an enjoyable time away. The revised map for 96-9705 is attached. Please let me know when you are able to advertise as I don't recall the timing of the ad cycle.

Michele

From: Drake, Michele
Sent: Tuesday, June 16, 2020 10:49 AM
To: Frederick, Adam <Adam.Frederick@idwr.idaho.gov>
Subject: RE: [External] RE: update on Cabinet Gorge

Enjoy your time off and you'll hear from me soon.
Michele

From: Frederick, Adam <Adam.Frederick@idwr.idaho.gov>
Sent: Tuesday, June 16, 2020 10:27 AM
To: Drake, Michele <Michele.Drake@avistacorp.com>
Subject: [External] RE: update on Cabinet Gorge

Thanks for the update. I will be off next week but can process and get ready for advertising once I get it.

Adam

From: Drake, Michele [<mailto:Michele.Drake@avistacorp.com>]
Sent: Tuesday, June 16, 2020 10:24 AM
To: Frederick, Adam <Adam.Frederick@idwr.idaho.gov>
Subject: update on Cabinet Gorge

Adam,
I appreciated your responsiveness a couple of weeks ago regarding the pending application for Cabinet Gorge. I am working with Bob Haynes to incorporate the map info you requested and to add appropriate Government Lot references to the app. I will have it to you as soon as possible.
Have a nice day.

Michele Drake, Supervisor of Hydro Compliance Services
1411 E Mission Ave MSC-1, Spokane, WA, 99202
P 509.495.8941
www.myavista.com

~~SCANNED~~~~FEB 12 2019~~

February 12, 2019

RECEIVED

FEB 12 2019

IDWR / NORTH

Mr. Doug Jones
Idaho Department of Water Resources
7600 Mineral Dr. Suite 100
Coeur d'Alene, ID 83815

Re: Additional Information and Revised Application for Permit at Cabinet Gorge Dam

Dear Mr. Jones:

Avista received your August 30 letter requesting additional information related to our Application for Permit 96-9705 requesting additional water rights for Cabinet Gorge Dam. Avista responded on September 27, 2018 requesting a six-month delay of processing. Below, we have responded with the information requested in your August letter in similar bulleted format. These items reflect the requirements of Idaho Code 42-203a(5) and Water Appropriation Rule 40.05.

We have also enclosed the completed Affidavit for Water Rights to be used for Power Purposes form as well as a revised application for Permit at Cabinet Gorge Dam and a revised map. The revised application and map are intended to replace those previously provided.

- The potential to reduce the quantity of water under existing rights [aligns with Water Appropriation Rule 40.05, items c(i) c(ii) and c(iii)]

Response:

The appropriation is non-consumptive and does not remove water from its natural water course, so no impact to existing water rights holders will occur.

- The sufficiency of the water supply for the proposed appropriation [aligns with Water Appropriation Rule 40.05, items d(i) and d(ii)]

Responses:

(i) This application is for an instantaneous flow rate of 3,300 cfs. Avista, formerly The Washington Water Power Company, is authorized to divert 35,700 cfs at the Cabinet Gorge Dam under existing water rights (96-2179, 96-2180, and 96-2269). The peak instantaneous flow rate is 39,000 cfs. The use of water for hydroelectric power is non-consumptive.

- (ii) Information from the U.S. Geological Survey (USGS) gage on the Clark Fork River below Cabinet Gorge Dam for the period of record is attached to demonstrate adequacy of supply.*
- The good faith nature of the application [aligns with Water Appropriation Rule 40.05, items e(i) and e(ii)]

Responses:

- (i) Avista has attached copies of Term Easement No, 6853 from the State of Idaho, along with the FERC License for the Clark Fork Project and the Idaho 401 Certification (contained in Appendix A of the license.)*
 - *Compliance with 42-205: Avista is the owner of Cabinet Gorge and there are no competing applications for permit.*
 - *Compliance with 42-206: Avista is qualified to conduct business in Idaho as shown in the attached Certificate of Existence of Avista Corporation (File Number C-4651).*
- (ii) All necessary permits were obtained at the time of construction.*
- The adequacy of the applicant's financial resources (aligns with Water Appropriation Rule 40.05, item f)

Response:

This information is not applicable as the respective unit upgrades are complete and operational.

- The local public interest in the public water resource (aligns with Water Appropriation Rule 40.05, item g)

Response:

Avista solicited comments from Bonner County; Idaho Department of Fish and Game; and the Idaho Department of Environmental Quality and received no response (see attached).

- The conservation of water resources in Idaho

Response: *All water diverted and used at the site is non-consumptive.*

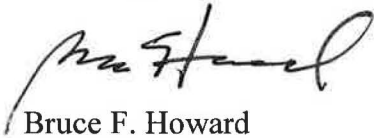
- Impacts to the economy of the local watershed

Response: *All water diverted and used in the watershed where the Cabinet Gorge Hydroelectric Development is located and has no impact to the downstream watershed.*

Mr. Doug Jones
Idaho Department of Water Resources
February 12, 2019
Page | 3

The required permit application fee was submitted with Avista's original application. Thank you for your help with this matter.

Sincerely,



Bruce F. Howard
Senior Director, Environmental Affairs
Avista Corporation

Enclosures:

1. Revised Application for Permit to Appropriate the Public Waters of the State of Idaho
 - Order Amending License and Revising Annual Charges (Issued February 13, 2004)
 - Order Amending License and Revising Annual Charges (Issued July 13, 2006)
 - ArcGIS Web Map for Cabinet Gorge Dam
2. USGS Discharge Downstream of Cabinet Gorge Dam 1995-2017
3. Term Easement No, 6853 from the State of Idaho
4. FERC License for the Clark Fork Project, including Idaho Water Quality Certifications (Appendix A)
5. Affidavit for Water Rights to be used for Power Purposes
 - Certificate of Existence of Avista Corporation
6. Letters soliciting comments from Bonner County, Idaho; Idaho Department of Fish and Game; and the Idaho Department of Environmental Quality

UNITED STATES OF AMERICA 106 FERC ¶ 62,106
FEDERAL ENERGY REGULATORY COMMISSION

Avista Corporation

Project No. 2058-038

ORDER AMENDING LICENSE AND REVISING ANNUAL CHARGES

(Issued February 13, 2004)

On July 18, 2003, Avista Corporation, licensee for the Clark Fork Project, FERC No. 2058 filed an amendment application to amend the authorized installed capacity of the project. The project is located on the Clark Fork River in Bonner County, Idaho and Sanders County, Montana.

BACKGROUND

A new license, issued on February 23, 2000, authorized the project with two developments, the Noxon Rapids and the Cabinet Gorge for a total authorized capacity of 697 MW.¹ The developments adjoin one another over a distance of 58 miles on the Clark Fork River. The Noxon Rapids Development includes a semi-outdoor concrete powerhouse integral with the dam and containing five Francis turbines, four rated at 130,800 horsepower (hp) (98.1 MW), each and one rated at 167,500 hp (125.6 MW), and generators producing a total of about 466 MW at full turbine capacity and full pool. The Cabinet Gorge Development includes a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing four turbines: three fixed-blade propeller turbines rated at 70,500 hp (52.9 MW) each, and one Kaplan turbine runner rated at 86,290 hp (64.7 MW), and generators producing a total of about 231 MW at full turbine capacity and full pool.

Prior to licensing, in an order issued March 17, 1995,² the Commission authorized the upgrade of Unit 3 at the Cabinet Gorge Development. The upgrade consisted of the replacing the turbine runner and rewinding the generator. The installed capacity of the turbine Unit 3 was amended to 83,000 hp (62.2 MW), and the installed capacity of the generator was amended to 59.4 MW. However, the license order of 2000 describes the turbine capacity of Unit 3 as 70,500 hp (52.9 MW).

¹ See, 90 FERC & 61,167 (2000).

² See, 70 FERC & 62,176 (1995).

Project No. 2058-038

- 2 -

PROPOSED AMENDMENT

In its application, the licensee requests an amendment of the license to revise the authorized installed capacity at the Cabinet Gorge Development to reflect the tested performance in Unit 3, and for an efficiency upgrade of Unit 2.

The licensee explains that the Unit 3 turbine upgrade that was approved in 1995 was delayed several years, mainly due to budget constraints. The Unit 3 upgrade project began in January 1999 and finished in March 2001. However, after the upgrade, the turbine unit was tested resulting in a 10 MW capacity increase. Therefore, in the filing, the licensee requests an amendment of the license to revise the authorized installed capacity of Unit 3.

In addition to updating the license to reflect the installed capacity of Unit 3, the licensee requests an amendment to increase the installed capacity of Unit 2. The licensee proposes to replace the existing propeller-type turbine runner with a modern mixed-flow runner. The Unit 2 generator will be rewound to accommodate the higher turbine output. Additional improvements associated with the proposed upgrade will include replacement of neutral current transformers and refurbishing of turbine generator parts to like-new condition.³ In the application, the licensee indicates that the completed upgrade of Unit 3 and the proposed upgrade of Unit 2 would result in a change of the total hydraulic capacity from 36,000 cfs to about 37,400 cfs at a normal pool elevation of 2,175 feet.

CONSULTATION

On November 5, 2003, the Commission issued a public notice concerning the proposed amendment application. The notice set December 5, 2003, as the deadline for filing protests and motions to intervene. In a letter filed December 3, 2003, the United States Department of the Interior states no comments to the proposed amendment. In a letter filed December 16, 2003, the Idaho Fish and Game commented that the proposed capacity increase will not impact fish, and recommends the licensee to operate the project in accordance with licensing conditions. No other comments or motions to intervene were received.

³ Through a telephone communication on February 5, 2004, the Licensee informed staff they have started the upgrade work on Unit 2 in January 2004.

Project No. 2058-038

- 3 -

DISCUSSION

A. Installed Capacity

In the filing the licensee submitted a revised exhibit A, which reflects the changes in the generating units at the project. The revised exhibit A includes a table describing principal features of the generating units currently in operation for both developments. In reviewing the capacities for the Cabinet Gorge Development project, staff found that the completed Unit 3 turbine upgrades resulted in a capacity increase from 62.2 MW⁴ to 72.2 MW. The proposed upgrade of turbine Unit 2 would result in a capacity increase from 52.9 MW to 72.2 MW. According to Commission's regulations at 18 CFR § 11.1 (2) (i), the authorized installed capacity means the lesser of the ratings of the generator or turbine units. Therefore, staff determined the authorized installed capacity for annual charges purposes should be revised as shown in the table 1 below:

Table 1.

Development	Unit No.	Turbine (T)		Generator (G)		Authorized Capacity (MW)
		Rated Output (MW)		Nameplate Capacity (MW)		
		Licensed	Proposed	Licensed	Proposed	
Noxon Rapids	1	98.1	98.1	91.8	91.8	91.8 (G)
	2	98.1	98.1	76.8	76.8	76.8 (G)
	3	98.1	98.1	91.8	91.8	91.8 (G)
	4	98.1	98.1	91.8	91.8	91.8 (G)
	5	125.6	125.6	114.0	114.0	114.0 (G)
Cabinet Gorge	1	64.7	64.7	59.4	59.4	59.4 (G)
	2	52.9	72.2	53.1	73.2	72.2 (T)
	3	62.2	72.2	59.4	73.2	72.2 (T)
	4	52.9	52.9	59.4	59.4	52.9 (T)
Total						722.9

Based on the limiting factor of turbine/generator capacity, the completed upgrade of Unit 3, and the proposed upgrade of Unit 2 would increase the Cabinet Gorge Development installed capacity from 231.3 MW to 256.7 MW. The project's total authorized capacity would increase from 697 MW to 722.9 MW. As such, we will amend in ordering paragraph (E) of this order the annual charges of the license under Article 201.

⁴ Unit 3 capacity as authorized by the 1995 order (70FERC ¶ 62,176).

Project No. 2058-038

- 4 -

B. Revised Exhibits

In the filing, the licensee submitted two revised exhibit F drawings for approval with the Commission. The revised drawings show the powerhouse and the one line diagram, and reflecting both the installed capacity of Unit 3, and the proposed Unit 2 upgrade at the Cabinet Gorge Powerhouse. The revised drawings conform to the Commission's rules and regulations, and are approved and made a part of the license, as we are requiring in ordering paragraph (G).

C. Environmental Considerations

Discharges from the Cabinet Gorge development vary seasonally as well as hourly. Historical data from the U.S. Geological Survey gaging stations on the Clark Fork River provide a record of streamflow. The data indicates that during late spring and early summer, flows generally exceed the hydraulic capacity of the Cabinet Gorge development. At such times, the peaking operations of the facility become essentially negligible as the project generally operates run-of-river and any excess flow is spilled. It is at these times that the increased hydraulic capacity would generally be used. When flows are less than the current hydraulic capacity of the project, other license requirements such as maximum and minimum forebay elevations and minimum project discharges, preclude the licensee from operating at full capacity. The increased capacity in Unit 3 and the proposed upgrade to Unit 2 would have limited use during low flow periods.

The licensee is required to release 5,000 cfs minimum flow. The minimum flow helps reduce the range of daily flow fluctuations downstream caused by peaking operations. The minimum flow and reservoir drafting requirements remain unchanged under the licensee's proposed amendment request; therefore, the volume of water discharged, when inflow is less than the hydraulic capacity of the development, should remain unchanged but could occur over a shorter time frame. The small incremental difference between the current maximum hydraulic capacity and the proposed maximum capacity should not cause any appreciable difference in the downstream flow fluctuations which are attenuated by the minimum flow releases. Consequently, there should be no substantial impacts to fisheries resources below the project and also negligible changes in downstream erosion rates. Similarly, with no changes in the operational requirements of the project, an increase in turbine efficiency should have no affect on recreation or terrestrial resources.

Project No. 2058-038

- 5 -

When flow is spilled, concerns regarding dissolved gas super saturation are an issue at the Cabinet Gorge development. Those concerns were taken into account at the time of relicensing. The licensee, under the approved protection, mitigation and enhancement measures, is required to implement a number of actions related to total dissolved gas levels at the project. With the increased capacity in Unit 3, the proposed upgrade to unit 2, and the added hydraulic capacity, the Cabinet Gorge development would spill less water during high river flows and pass it through the turbines. This would help ameliorate gas super saturation below the Cabinet Gorge dam and improve water quality.

The licensee prepared the amendment application in consultation with the project's management committee which is comprised of state and federal resource agencies. No objections to the amendment request were received. There is no evidence to suggest that the increased capacity in Unit 3 and the proposed upgrade of unit 2 at the Cabinet Gorge development would have any substantial affects on the environmental resources of the project. During times when inflow exceeds the hydraulic capacity of the project, there could be a positive impact to water quality as more flow is passed through the turbines and less spilled reducing the potential for gas super saturation. Accordingly, the proposed amendment request does not constitute a major federal action significantly affecting the quality of the human environment.

SUMMARY

Our review found the change in installed and hydraulic capacities of the project would not have any adverse environmental impacts. This order approves the proposed increase of the project's installed generating capacity to 722.9 MW.

This order revises Article 201 of the license, regarding the annual charges for the purpose of reimbursement to the United States Government for the costs of administration of Part I of the Federal Power Act. The annual charges for the project will be based on: an installed capacity of 703.5 MW, effective on January 1, 1999, which is the starting date of Unit 3 capacity upgrade; and 722.9 MW, effective on January 1, 2004, which is the starting date of Unit 2 capacity upgrade.⁵ Furthermore, in ordering paragraph (F) of

⁵ International Falls Power Co., 66 FERC ¶ 61,086 at 61,117 (1994). The order states that, "With respect to substantial changes in installed capacity that receive prior approval, the effective date for revised annual charges will be the date of the commencement of construction of the revised capacity."

Project No. 2058-038

- 6 -

this order we are requiring the licensee to install new capacity nameplates on the upgraded units and submit photos of the new nameplate.

The Director orders:

(A) The license for the Clark Fork Project, FERC No. 2058, is amended as provided in this order, effective the first day of the month in which this order is issued.

(B) The revised exhibit A, project description, filed on July 18, 2003, conforms to the Commission's rules and regulations and is approved and made part of the license, superseding the existing exhibit A.

(C) The authorized installed capacity for the Clark Fork Project is 722.9 MW.

(D) The project description in ordering paragraph (B)(2) of the license is revised, in part, as follows:

The Cabinet Gorge Development, consisting of:...a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing: one Vertical Kaplan and three Vertical Propeller turbines with a total hydraulic capacity of 37,400 cfs at normal pool elevation of 2175 ft, connected to four generators with a total rated capacity of 265.2 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

(E) Article 201 of the license for the Clark Fork Project is revised to read:

Article 201. The licensee shall pay the United States an annual charge, for the purposes of reimbursing the United States for the Cost of administration of Part I of the federal Power Act, as determined in accordance with the provisions of the Commission's regulations in effect from time to time, as follows:

1. Effective December 1, 1999, the authorized installed capacity for that purpose is 703.5 MW.
2. Effective January 1, 2004, the authorized installed capacity for that purpose is 722.9 MW.
3. For the purpose of recompensing the United States for the use, occupancy and enjoyment of 1,269 acres of its lands, the Licensee shall pay a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time.

Project No. 2058-038

- 7 -

(F) Within 30 days of the date of completion of upgrades on the Cabinet Gorge Development the licensee shall install capacity nameplates on the upgraded generating units to reflect the capacities authorized in this order. Within 30 days of installation of the nameplates, the licensee shall provide photographs of the new nameplates to the Commission and the Commission's Portland Regional Office.

(G) The following exhibit F drawings, filed on July 18, 2003, conform to the Commission's rules and regulations, and are approved and made a part of the license. The superseded drawings are eliminated from the license.

EXHIBIT	FERC DRAWING No.	FERC DRAWING TITLE	SUPERSEDED FERC DRAWING No.
F-4	2058-1079	CABINET GORGE, POWERHOUSE- CROSSECTION	2058-1043
F-14	2058-1080	CABINET GORGE ONE-LINE DIAGRAM	2058-1053

(H) Within 90 days of the date of issuance of this order, the licensee shall file three original sets of aperture cards of the approved drawing. All aperture cards should be reproduced on silver or gelatin 35 mm microfilm. All microfilm should be mounted on a type D (3 3/4" x 7 1/4") aperture card.

Prior to microfilming, the FERC Drawing Number (2058-1079 and 2058-1080) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number should be typed in the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (i.e., F-4 and F-14), Drawing Title, and date of this order should be typed in the upper left corner of each aperture card. See Figure 1.

Project No. 2058-038

- 8 -

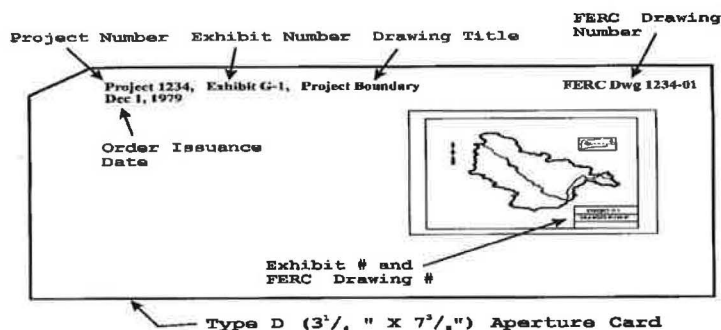


Figure 1 Sample Aperture Card Format

Two original sets of aperture cards should be filed with the Secretary of the Commission. The remaining set of aperture cards should be filed with the Commission's Portland Regional Office.

(I) This order constitutes final agency action. Requests for a rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. ' 385.713.

Mohamad Fayyad
Engineering Team Lead
Division of Hydropower Administration
and Compliance

UNITED STATES OF AMERICA 116 FERC ¶62,028
FEDERAL ENERGY REGULATORY COMMISSION

Avista Utilities

Project No. 2058-045

ORDER AMENDING LICENSE AND REVISING ANNUAL CHARGES

(Issued July 13, 2006)

On April 14, and supplemented on May 26, 2006, Avista Utilities (Avista), licensee for the Clark Fork Project, FERC No. 2058 filed a request for an amendment for the project. The project is located on the Clark Fork River in Bonner County, Idaho and Sanders County, Montana.

BACKGROUND

A new license, issued on February 23, 2000,¹ authorized the project with two developments, the Noxon Rapids and the Cabinet Gorge. The developments adjoin one another over a distance of 58 miles on the Clark Fork River. In an order issued February 13, 2004,² the Commission amended the installed capacity at the Cabinet Gorge Development to reflect the upgrade of two existing units in the powerhouse (Units 2 and 3). The installed capacity at the Cabinet Gorge Development was revised from 231.3 MW to 256.7 MW, and the total installed capacity of the project was revised from 697.0 MW to 722.9 MW.

PROPOSED AMENDMENT

In its application, Avista requests an amendment of the license to further revise the authorized installed capacity of the project to reflect the proposed upgrade of an existing unit (Unit 4) at the Cabinet Gorge Powerhouse. Avista explains that the proposed upgrade would result in additional efficiency increase at the Cabinet Gorge Development, without changing total daily discharge or water surface elevations in the forebay. The work will include repair of the discharge ring, turbine generator bearings, thrust bearing runner plate, turbine shaft, and wicket gates. Avista is not planning to rewind the generator, since it was already rewound in 1992.

¹ See, 90 FERC ¶ 61,167 (2000).

² See, 106 FERC ¶ 62,106, Order Amending License and Revising Annual Charges (2004).

ACC. NO. 2006-0260

In addition, Avista is requesting a revision of the installed capacity at the Noxon Rapids Development to reflect the rewinding of generator Unit 3. Avista explains in the filing, that Unit 3 generator stator began showing signs of failure. Therefore, Avista rewound the generator from August 2004 to March 2005. The improvement increased the overall plant efficiency, but it did not impacted in the operation of the project. Along with the application, Avista included a photo of the new nameplate capacity of the unit as a result of the upgrade. Avista indicates that the proposed upgrade of Unit 4 at the Cabinet Gorge Powerhouse and the completed upgrade of Unit 3 at Noxon Rapids Powerhouse will not result in a change of the total hydraulic capacity, which remains at 88,830 cubic feet per second (cfs), as authorized in the license.

CONSULTATION

On May 5, 2006, the Commission issued a public notice concerning the proposed amendment application. The notice set June 5, 2006, as the deadline for filing protests and motions to intervene. In a letter filed May 31, 2006, the United States Department of the Interior states no comments to the proposed amendment. No other comments or motions to intervene were received.

DISCUSSION

A. Installed Capacity

In the May 26, 2006, supplemental filing, Avista submitted a revised Exhibit A, which reflects the changes in the generating units at the project. The revised Exhibit A includes a table describing principal features of the generating units currently in operation for both developments. In reviewing the capacities for the Cabinet Gorge Development project, staff found that the proposed upgrade of turbine Unit 4 will increase its capacity from 52.9 MW to 65.1 MW. In addition, as a result of the rewinding of generator Unit 3, of the Noxon Rapids Development, its installed capacity increased from 91.8 MW to 99.0MW.

According to 18 CFR § 11.1 (2) (i), the authorized installed capacity means the lesser of the ratings of the generator or turbine units. Therefore, staff determined the authorized installed capacity for annual charges purposes should be revised as shown in the Table 1 below:

Table 1.

Development	Unit No.	Turbine (T)		Generator (G)		Authorized Capacity (MW)
		Rated Output (MW)		Nameplate Capacity (MW)		
		Licensed	Proposed	Licensed	Proposed	
Noxon Rapids	1	98.1	98.1	91.8	91.8	91.8 (G)
	2	98.1	98.1	76.8	76.8	76.8 (G)
	3	98.1	98.1	91.8	99.0	98.1 (T)
	4	98.1	98.1	91.8	91.8	91.8 (G)
	5	125.6	125.6	114.0	114.0	114.0 (G)
Sub Total						472.5
Cabinet Gorge	1	64.7	64.35	59.4	59.4	59.4 (G)
	2	72.2	72.2	73.2	73.2	72.2 (T)
	3	72.2	72.2	73.2	73.2	72.2 (T)
	4	52.9	65.1	59.4	59.4	59.4 (G)
Sub Total						263.2
Total						735.7

The table includes a revision to the installed capacity of turbine Unit 1 at the Cabinet Gorge Development from 64.7 MW to 64.35 MW. Avista explains in its filing, that the figure had to be adjusted to match the existing nameplate rating. Based on the limiting factor of turbine/generator capacity, we found that the revision will not impact the authorized installed capacity of the unit since it is limited by the generator rating of 59.4 MW. In addition the proposed upgrade of Unit 4 at the Cabinet Gorge Development, and the upgrade of Unit 3 at the Noxon Rapids Development would increase the installed capacity at the Cabinet Gorge Development from 256.7 MW to 263.2 MW, and at the Noxon Rapids Development from 466.2 MW to 472.5 MW. Consequently, the project's total authorized capacity will increase from 722.9 MW to 735.7 MW. Due to the changes in stalled capacity, we will revise the annual charges under Article 201 of the license, for the purpose of reimbursement to the United States Government for the costs of administration of Part I of the Federal Power Act. The revised annual charges will be effective the date of commencement of construction of the revised capacity.³ As such, the annual charges will be revised as follows:

³ International Falls Power Co., 66 FERC ¶ 61,086 at 61,117 (1994). The order states that, "With respect to substantial changes in installed capacity that receive prior approval, the effective date for revised annual charges will be the date of the commencement of construction of the revised capacity."

1. The annual charges for the project will be based on an installed capacity of 729.2 MW, effective on August 1, 2004, which is the starting date of Unit 3 capacity upgrade, as shown in ordering paragraph (D).

2. The annual charges for the project will be based on an installed capacity of 735.7 MW, effective on the date of start of construction of Unit 4 capacity upgrade. As such, we are requiring the licensee in ordering paragraph (F), to notify the Commission, within 30 days from the start of such construction, of the exact date of commencement of Unit 4 upgrade. We will use such date to further amend license Article 201.

B. Revised Exhibits

In the filing, Avista submitted a revised Exhibit A, and two revised exhibit F drawings for approval by the Commission. The revised Exhibit A describes the installed capacity of the generating units at both developments. The revised Exhibit A conforms to the Commission's rules and regulations, and is approved as shown in ordering paragraph (B) of this order. The revised drawings show the powerhouse and the one line diagram reflecting the proposed upgrade of Unit 4 at Cabinet Gorge Powerhouse. The revised drawings conform to the Commission's rules and regulations, and are approved and made part of the license as shown in ordering paragraph (H) of this order.

C. Environmental Review

The Noxon Rapids Development is located upstream from the Cabinet Gorge Dam. During normal operation, the Noxon Reservoir is typically drawdown on a daily basis and refilled over the weekend when demand is lower. The efficiency upgrade, by way of a generator rewind at the Noxon Rapids Powerhouse, does not affect the hydraulic capacity of Unit No. 3 and therefore, does not change flow through the project. The current operation would remain unchanged. The amendment application indicates that with all five turbines operating at full gate, the total hydraulic capacity of the development would remain approximately 51,430 cfs; consequently, it is expected that there would be no environmental impacts associated with the rewind work at the Noxon Rapids Powerhouse.

Flows exiting the Noxon Rapids Development immediately enter the Cabinet Gorge Reservoir. The reservoir is drawn down approximately three to five feet during the week with a seven foot maximum drawdown. A continuous minimum flow of 5,000 cfs is released below the dam, and the current hydraulic capacity of the Cabinet Gorge

Development is 37,400 cfs. The proposed changes to Unit No. 4 include repairing the discharge ring, turbine generator bearings, thrust bearing runner plate, turbine shaft, and wicket gates. These changes would improve the unit's efficiency. None of the changes would modify the maximum flow through the unit; therefore, the hydraulic capacity would remain essentially the same at 37,400 cfs. Further, the proposed changes would not affect or change the current mode of operation at the development, therefore, it is expected that the modifications should not adversely affect water quality or environmental resources.

SUMMARY

This order approves the capacity upgrades to Units 3 and 4, which revises the authorized installed capacity of the project from 722.9 MW to 735.7 MW. In ordering paragraph (C) we are amending the project description reflecting the revised capacities at both developments. In ordering paragraph (E) we are requiring the licensee to start construction of the Unit 4 upgrades within two years, and complete construction within four years from the date of this order. Furthermore, in ordering paragraph (G), we are requiring the licensee to install new capacity nameplates on the upgraded unit and submit photo of the new nameplate.

The Director orders:

(A) The application to amend the license for the Clark Fork Project, FERC No. 2058 to increase the project's installed capacity, as filed April 14 and supplemented on May 26, 2006, is approved as provided in this order.

(B) The revised exhibit A, project description, filed on May 26, 2006, conforms to the Commission's rules and regulations and is approved and made part of the license, superseding the existing exhibit A.

(C) The project description in ordering paragraph (B)(2) of the license is revised, in part, as follows:

The Cabinet Gorge Development, consisting of:...; "a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing: one Vertical Kaplan and three fixed-blade propeller turbines with a total hydraulic capacity of 37,400 cfs at normal pool elevation of 2,175 feet, connected to four generators with a total rated capacity of 263.2 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

The Noxon Rapids Development, consisting of:...; "a 485-foot-long by 190-foot-wide semi-outdoor powerhouse, containing: five Vertical Francis turbines with a total hydraulic capacity of 51,430 cfs at normal pool elevation of 2,331 feet, connected to five generators with a total rated capacity of 472.5 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

(D) Article 201 of the license for the Clark Fork Project is revised by replacing items 1 and 2 with new item 1, and by renumbering item 3 as 2, to read:

Article 201. The licensee shall pay the United States an annual charge, effective, for the purposes of reimbursing the United States for the Cost of administration of Part I of the federal Power Act, as determined in accordance with the provisions of the Commission's regulations in effect from time to time, as follows:

1. Effective August 1, 2004, the authorized installed capacity for that purpose is 729.2 MW.

2. For the purpose of recompensing the United States for the use, occupancy and enjoyment of 1,269 acres of its lands, the licensee shall pay a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time.

(E) The licensee shall start the upgrade of Unit 4 at the Cabinet Gorge Development within two years from the date of this order and complete construction within four years from the date of this order.

(F) Within 30 days after the start of construction of Unit 4 upgrade, the licensee shall notify the Commission of the date the unit upgrade began. The filing should include written documentations and photographs of all work performed since the start of construction. The date of commencement of construction will be used to further amend Article 201 of the license.

(G) Within 30 days of the date of completion of the upgrade in Unit 4 at the Cabinet Gorge Development the licensee shall install a nameplate on the upgraded generating units to reflect the capacity authorized in this order. Within 30 days of installation of the nameplate, the licensee shall provide photographs of the nameplate for verification to the Commission and the Commission's Portland Regional Office.

(H) The following exhibit F drawings, filed on April 14, 2006, conform to the Commission's rules and regulations, and are approved and made a part of the license. The superseded drawings are eliminated from the license.

EXHIBIT	FERC DRAWING No.	FERC DRAWING TITLE	SUPERSEDED FERC DRAWING No.
F-4	2058-1081	CABINET GORGE, POWERHOUSE- CROSSECTION	2058-1080
F-14	2058-1082	CABINET GORGE ONE-LINE DIAGRAM	2058-1081

(I) Within 45 days of the date of issuance of this order, the licensee shall file the approved exhibit drawings in aperture card and electronic file formats.

a) Three sets of the approved exhibit drawings shall be reproduced on silver or gelatin 35mm microfilm. All microfilm shall be mounted on type D (3-1/4" X 7-3/8") aperture cards. Prior to microfilming, the FERC Drawing Number (i.e., P-2058-1081 and P-2058-1082) shall be shown in the margin below the title block of the approved drawings. After mounting, the FERC Drawing Number shall be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit F-4 and F-14, Drawing Title, and date of this order shall be typed on the upper left corner of each aperture card. See Fig. 1.

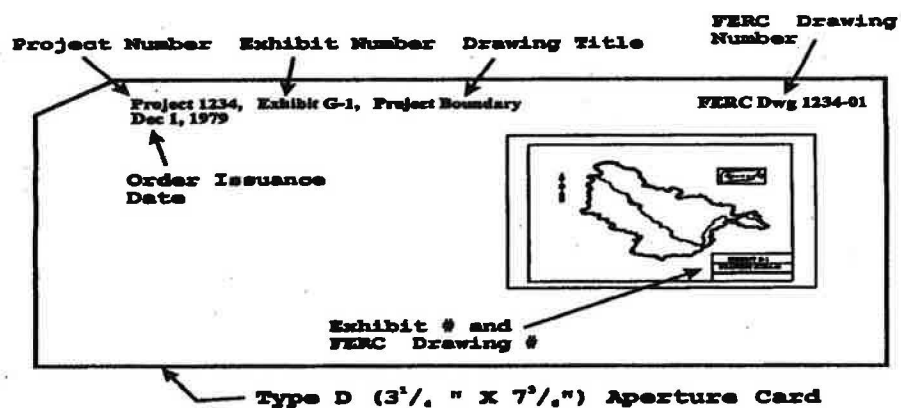


Figure 1 Sample Aperture Card Format

Two of the sets of aperture cards shall be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's Division of Dam Safety and Inspections Portland Regional Office.

b) The licensee shall file two separate sets of exhibit drawings in electronic raster format with the Secretary of the Commission, ATTN: OEP/DHAC. A third set shall be filed with the Commission's Division of Dam Safety and Inspections Portland Regional Office. The drawings must be identified as **(CEII) material under 18 CFR § 388.113(c)**. Each drawing must be a separate electronic file, and the file name shall include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this order, and file extension [i.e., 2058-1081, F-4, Cabinet Gorge Powerhouse-Cross Section, MM-DD-2006.TIF]. Electronic drawings shall meet the following format specification:

IMAGERY - black & white raster file
FILE TYPE - Tagged Image File Format, (TIFF) CCITT Group 4
RESOLUTION - 300 dpi desired, (200 dpi min.)
DRAWING SIZE FORMAT - 24" X 36" (min), 28" X 40" (max)
FILE SIZE - less than 1 MB desired

(J) This order constitutes final agency action. Requests for a rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Mohamad Fayyad
Engineering Team Lead
Division of Hydropower Administration
and Compliance

USGS Discharge Downstream of Cabinet Gorge Dam 1995-2017

Average

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jan		23135	19529	14051	13058	15125	10993	12455	7309	9234	13276	13908	13745	11586	14717	11378	17326	13039	13868	12331	18066	11520	14168	15194
Feb		37548	19173	9450	11370	12230	6156	13034	11808	10518	12319	16575	12786	11203	12792	11280	20682	10821	13433	12265	25775	14131	15904	19400
Mar		35884	24078	11463	16555	14069	6916	13195	13084	13605	8114	13919	21650	10974	12960	8310	18358	15953	12517	17477	26703	17623	32282	19235
Apr		49127	37413	17773	22664	28907	8844	24627	26773	17462	15844	31523	27483	11807	22387	11447	30273	39880	25013	31517	30080	26191	45530	33460
May		59577	93000	35852	38323	38713	26994	40203	38435	33839	38971	60000	42313	52826	43994	23023	63823	61187	52335	65506	27574	38577	67061	97926
Jun		73027	96053	46170	60143	36313	23627	79183	44670	35007	45877	52310	35850	72697	48170	54400	101070	68527	42933	66927	25380	29550	61473	60803
Jul		30174	34913	30303	30451	18856	11887	34358	16157	20182	19548	18803	15095	35719	20148	27037	63094	35381	18581	34048	10223	14126	18168	23868
Aug		17490	19081	14407	14327	9738	7046	13723	8585	11964	10683	7513	8334	14301	11254	12380	19031	11700	8633	12008	5550	7035	8371	9865
Sep		11611	13444	10978	9828	7853	5818	9692	6101	14108	6443	7331	8397	12313	8402	13137	10825	6919	7052	8922	7125	7661	9038	8024
Oct	12294	11017	13200	9773	9194	9927	6334	7002	6254	12105	11139	8529	8498	11305	10008	10585	13462	10380	11304	11435	7706	13564	9805	9803
Nov	21368	15592	18673	15125	17246	11802	7065	10315	12204	11049	12714	17560	7973	11086	11422	11762	12417	15677	10834	12352	10899	21157	11431	
Dec	34245	15886	17484	12505	19742	12323	8779	13069	12531	15937	12200	14025	14335	14049	10245	14100	11853	17934	10514	16718	11901	16850	16898	
Year		31578	33874	19027	21934	17984	10905	22558	16975	17095	17269	21818	18061	22502	18884	17396	31868	25619	18935	25179	17166	18155	25860	

Maximum

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jan		30200	30900	22000	19900	21700	15200	15900	11900	17300	20400	19300	22300	17000	20500	17000	34200	18700	18500	17700	26500	16100	18200	22700
Feb		78500	29900	14900	17000	18500	10200	17800	17700	17200	17400	20100	17000	17200	17100	14200	25500	16600	18600	16700	32400	22000	21900	27100
Mar		41800	37500	23800	27500	18600	9510	19300	19700	22500	12200	21200	30000	15700	17500	13800	23200	26700	16900	28800	35400	22600	56400	25700
Apr		65800	61700	27700	34100	44800	20600	41500	36300	22100	31900	46700	32100	20000	40200	21200	35600	83700	30200	46200	35500	31400	49900	65200
May		78700	130000	59500	65100	50500	36300	74600	69400	52400	54500	84200	52800	86000	66400	34900	98500	72300	71600	91400	30000	48700	89000	110000
Jun		96100	123000	60000	71600	45900	28600	94200	73400	46800	72100	70000	53800	86700	67800	63300	116000	81700	56200	85300	35600	46400	89000	99900
Jul		53200	56400	51700	50200	28800	22900	73600	27100	34200	33900	29700	22600	71500	30700	49400	101000	73900	36500	59100	19900	22700	33300	45100
Aug		23400	24600	26900	20400	17200	10700	20200	13100	20700	14700	12900	12800	20600	14700	18200	30000	17400	12500	17100	7160	13200	14800	13900
Sep		21200	22000	18900	16900	9900	6770	15600	9660	21900	10400	11300	12700	16600	11600	21700	15100	9410	12000	12600	13300	11400	14600	12100
Oct	21100	21800	20400	20800	16000	13000	7450	9130	9690	17500	15400	12600	12800	14500	13700	17000	20900	16900	17300	17400	12300	21700	17800	13900
Nov	45500	22800	26800	21800	22100	16700	9360	17200	18600	15800	18300	29100	10900	16400	15600	17500	20700	21800	15100	17100	14800	28700	22300	
Dec	57300	23200	23700	20200	23900	16300	15000	17100	17900	21700	16500	18800	18700	19400	14700	18500	15000	22300	16900	22900	16100	22500	21900	
Year		96100	130000	60000	71600	50500	36300	94200	73400	52400	72100	84200	53800	86700	67800	63300	116000	83700	71600	91400	35600	48700	89000	

Minimum

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jan		14500	10400	4140	4380	5740	6480	5350	5490	5540	5550	7980	8160	5880	7910	5680	9040	7490	8430	6040	8320	6920	8450	6050
Feb		17300	9840	3330	5620	5930	5270	8330	5970	6640	6470	11200	5920	6080	6700	6370	14200	6120	5990	6830	15300	7740	6440	6050
Mar		32300	8520	3930	7940	5700	5310	6500	5460	7250	5150	8450	9350	5710	8690	5980	11800	7770	5930	8200	11500	8800	8250	8400
Apr		34100	20500	5090	8020	12700	5450	10400	13800	7370	6940	12400	22700	7080	7010	6790	22900	20900	14600	18900	20700	9130	36900	9710
May		29500	55500	18400	20600	27500	17500	17500	25200	15800	20600	38600	33800	14000	25000	8630	29400	51200	28500	40000	17700	28900	41400	66800
Jun		42300	47500	33300	51100	24300	13500	65300	20000	23700	30500	30100	17200	54100	28800	31300	79800	48300	35800	55800	15700	16400	32200	43700
Jul		12100	13400	15800	9880	6560	5820	11500	7190	6630	11200	6260	8850	20600	14400	9660	26600	15100	6280	18200	6000	6490	9030	12700
Aug		6170	10000	4440	7030	5530	5590	5770	5580	6400	6220	5330	5700	6550	6550	6190	8490	7010	4680	7870	4230	6120	6030	6140
Sep		5480	7700	3490	5730	5450	5430	5460	5440	5180	5070	5350	5750	5940	5580	6550	6680	5650	5610	5930	4780	6090	6080	4020
Oct	3590	4120	5930	3480	7090	5510	5400	5530	5390	5780	6090	5300	5730	6220	6310	6340	6080	5750	5760	5790	5680	6150	6020	5840
Nov	9730	6440	7450	4540	7580	6090	5560	5690	7820	5210	6510	5340	5640	5910	5790	6910	6500	10800	6160	7310	6050	10300	5970	
Dec	16800	5450	6450	4570	12700	7500	5390	7490	7370	9560	6950	5660	7740	7830	5740	10200	5850	9540	5820	7560	5760	7060	6930	
Year		4120	130000	60000	71600	50500	36300	94200	73400	52400	72100	84200	53800	86700	67800	63300	116000	83700	71600	91400	35600	48700	89000	



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I.D.L.
FILED BY

2010 FEB 25 P 2:18

DEPUTY CLERK

DEPUTY

788365

STATE OF IDAHO

TERM EASEMENT NO. 6853

THIS INDENTURE, made this 17th day of February 2010, by and between the **STATE OF IDAHO, Department of Lands**, 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050, acting by and through the State Board of Land Commissioners, (Grantor), and **AVISTA CORPORATION**, P.O. Box 3727 (MSC 25), Spokane, Washington 99220, (Grantee);

WITNESSETH: That for and in consideration of a one-time administrative fee in the amount of TWO THOUSAND SIX HUNDRED SIXTEEN and 00/100ths DOLLARS (\$2,616.00), lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee, their successors and assigns, a non-exclusive easement for the purpose of operating and maintaining a hydroelectric dam over and across the following described lands situated in **BONNER COUNTY**, State of Idaho, so much of the following described lands which were below the natural or ordinary high water mark on the date the State of Idaho was admitted to the Union with the right to additions thereto and subject to deletions there from which have occurred, causing the boundary of the state's ownership to change, to-wit:

A strip of land 700 feet wide lying 550 feet northwesterly (downstream) and 150 southeasterly (upstream) of the following described line which contains Cabinet Gorge Dam and aprons built across the submerged original Clark Fork River channel, located in Section 27, Township 55 North, Range 3 East Boise Meridian, Bonner County, Idaho:

Beginning at the East Quarter Corner of said Section 27, thence North 51° 18' 13" East 868.95 feet to a point known as State Line Monument 83 between Idaho and Montana;

Thence South 73° 51' 32" West 2,106.02 feet to a point (instrumentation Pt. 5) on the northerly side of Cabinet Gorge Dam. Said point being the True Point of Beginning;

Thence South 41° 37' 07" West 390.77 feet to a point (instrumentation Pt. 1) on the southerly side of Cabinet Gorge Dam. Said point being the terminus of the above described line.

Containing 6.27 acre, more or less and as illustrated on the attached Exhibit "A".

I. DURATION: This easement shall remain in effect for the term of Federal Energy Regulatory commission, hereinafter FERC, License Number 02058 for the Clark Fork Project or until March 1, 2046. (A) This license is issued to Avista Corporation (Licensee) for a period of 45 years, effective March 1, 2001, to operate and maintain the Clark Fork Project No. 2058. This license is subject to the terms and conditions of the Federal Power Act (FPA), which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the FPA. This easement shall be subject to the terms and provisions of the requirements of Grantees' license with FERC, as granted or later amended.

If the project is re-licensed by FERC, the easement shall be renewed subject to the Grantor's rules and regulations in place at the time of renewal.

II. PURPOSE: This easement is granted for the following purpose: Operating, and maintaining a hydroelectric project, known as the Cabinet Gorge Hydroelectric Development of the Clark Fork Project. Construction and installation and/or alterations may commence only after Grantor has received maps of the facilities located or to be located within the easement area.

III. PROJECT WORKS: Project works for Cabinet Gorge Hydroelectric Development consist of:

A 395-foot-long, 208-foot-high concrete gravity arch dam; a saddle dam, located in a depression near the south abutment, consisting of a 75-foot-long, 12-foot-high concrete gravity section, buttressed by earth fill on the downstream face; a 3,200-acre reservoir with a gross storage capacity of 105,000 ac-ft at full pool elevation of 2,175 feet, and an active storage capacity of 42,780 ac-ft in the top 15 feet of the reservoir (no minimum reservoir elevation is established); four 27-foot-diameter, concrete-lined penstocks ranging in length from 447 feet to 564 feet with the last 110 to 155 feet steel-lined; a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing three fixed-blade propeller turbines rated at 70,500 hp each, and one Kaplan turbine runner rated at 86,290 hp, and generators producing a total of about 263.2 MW at full turbine capacity and full pool; a structure northeasterly within the river channel being a movable trash boom, along with a boater safety cable; six (6) 230 kV transmission power lines and appurtenant facilities.

Appurtenant facilities include an operations and maintenance warehouse, office buildings, communications lines, storage areas, access roads, recreational facilities and protection, mitigation, enhancement measures.

IV. LIMITED PURPOSE: If the Grantee desires to use the easement for an additional or different purpose than the one specified herein, the Grantee shall make a request in writing to the Grantor. If approved, at Grantor's discretion, the original easement shall either be amended, or canceled and replace by a new easement.

The Grantee may allow its agents, licensees, and contractors, hereinafter referred to as Permittees, to exercise the rights granted herein. This easement does not give the Grantee authority to permit third party use of the easement area for any permanent purpose. Only the Grantor may authorize third party use. The Grantor may permit third party use only on the condition that said use shall not interfere with the Grantee's rights as hereby authorized. Third party use is herein defined as those wanting use of the easement area other than the Permittees of the Grantee.

V. FEES: Grantees shall pay to the Grantor a one-time fee of ONE THOUSAND THREE HUNDRED and 00/100ths DOLLARS (\$1,300.00) and a one-time royalty payment of ONE THOUSAND THREE HUNDRED SIXTEEN and 00/100ths DOLLARS (\$1,316.00). This payment is based upon a FIVE DOLLAR (\$5.00) per megawatt of installed capacity X 263.2 megawatt rating.

VI. ADDITIONAL RIGHTS RESERVED TO THE GRANTOR: It is understood and acknowledged that all rights are contingent upon all parties' compliance with applicable provisions of the FERC license for Project No. 02058 issued to Grantees on March 1, 2001, and as such license may be amended. All individuals or entities authorized by the Grantor to enter upon or to cross this easement shall insure against damage to the easement or Grantees' property in the sum of one million dollars (\$1,000,000.00).

The Grantor expressly reserves the following rights:

A. Oil and gas, geothermal, and all other mineral rights.

B. To grant additional easements over or leases, permits or licenses upon the easement area, provided that such easement, lease, license, or other use shall not unreasonably interfere with the Grantees' use of its easement.

C. The Grantor, its agents, contractors, lessees, permittees, and other authorized individuals and entities may enter upon and across the easement area to inspect the improvements and for other lawful uses, so long as such use does not unreasonably interfere with Grantees' use of this easement. For national security purposes Grantor shall coordinate any access to the Cabinet Gorge Hydroelectric Development with the Grantee. In addition to the insurance provided above, all those authorized by the Grantor to use the easement area shall be bonded in an amount sufficient to insure that access roads shall be maintained in and restored to the condition they were in prior to commencement of any subsequent grant for multiple usage of the described area.

VII. RESPONSIBILITY - HOLD HARMLESS CLAUSE: Grantees shall indemnify and hold harmless Grantor against any and all liability, claims and expenses of any kind, including reasonable attorney fees, for any injury to any person or damage to property caused by any negligent or other wrongful act of Grantees, or their officers, employees, agents, or invitees in connection with the activities of the easement. Grantor shall indemnify and hold harmless Grantees against any and all liability, claims and expenses of any kind, including reasonable attorney fees, for any injury to any person or damage

to property caused by any negligent or other wrongful act of Grantor, or its officers, employees, agents or invitees in connection with the activities of the easement. The party seeking indemnification under this provision shall give the other party written notice of the claim for indemnification within ten (10) working days after it receives notice or has knowledge of the claim and shall give the other party a reasonably opportunity to defend against the claim including cooperation in the defense of the claim. Grantees shall not be considered an agent of the Grantor in the construction, operation, maintenance or use of the easement area or the facilities, structures, or improvements situated thereon.

VIII. DEFAULT: If at any time the Grantees are in default of any of the terms of this agreement then the Grantor shall notify the Grantees as to the nature and extent of said default by certified letter. The Grantees shall then have a period of ninety (90) days after the date of receipt of said certified letter in which to remedy or to challenge any alleged default. If the Grantees are proceeding in good faith to cure any acknowledged default the Grantor may extend the 90-day provision to any degree which it deems proper. In the event of an unsatisfactory cure of a default by the Grantees within the time limit or extensions thereof, then any Secured Party shall have further ability to cure said default as per the provisions of item XVII which follow in this agreement. If at any time the Grantor is in default of any of the terms of this agreement then the Grantees shall notify the Grantor as per the terms of this provision and all other terms of this provision shall apply.

IX. ASSIGNMENT: The Grantees shall not sublet all or any part of the easement or assign or transfer this easement or any interest therein, except as follows:

Subject to the prior written consent of the Grantor which shall not be unreasonably delayed or denied, the Grantees may assign this easement to an assignee who agrees to perform all of Grantees' obligations under this agreement.

The Grantees may mortgage or otherwise create a security interest in the Grantees' interest in this easement to secure indebtedness incurred by the Grantees, or to secure the Grantees' obligations to a third party under a lease to the Grantees of the improvements constituting the Project, in the event that any or all of the improvements are constructed or acquired by the third party and leased by it to the Grantees.

X. MORTGAGES: In the event that the Grantees shall mortgage or otherwise create a security interest in its interest in the easement as permitted in Article IX, the holder of the mortgage or security interest (the "Secured Party") shall notify the Grantor by certified letter of the creation of such mortgage or security interest and the name and address for the service of notice upon the Secured Party. The Grantor hereby agrees for the benefit of the Secured Party that:

Upon serving the Grantees with any notice of default, Grantor shall simultaneously serve a copy of such notice upon the Secured Party. No notice to the Grantees shall be effective unless a copy is also served upon the Secured Party.

In the event of any default by the Grantees hereunder, the Secured Party shall at its option have the right to perform any of the Grantees' covenants, to cure any defaults by the Grantees, and/or to exercise any election, option or right conferred upon the Grantees by the terms of this easement.

The Grantor will not terminate this easement or the Grantees' right of possession for any default of the Grantees if within a period of thirty (30) days after the expiration of the period of time within which the Grantees might cure said default under the provisions of this easement, the Secured Party cures the default or causes the default to be cured, or if within a period of thirty (30) days after the expiration of the period of time within which the Grantees might commence to eliminate the cause of such default, the Secured Party proceeds diligently and with reasonable dispatch to eliminate the cause of the default.

The Grantor will not terminate this easement if the Secured Party takes possession of the easement upon default by the Grantees under the terms of the mortgage, provided that the fees due and payable under this easement shall continue to be paid and the other covenants, conditions and agreements of this easement on the Grantees' part to be kept and performed shall continue to be kept and performed. Secured Party shall have a period of thirty (30) days after taking possession within which to commence performance.

No right, privilege or option available to the Grantees to cancel or terminate this easement shall have been exercised effectively unless joined in by the Secured Party.

Notwithstanding anything to the contrary herein, upon the occurrence of any event of default, the Grantor shall take no action to effect a termination of this easement without first giving to the Secured Party a reasonable time within which either to obtain possession of the easement (including possession by a receiver) or to institute, prosecute and complete foreclosure proceedings or otherwise acquire the Grantees' interest under this easement with diligence.

The Secured Party, upon obtaining possession or acquiring the Grantees' interest under this easement, shall be required promptly to cure all defaults then reasonably susceptible of being cured by the Secured Party.

In the event of the termination of this easement, the Grantor shall serve upon the Secured Party written notice that the easement has been terminated. The notice shall include a statement of any and all sums which would be due under this easement but for such termination and of all other defaults, if any, under this easement then known to the Grantor. If within thirty (30) days after the Grantor's notice, the Secured Party shall request a new easement, the Grantor shall enter into a new easement with the Secured party, or its designee, in accordance with and upon the following terms and conditions: the new easement shall be prepared at the reasonable cost of the Grantees, named therein, the new easement shall be effective as of the date of termination of this

easement, the new easement shall be for the same term of this easement and at its same rent, agreements, terms, covenants, and conditions, the new easement shall require the Grantees named herein to perform any unfulfilled obligation of the Grantees under this easement which is reasonably susceptible of being performed by such Grantees.

Upon the execution of such new easement, the Grantees named therein shall pay any and all sums which would, at the time of its execution, be due under this easement but for such termination and shall pay all expenses, including reasonable counsel fees, court costs and disbursements incurred by the Grantor in connection with such default and termination, the recovery of possession of the easement, and the preparation, execution and delivery of the new easement.

XI. INSURANCE: Grantees shall secure and maintain during the tenure of this easement, public liability, property damage, and products liability insurance at least in the sum of one million dollars (\$1,000,000.00) for injury or death; and in the sum of one million dollars (\$1,000,000.00) for damages to property and products damage caused by an occupancy, use operations or any other activity upon the easement area carried on by the Grantees, its assigns, agents, operators or contractors. The Grantee may meet this requirement through a reasonable program of self insurance. A self insured Grantee shall provide sufficient evidence to the Grantor that the self insured maintains a fully funded reserve account, sufficient to meet reasonably anticipated claims of not less than One Million Dollars (\$1,000,000.00) that indemnifies the State and the Department of Lands from third party liability claims for bodily injury and property damage. The Grantor, and Avista Corporation, and their assigns shall each be named insured in all instances.

A signed, completed certificate of insurance shall be submitted to the Director of the Department of Lands prior to the execution of this easement.

XII. WASTE: Grantees shall not allow waste to accumulate upon the easement area. Grantees shall, at all times, keep the premises free from abandoned machinery, motor vehicles, refuse and other unsightly materials. Grantees shall gate the access to the powerhouse and intake structure.

XIII. REVERSION FOR NON-USE: In the event that the easement is not used for the purpose for which it was granted, for any five (5) year period, the easement is presumed abandoned and shall automatically terminate. The Grantor shall notify the Grantees and the Secured Party, if any, in writing of the termination. The Grantees and the Secured Party, if any, shall have thirty (30) calendar days from the date of notification to reply in writing to the Grantor to show cause why the easement should be reinstated. Within sixty (60) calendar days of receipt of the statement to show cause, the Grantor shall notify the Grantees and the Secured party in writing as to the Grantor's decision concerning reinstatement. The Grantees or the Secured party shall have thirty (30) calendar days of receipt of the Grantor's decision to appeal an adverse decision to the State Board of Land Commissioners.

XIV. RELINQUISHMENT: The Grantees may relinquish this easement by filing a written relinquishment with the Grantor. Thirty (30) days thereafter, the Grantees shall be relieved of liability under this easement, timely removal of equipment and improvements and/or the release of the performance bond for the removal of equipment and improvements if required by the Grantor, the reclamation of the premises, and compliance with all other duties and payments of all liabilities required by this easement or by law or regulation, which accrued prior to the filing of the relinquishment.

XV. COVENANT: It is mutually understood and agreed by the parties that all of the terms, covenants, conditions, and obligations in this easement contained are of the essence and shall be binding upon the heirs, executors and assigns of this easement.

XVI. COMPLIANCE WITH APPLICABLE LAWS: All applicable laws and regulations of the United States and the State of Idaho and its political subdivisions are incorporated herein by reference except as lawfully varied by the contractual terms of this easement. Grantees shall comply with all such applicable laws and regulations.

XVII. TERMINATION: Except as provided in paragraph VI above, the Grantor may terminate this easement for any material breach of its terms ninety (90) days after written notice of default has been given to the Grantees and Secured party, unless the breach has been cured to the Grantor's satisfaction before the ninety (90) day period has expired.

In the event that Grantor declares a termination of the easement, pursuant to the terms of this easement, thereafter the easement shall be completely and finally extinguished and all right and title thereto shall automatically revert to the Grantor or to the record owner of the Grantor's interest in the lands subject to this easement; provided that the Grantees shall remain bound to comply with all duties and liabilities required by this easement or by law, which accrued prior to the date of extinguishment; the Grantees and/or Secured Party shall quietly and peaceably surrender possession of the easement to the Grantor; and the Grantor may pursue all other remedies at law and in this easement.

XVIII. FORCE MAJEURE: In the event that any performance required of either party by this easement is delayed by any reason beyond its control, including but not limited to fire, flood, storms, strikes, labor disputes, riots, insurrection, inability to procure materials or the act of omission of the other party, the affected party shall notify the other party of the delay and the reasons for it. The time for which the affected performance is required shall be excused and/or extended for the amount of time the performance is delayed. Nothing in this paragraph shall excuse the Grantees from making timely payment of the fees due under this easement.

XIV. NOTICE: All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered in hand to such party or mailed by certified or registered mail, postage prepaid, return receipt

requested, addressed:

If to the Grantees: Avista Corporation
Attn: Real Estate Department
P.O. Box 3727 (MSC 25)
Spokane, Washington 99220

If to the Grantor: Director
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, ID 83720-0050

or, in each case to such other address as may be specified in a written notice delivered in compliance with the foregoing requirements.

XX. AUTHORITY:

This easement is issued by the authority of the rules for easements on submerged lands and formerly submerged lands IDAPA 20.03.09 dated July 1993.

XXI. FEDERAL ENERGY REGULATORY COMMISSION (FERC) REGULATION:

Both parties recognize that the Project and therefore this easement are subject to the regulatory jurisdiction of FERC. Any performance required under this easement is expressly conditioned on it being in compliance with FERC rules, regulations, or orders. If any performance under this easement requires FERC approval, that performance is conditioned upon the receipt of that approval. Both parties shall take all reasonable and appropriate steps to insure that the performance required under this contract are within FERC rules, regulations and orders and that applications for required approvals are filed in a timely manner.

XXII. ACCEPTANCE:

Use of this easement Grantee constitutes acceptance of the easement and agreement to be bound by the terms hereof.

IN WITNESS WHEREOF, the Grantee has caused these presents to be duly executed
the day and year first above written.

AVISTA CORPORATION

Donald J. Malisone

STATE OF Washington)
) ss.
COUNTY OF Spokane)


On this 22nd day of January, 2010, before me, a Notary Public in
and for said county and state, personally appeared Donald J. Malisone,
known to me to be the Real Estate Dept. mgr. of AVISTA CORPORATION, that
executed the same instrument and acknowledged to me that they executed the same
for and on behalf of said corporation.



Theodore M. Baker
THEODORE M. BAKER
NOTARY PUBLIC for Washington
Spokane
Residing at Mead, WA
My Commission expires: 1/31/12

IN WITNESS WHEREOF, the State Board of Land Commissioners has caused these presents to be executed by its President, the Governor of the State of Idaho, and countersigned by the Secretary of State and the Director, Idaho Department of Lands.

STATE BOARD OF LAND COMMISSIONERS

STATE BOARD OF LAND COMMISSIONER:

Governor of the State of Idaho and President
of the State Board of Land Commissioners

Countersigned:

Ben Zeman
Secretary of State

Director, Idaho Department of Lands



★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 17th day of February, 2010, before me, a Notary Public in and for said State, personally appeared C.L. "BUTCH" OTTER, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners; **BEN YSURSA**, known to me to be the Secretary of State for the State of Idaho; and **GEORGE B. BACON**, known to me to be the Director of Department of Lands of the State of Idaho, that executed the same instrument and acknowledged to me that such State of Idaho and State Board of Land Commissioners executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year written above.

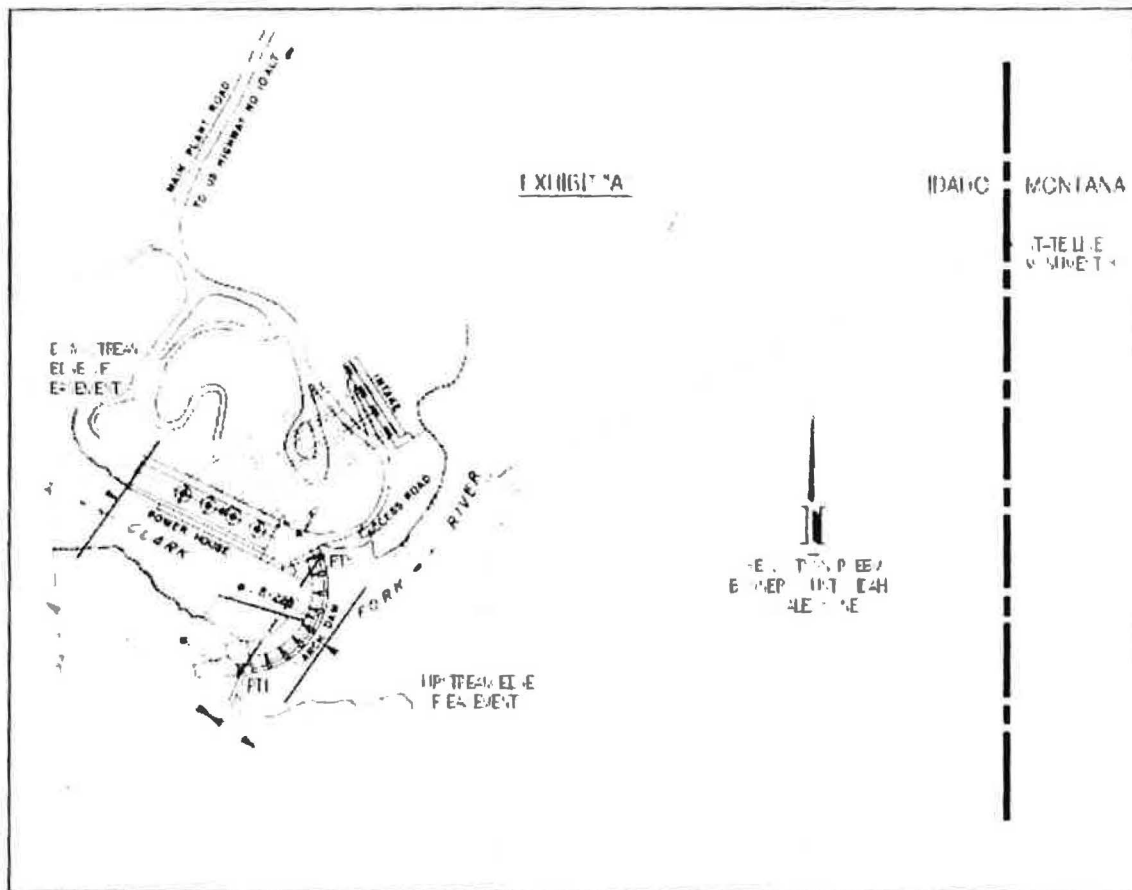


Vanessa Wilson

NOTARY PUBLIC for Idaho

Residing at Boise, Idaho

My Commission expires: 8-11-2014



Project No. 2058-014

-45-

APPENDIX A

MONTANA WATER QUALITY CERTIFICATION CONDITIONS

On April 27, 1999, the State of Montana Department of Environmental Quality granted water quality certification under §401 of the Federal Clean Water Act to Avista Corporation for the Clark Fork Project with the following conditions:

(1) The Department's certification is conditioned upon compliance by Avista with all of the terms and conditions of the Settlement Agreement relating to water quality and to the protection, maintenance, or enhancement of the designated beneficial uses of the waters of the Clark Fork River including, but not limited to, the following:

Appendix B:	Montana Tributary Habitat Acquisition and Recreational Fishery Enhancement Program
Appendix C:	Fish Passage/Native Salmonid Restoration Plan
Appendix E:	Watershed Council Program
Appendix F1:	Support of Tri-State Implementation Council Water Quality Monitoring Program
Appendix F2:	Mobilization of Sediment Trapped Nutrients or Heavy Metals
Appendix F3:	Aquatic Organism Tissue Analysis
Appendix F4:	Water Quality Protection and Monitoring Plan for Maintenance, Construction, and Emergency Activities
Appendix F5:	Gas Supersaturation Control, Mitigation, and Monitoring
Appendix G:	Implementation of Land Use Management Plan
Appendix H:	Implementation of Recreation Resource Management Plan
Appendix J:	Implementation of the Wildlife, Botanical, and Wetland Management Plan
Appendix M:	Wetlands Protection and Enhancement Program
Appendix T:	Project Operations Package

The Clark Fork Settlement Agreement is hereby incorporated into this certification by reference.

(2) In addition to the monitoring requirements contained in the terms and conditions of the Settlement Agreement, Avista shall notify the Department in writing not less than two (2) weeks prior to commencing any construction activity under authority of this certificate which may result in a discharge of pollutants to state waters. Avista shall notify the Department within seven (7) days after the completion of any construction activity

Project No. 2058-014

-46-

resulting in a discharge of pollutants. Avista shall allow the Department reasonable entry and access to the discharge site in order to inspect the discharge for compliance with the conditions of this certification.

(3) Avista shall obtain all permits, authorizations and certifications required by federal, state, or local laws, regulations or ordinances prior to commencement of any activity that could violate Montana's water quality standards.

(4) This approval is limited to and includes the proposal and plans contained in the application and supporting documents submitted and affirmed to by Avista. Any variances from the plans and proposals contained in the application and supporting documents are subject to the review and approval by the Department prior to implementation.

(5) Should the project be found, at any time, not to be in compliance with any of the conditions of this certification, or should the permittee construct or operate this project in any way other than as specified in the application or supporting documents, as modified by the conditions of this certification, then the terms of this certification shall be considered to have been violated.

(6) This certification shall expire upon the assignment or transfer of the property covered by this certification unless the new owner submits to the Department a written consent to all the terms and conditions of this certification.

IDAHO WATER QUALITY CERTIFICATION CONDITIONS

On August 20, 1999, the State of Idaho Division of Environmental Quality (DEQ) granted water quality certification under §401 of the Federal Clean Water Act to Avista Corporation for the Clark Fork Project with the following conditions:

1. Avista shall comply with the terms and conditions of the Settlement Agreement. The following PM&E measures identified as appendices to the Settlement Agreement are hereby incorporated into this certification by reference:

Appendix A:	Idaho Tributary Habitat Acquisition and Fishery Enhancement Program;
Appendix C:	Fish Passage/Native Salmonid Restoration Plan;
Appendix D:	Bull Trout Protection and Public Education Project;
Appendix E:	Watershed Council Program;
Appendix F1:	Support of Tri-State Implementation Council Water Quality Monitoring Program;

Project No. 2058-014

-47-

Appendix F2:	Mobilization of Sediment Trapped Nutrients or Heavy Metals;
Appendix F3:	Aquatic Organism Tissue Analysis;
Appendix F4:	Water Quality Protection and Monitoring Plan for Maintenance, Construction, and Emergency Activities;
Appendix F5:	Gas Supersaturation Control, Mitigation, and Monitoring;
Appendix J:	Implementation of the Wildlife, Botanical, and Wetland Management Fund;
Appendix K:	Wildlife Habitat Acquisition, Enhancement, and Management Fund;
Appendix M:	Wetlands Protection and Enhancement Program;
Appendix O:	Clark Fork Delta Habitat Protection and Mitigation Program;
Appendix S:	Erosion Fund and Shoreline Stabilization Guidelines Program;
Appendix T:	Project Operations Package.

2. This approval is limited to and includes the proposal and plans contained in the application and supporting documents submitted and affirmed by the applicant. All variances from the plans and proposals contained in the application and supporting documents are subject to the review and approval of DEQ prior to implementation;
3. The projects shall not cause or contribute to violations of surface water criteria as identified in IDAPA §§16.01.02.200, 250, 276, and 900. DEQ reserves authority under this certification to require plans, corrective actions and monitoring necessary to correct water quality violations that may develop as a result of operation, maintenance or construction associated with the projects, and as a result of Avista's failure to comply with the terms of the Settlement Agreement;
4. Nonpoint source activities associated with the projects shall be controlled through the use of approved best management practices (BMPs) conducted in a manner that demonstrates reasonable and knowledgeable effort to minimize adverse water quality impacts (IDAPA §16.01.02.350). DEQ reserves authority under this certification to require plans, corrective actions and monitoring to ensure nonpoint source activities do not result in adverse water quality impacts, and as a result of Avista's failure to comply with the terms of the Settlement Agreement;
5. Avista shall obtain all necessary federal, state, and local authorizations prior to commencement of any activity that could be expected to violate Idaho water quality standards;
6. If the project is abandoned or not used as an electric generating facility for three consecutive years, this certification shall become null and void and the applicant shall request consideration of water quality certification from DEQ, as amended;

Project No. 2058-014

-48-

- 7. If FERC issues an order related to project operation, maintenance, or construction that is materially inconsistent with the conditions of this certification and the supporting Settlement Agreement, this approval shall be considered null and void and the applicant shall request consideration of water quality certification for the project as ordered by FERC;**
- 8. This certification shall apply to the license upon issuance of a final FERC license for the project and shall expire in conjunction with license expiration;**
- 9. This approval shall expire upon assignment or transfer of the property covered by this certification unless the new owner submits a written consent to all terms and conditions in this certification.**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AFFIDAVIT FOR WATER RIGHTS TO BE USED FOR POWER PURPOSES

A. Establishment of Residency or Qualification to do Business in Idaho (complete either 1 or 2)

1. Individual Applicant:

I, _____ of _____
(name) (city)
County of _____, State of Idaho, being duly sworn, do hereby certify that I am a
bona fide resident of the State of Idaho.

2. Corporation or Partnership (complete part 2a or 2b):

a) ☒ Attached is a *Certificate of Existence* or a *Certificate of Authorization* or other documentation issued by the
Idaho Secretary of State confirming Avista Corporation 's authority to transact
(name of corporation or partnership)
business in Idaho.

or

b) I, _____ of _____, County
(name) (city)
of _____, State of _____, being duly sworn, depose
and say, that I am the _____ for _____;
(title) (name of corporation or partnership)
that as such I have legal authority to sign this affidavit on behalf of _____
(name of corporation or partnership)
and that _____ is a corporation or partnership qualified to do business in
(name of corporation or partnership)
the State of Idaho under the laws of the State of Idaho.

B. Ownership of Facilities

The hydropower facility to be developed pursuant to the attached Application for Permit (check one):

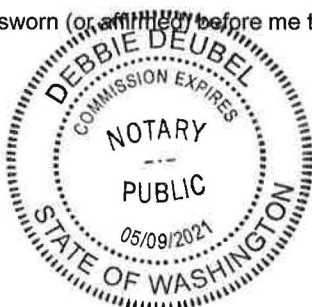
- ☐ Will **not** utilize existing man-made irrigation facilities such as a dam or a canal.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.
- ☒ Will utilize existing man-made irrigation facilities such as a dam or a canal, and the owner is the signee of this affidavit.

Maria M. Durl SE VP, General Counsel, 2-11-2019
Signature Print title if applicable Date
Corporate Secretary +CCO

STATE OF IDAHO)
County of Spokane) ss

Subscribed and sworn (or affirmed) before me this 11th day of February, 2019

SEAL



Notary Public Debbie Deubel
Residing at Spokane County
My Commission Expires 05-09-2021

State of Idaho

Office of the Secretary of State

CERTIFICATE OF EXISTENCE

OF

AVISTA CORPORATION

File Number C-4651

I, LAWRENCE DENNEY, Secretary of State of the State of Idaho, hereby certify that I am the custodian of the corporation records of this State.

I FURTHER CERTIFY That the records of this office show that the above-named corporation was incorporated under the laws of WASHINGTON and filed to transact business in Idaho on 3/18/1902.

I FURTHER CERTIFY That the corporation is in goodstanding on the records of this office.

Dated: 9/26/2018 11:05 AM



A handwritten signature in black ink, reading "Lawrence Denney". The signature is written in a cursive style with a long, sweeping tail.

SECRETARY OF STATE

Authentic Access Idaho Document (<http://www.accessidaho.org/public/portal/authenticate.html>)
Tag: b5ae5f5ff8d74087b2e031ba95f2d1427da99d5282c93866dec71e4cd44e281956cf235b2ada6b5d



December 19, 2018

Idaho Department of Environmental Quality
Attn: Daniel Redline, Regional Administrator
2110 Ironwood Parkway
Coeur d'Alene, ID 83814

**Subject: Application for Permit to appropriate the public waters of the State of Idaho
Cabinet Gorge Hydroelectric Development
Request for Comment**

Dear Mr. Redline:

Please find enclosed for your review, a copy of Avista's Application for Permit to appropriate the public waters of the State of Idaho. Idaho Department of Water Resources has requested that this application be sent to you and your agency to confirm that the request does not conflict with local public interest as defined in Idaho Code section §42-202B. The requested use is non-consumptive and does not remove water from its natural course. The water rights document the capacity of the Cabinet Gorge Hydroelectric Development powerhouse due to a slight increase in plant capacity gained from upgrades to two units. The efficiency upgrades were authorized by the Federal Energy Regulatory Commission's license amendment process and discussed with the Clark Fork Settlement Agreement Management Committee. This request represents a slight increase to the existing water rights at the project, including 96-2269, 96-2179, 96-2180 and 96-4565.

Please review the enclosed application and provide any comments to Avista no later than January 25, 2019. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to the issuance of this permit. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michele Drake', is written over the typed name.

Michele Drake
Supervisor, Hydro Compliance Services
(509) 498-8941



December 19, 2018

Idaho Department of Fish and Game
Attn: Chip Corsi, Regional Supervisor
2885 W. Kathleen Ave.
Coeur d'Alene, ID 83815

**Subject: Application for Permit to appropriate the public waters of the State of Idaho
 Cabinet Gorge Hydroelectric Development
 Request for Comment**

Dear Mr. Redline:

Please find enclosed for your review, a copy of Avista's Application for Permit to appropriate the public waters of the State of Idaho. Idaho Department of Water Resources has requested that this application be sent to you and your agency to confirm that the request does not conflict with local public interest as defined in Idaho Code section §42-202B. The requested use is non-consumptive and does not remove water from its natural course. The water rights document the capacity of the Cabinet Gorge Hydroelectric Development powerhouse due to a slight increase in plant capacity gained from upgrades to two units. The efficiency upgrades were authorized by the Federal Energy Regulatory Commission's license amendment process and discussed with the Clark Fork Settlement Agreement Management Committee. This request represents a slight increase to the existing water rights at the project, including 96-2269, 96-2179, 96-2180 and 96-4565.

Please review the enclosed application and provide any comments to Avista no later than January 25, 2019. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to the issuance of this permit. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Michele Drake". The signature is written in a cursive, flowing style.

Michele Drake
Supervisor, Hydro Compliance Services
(509) 498-8941



December 19, 2018

Bonner County Board of Commissioners
1500 Hwy 2, Suite 308
Sandpoint, ID 83864

**Subject: Application for Permit to appropriate the public waters of the State of Idaho
 Cabinet Gorge Hydroelectric Development
 Request for Comment**

Dear Mr. Redline:

Please find enclosed for your review, a copy of Avista's Application for Permit to appropriate the public waters of the State of Idaho. Idaho Department of Water Resources has requested that this application be sent to you and your agency to confirm that the request does not conflict with local public interest as defined in Idaho Code section §42-202B. The requested use is non-consumptive and does not remove water from its natural course. The water rights document the capacity of the Cabinet Gorge Hydroelectric Development powerhouse due to a slight increase in plant capacity gained from upgrades to two units. The efficiency upgrades were authorized by the Federal Energy Regulatory Commission's license amendment process and discussed with the Clark Fork Settlement Agreement Management Committee. This request represents a slight increase to the existing water rights at the project, including 96-2269, 96-2179, 96-2180 and 96-4565.

Please review the enclosed application and provide any comments to Avista no later than January 25, 2019. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to the issuance of this permit. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Michele Drake'.

Michele Drake
Supervisor, Hydro Compliance Services
(509) 498-8941

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. _____

1. Name of applicant(s) Avista Corporation Phone 509 495-2941
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address P.O. Box 3727 City Spokane
 State WA ZIP 99220-3727 Email Bruce.Howard@avistacorp.com
2. Name of representative, if any Bruce Howard Phone 509 495-2941
 Mailing address PO Box 3727 City Spokane
 State WA ZIP 99220-3727 Email Bruce.Howard@avistacorp.com
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☐ Send original correspondence to the applicant and copies to the representative.
- b. ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☒ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Clark Fork River which is a tributary of Lake Pend Oreille
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
55N	3E	27			SE	NE	Bonner	Clark Fork River	Cabinet Gorge Dam
55N	3E	27			NE	SE	Bonner	Clark Fork River	Cabinet Gorge Dam
55N	3E	27			NW	SE	Bonner	Clark Fork River	Cabinet Gorge Dam
55N	3E	27			SW	NE	Bonner	Clark Fork River	Cabinet Gorge Dam

5. Water will be used for the following purposes:
- Amount 3,300 for Hydro-electric power purposes from 1-1 to 12-31 (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) 3,300 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. Cabinet Gorge Dam
- b. Height of storage dam 208 feet; active reservoir capacity 3,200 acre-feet; total reservoir capacity 105,000 acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No
- 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 sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ _____ Receipted by _____ Receipt No. _____ Date _____

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in kW. 95-100ft. of head, 31,900kW capacity
- Stockwatering; list number and kind of livestock. _____
- Municipal; must complete and attach the Municipal Water Right Application Checklist.
- Domestic; show number of households _____
- Other; describe fully. _____

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 the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
55N	3E	27				P													
55N	3E	27			P														
55N	3E	27													P				
55N	3E	27														P			

Total number of acres to be irrigated: _____

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 96-2269, 96-2179, 96-2180 & 96-4565

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant & State of Idaho

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Idaho Department of Lands Term Lease No 6853 (Copy attached)

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. This application is for water that is over and above the quantities of the rights listed in Item 10.

The ability to use this additional water is a result of improvements in efficiencies of the generating equipment installed at the dam. It is authorized under the terms of the FERC license orders dated February 13, 2004 and July 13, 2006 (copies attached). This is an instantaneous diversion application. No refill plan is required.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant _____

Signature of Applicant _____

Print Name (and title, if applicable) _____

Print Name (and title, if applicable) _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763

Phone: (208)762-2800 • Email: Northerninfo@idwr.idaho.gov

Fax: (208)762-2819 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 30, 2018

AVISTA
Attn: Michele Drake
P.O. Box 3727
Spokane, WA 99220-3727

RE: Avista Cabinet Gorge Dam Hydroelectric Power Application for Permit 96-9705

Dear Ms. Drake:

When applying for a permit to appropriate more than 5 cfs and/or more than 500 acre-feet, IDWR requires additional information to help evaluate the application under the criteria found in Idaho Code § 42-203A(5).

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

In addition, Avista will need to complete, and submit, the attached *Affidavit for Water Rights to be Used for Power Purposes*.

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications. Please provide information responsive to part c-g of Rule 40.05. A copy of Water Appropriation Rules 40.05.c-g is attached to this letter.

Avista
8/30/2018
Pg 2

Please submit the information required by Water Appropriation Rules 40.05.c-g along with the corrected Application(s) for Permit to IDWR within 30 days. If you believe that a particular piece of information is not relevant to your application, please explain why. If you need additional time to submit the required information, please submit a written request with an anticipated date of summittal. IDWR can grant additional time "upon a showing of good cause." If you do not respond within 30 days, IDWR may void your application.

Please feel free to contact this office if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DJ', is written over the printed name of Douglas Jones.

Douglas Jones, P.E.
Northern Regional Manager
Idaho Department of Water Resources

Enclosures:

Application for permit (copy)
Water Appropriation Rule 40.05 (copy)
Affidavit for Water Rights to be Used for Power Purposes

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AFFIDAVIT FOR WATER RIGHTS TO BE USED FOR POWER PURPOSES

A. Establishment of Residency or Qualification to do Business in Idaho (complete either 1 or 2)

1. Individual Applicant:

I, _____ of _____
(name) (city)
County of _____, State of Idaho, being duly sworn, do hereby certify that I am a
bona fide resident of the State of Idaho.

2. Corporation or Partnership (complete part 2a or 2b):

a) ☐ Attached is a *Certificate of Existence* or a *Certificate of Authorization* or other documentation issued by the
Idaho Secretary of State confirming _____'s authority to transact
(name of corporation or partnership)
business in Idaho.

or

b) I, _____ of _____, County
(name) (city)
of _____, State of _____, being duly sworn, depose
and say, that I am the _____ for _____
(title) (name of corporation or partnership)
that as such I have legal authority to sign this affidavit on behalf of _____
(name of corporation or partnership)
and that _____ is a corporation or partnership qualified to do business in
(name of corporation or partnership)
the State of Idaho under the laws of the State of Idaho.

B. Ownership of Facilities

The hydropower facility to be developed pursuant to the attached Application for Permit (check one):

- ☐ Will **not** utilize existing man-made irrigation facilities such as a dam or a canal.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and the owner is the signee of this affidavit.

Signature _____ Print title if applicable _____ Date _____

STATE OF IDAHO)
County of _____) ss

Subscribed and sworn (or affirmed) before me this _____ day of _____, 20____.

SEAL

Notary Public _____
Residing at _____
My Commission Expires _____

Do Not Scan Behind
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State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 29, 2016

UNITED STATES BUREAU OF RECLAMATION
1150 N CURTIS ROAD
BOISE ID 83706

COPY

Re: Application for Permit No. 65-23675

Dear Applicant:

Your recent application for permit regarding power within Twn 7 North, Range 1 West, Sections 22 within Gem County is being processed. To assist the Idaho Department of Water Resources (IDWR) in completing the initial processing steps, please submit additional information required by I. C. § 42-203A(5)(a-e) for "large diversion projects." This requirement includes the following items discussed in Water Appropriation Rule 40, Rule Subsections 040.05c through 040.05g (copy attached):

1. effect on existing water rights
2. sufficiency of water supply
3. good faith, delay or speculative purposes
4. financial resources
5. local public interest.

Your response should emphasize I. C. § 42-203A(5)(c, d, and g) to prevent injury on existing water rights, and meet criteria regarding a sufficient water supply as well as protecting the local public interest. Additional requirements for all power applications include:

1. An affidavit establishing residency and ownership of facilities.
2. Information that shows whether or not the project will be regulated by FERC &/or PUC.
3. If the project will be regulated by FERC &/or PUC, FERC &/or PUC approvals or alternatives.

Additionally, Part 9. b. of the permit application identifies a place of use within the SENE ¼¼. The attached map shows the new turbine and place of use located within govt. lot 10. Please amend the application by crossing out the SENE box and indicating actual use within the SWNE box. "Lot 10" can also be added to the description below. Changes to the form can be made by crossing out errors and initialing any changes.

Please submit the requested information for application processing to continue. You may seek additional time to provide the information if necessary. Your written response is needed within the next sixty (60) days. The application will be voided without a timely written reply. Refunds are not available for voided applications.

IDWR rules, forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,


Patrick Kelly
Water Resource Agent, Sr.