



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

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Idaho Falls, Idaho 83405

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Email: rharris@holdenlegal.com

July 18, 2014

VIA U.S. MAIL and
EMAIL: jim.mende@idfg.idaho.gov

Jim Mende
1345 Barton Road
Pocatello, ID 83204

RE: Solicitation of Comments Regarding Application for Water Right Permit No. 13-7853 in the Name of Consolidated Irrigation Company.

Dear Jim:

It is my understanding from visiting with Lyle Porter of Consolidated Irrigation Company that you have been involved, on behalf of the Idaho Department of Fish and Game, with review of information relative to the Consolidated Irrigation Company's hydropower project currently under construction near Glendale Reservoir in Franklin County. Consolidated Irrigation Company has submitted an Application for Water Right Permit in the amount of 60 cfs from coverage of Mink Creek for generation of hydropower. The application was advertised and was not protested, and is currently in the final stages of processing before the Idaho Department of Water Resources. It is my understanding that in some of the public meetings regarding this project, you have expressed no concerns or objections from the Idaho Department of Fish and Game. As you know, the hydroelectric facility is located on Consolidated's canal, just upstream from the upper part of Glendale Reservoir.

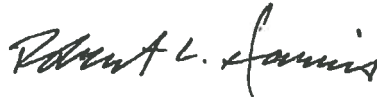
The Idaho Department of Water Resources has asked that I contact you directly in order to meet the criteria of IDAPA 37.03.08.040.05.g. This rule requests that a water right applicant seek comment from a number of governmental entities, including the Idaho Department of Fish and Game.

We anticipate that there remains no concerns or objections from the Idaho Department of Fish and Game, but would appreciate if you would explain the Department's position in a letter to me. If we do not hear back from you within thirty days, we will assume that the Idaho Department of Fish and Game's position remains the same as you have previously expressed, and we will provide a copy of this letter to the Idaho Department of Water Resources evidencing no concerns or objections to the project. We would prefer to receive an actual letter from you, and hope that can be accomplished within the next thirty days.

Jim Mende
July 18, 2014
Page 2 of 2

If you have any questions or concerns, please let me know.

Best Regards,

A handwritten signature in black ink, appearing to read "Robert L. Harris". The signature is fluid and cursive, with the first name "Robert" and last name "Harris" clearly distinguishable.

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

cc: Lyle Porter



IDAHO DEPARTMENT OF FISH AND GAME

Southeast Region
1345 Barton Rd
Pocatello, ID 83204

C.L. "Butch" Otter / Governor
Virgil Moore / Director

August 29, 2014

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, ID 83405-0130

Dear Robert,

It is not the purpose of Idaho Department of Fish and Game to support or oppose this proposal. Resident species of fish and wildlife are property of all Idaho citizens, and IDFG and the Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate and manage all fish and wildlife in Idaho (Idaho Code 36-103(a)). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following comments.

It is our understanding that the project will be licensed under a conduit exemption (section 30(a) of the FPA) requiring the facility be situated on a conduit used primarily for agricultural, municipal, or industrial consumption. The project makes use of existing irrigation diversions (Glendale Diversion of the Cub River and another diversion from Mink Creek). A portion of the existing open canal will be piped to reduce water loss from seepage. The hydroelectric facility will be located along this pipeline just before the water is discharged into Glendale Reservoir.

If this project description is accurate, we would appreciate additional information concerning:

1. Are there plans to alter the current timing of water diversions for irrigation delivery and storage to increase power generation opportunities, including; will the historic pattern of the fill and drawdown be altered? We fully appreciate the irrigation company contractual agreements to satisfy water right holders. This question stems from the valuable fishery resource in Glendale Reservoir and the benefits accrued from stable reservoir water levels.
2. Mink Creek irrigation water, will this project alter the amount of water bypassing your current diversion structure and as, above, will the historic patterns of diversion be altered?

We appreciate the opportunity to seek additional clarifying information concerning this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Gamblin".

Mark Gamblin
Southeast Regional Supervisor

Keeping Idaho's Wildlife Heritage

145 FERC ¶ 62,008
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Consolidated Irrigation Company

Project No. 14443-000

ORDER ISSUING PRELIMINARY PERMIT
AND GRANTING PRIORITY TO FILE LICENSE APPLICATION

(October 3, 2013)

1. On July 7, 2013, Consolidated Irrigation Company (Consolidated) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA),¹ to study the feasibility of the proposed Consolidated Irrigation Glendale Conduit Hydro Project No. 14443. The project would be located on Mink Creek canal and Cub River canal near the city of Preston in Franklin County, Idaho.

I. Project Proposal

2. The proposed project would consist of: (1) a screened water control structure located on the Mink Creek canal;² (2) a screened water control structure on the Cub River canal;³ (3) a new pipeline and penstock consisting of 8,520 feet of 24-inch-diameter, high-density polyethylene (HDPE) pipe, 4,340 feet of 30-inch-diameter HDPE pipe, and 4,060 feet of 36-inch-diameter HDPE pipe; (4) a powerhouse containing a 500-kilowatt turbine-generator; (5) a 1,700-foot-long, underground 12-kilovolt transmission cable connecting to an existing transmission line owned by Rocky Mountain Power; and (6) appurtenant facilities. The estimated annual generation of the project would be 2,526 megawatt-hours.

¹ 16 U.S.C. § 797(f) (2012).

² The Mink Creek canal water control structure would be located on private land, 15 canal-miles downstream from the Mink Creek diversion. That diversion is located within the Caribou-Targhee National Forest, which diverts water from Mink Creek into Mink Creek canal.

³ The Cub River canal water control structure would be located on private land, 7 canal-miles downstream from the Cub River diversion. That diversion is also located within Caribou-Targhee National Forest, which diverts water from Cub River into Cub River canal.

II. Background

3. The Commission issued public notice of Consolidated's permit application on March 7, 2013. The State of Idaho and the U.S. Forest Service (Forest Service) filed separate, timely notices of intervention.⁴ On May 6, 2013, the U.S. Department of the Interior filed a letter stating it has no comments.

III. Discussion

4. The Forest Service commented that the proposed project's diversion would be on National Forest Land (NFS), would potentially impact NFS land and resources, and that prior to undertaking any entry or studies on NFS land, the permittee must obtain a special use authorization.

5. We clarify that the proposed project facilities begin at the water control structures on the Mink Creek and Cub River canals at locations outside of the Caribou-Targhee National Forest (i.e., outside of NFS land). Regardless, a permit applicant is not required to have obtained all access rights to a project site as a condition of receiving a preliminary permit, and a preliminary permit does not grant a right of entry onto any lands. A permittee must obtain any necessary authorizations and comply with any applicable laws and regulations to conduct any field studies.

IV. Permit Information

6. Section 4(f) of the FPA authorizes the Commission to issue preliminary permits for the purpose of enabling prospective applicants for a hydropower license to secure the data and perform the acts required by section 9 of the FPA,⁵ which in turn sets forth the material that must accompany an application for license. The purpose of a preliminary permit is to preserve the right of the permit holder to have the first priority in applying for a license for the project that is being studied.⁶ Because a permit is issued only to allow the permit holder to investigate the feasibility of a project while the permittee conducts

⁴ Timely notices of intervention are granted by operation of Rule 214(a)(2). 18 C.F.R. § 358.214(a)(2) (2013).

⁵ 16 U.S.C. § 802 (2012).

⁶ See, e.g., *Mt. Hope Waterpower Project LLP*, 116 FERC ¶ 61,232 at P 4 (2006) ("The purpose of a preliminary permit is to encourage hydroelectric development by affording its holder priority of application (i.e., guaranteed first-to-file status) with respect to the filing of development applications for the affected site.").

investigations and secures necessary data to determine the feasibility of the proposed project and to prepare a license application, it grants no land-disturbing or other property rights.⁷

7. During the course of the permit, the Commission expects that the permittee will carry out prefiling consultation and study development leading to the possible development of a license application. The prefiling process begins with preparation of a Notice of Intent (NOI) and Pre-Application Document (PAD) pursuant to sections 5.5 and 5.6 of the Commission's regulations.⁸ The permittee must use the Integrated Licensing Process unless the Commission grants a request to use an alternative process (Alternative or Traditional Licensing Process). Such a request must accompany the NOI and PAD and set forth specific information justifying the request.⁹ Should the permittee file a development application, notice of the application will be published, and interested persons and agencies will have an opportunity to intervene and to present their views concerning the project and the effects of its construction and operation.

8. Article 4 of this permit requires the permittee to submit a progress report no later than the last day of each six-month period from the effective date of this permit. A progress report must describe the nature and timing of what the permittee has done under the pre-filing requirements of section 4.38 and Part 5 of the Commission's regulations for the specific reporting period. A permit may be cancelled if a permittee fails to file a timely progress report or if the report does not demonstrate that progress is being made by the permittee. The late filing of a report or the supplementation of an earlier report in response to a notice of probable cancellation will not necessarily excuse the failure to comply with the requirements of this article.

9. A preliminary permit is not transferable. The named permittee is the only party entitled to the priority of the application for license afforded by this preliminary permit. In order to invoke permit-based priority in any subsequent licensing competition, the named permittee must file an application for license as the sole applicant, thereby

⁷ Issuance of this preliminary permit is thus not a major federal action significantly affecting the quality of the human environment. A permit holder can only enter lands it does not own with the permission of the landholder, and is required to obtain whatever environmental permits federal, state, and local authorities may require before conducting any studies. *See, e.g., Three Mile Falls Hydro, LLC*, 102 FERC ¶ 61,301 at P 6 (2003); *see also Town of Summersville, W.Va. v. FERC*, 780 F.2d 1034 (D.C. Cir. 1986) (discussing the nature of preliminary permits).

⁸ 18 C.F.R. §§ 5.5 and 5.6 (2013).

⁹ *See* 18 C.F.R. § 5.3 (2013).

evidencing its intent to be the sole licensee and to hold all proprietary rights necessary to construct, operate, and maintain the proposed project. Should any other parties intend to hold during the term of any license issued any of these proprietary rights necessary for project purposes, they must be included as joint applicants in any application for license filed. In such an instance, where parties other than the permittee are added as joint applicants for license, the joint application will not be eligible for any permit-based priority.¹⁰

The Director orders:

(A) A preliminary permit is issued for the Consolidated Irrigation Glendale Conduit Project No. 14443 to Consolidated Irrigation Company for a period effective the first day of the month in which this permit is issued, and ending either 36 months from the effective date or on the date that a development application submitted by the permittee has been accepted for filing, whichever occurs first.

(B) This preliminary permit is subject to the terms and conditions of Part I of the Federal Power Act and related regulations. The permit is also subject to Articles 1 through 4, set forth in the attached standard form P-1.

(C) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days of the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2006), and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2012).

Timothy Welch, Chief
West Branch
Division of Hydropower Licensing

¹⁰ See *City of Fayetteville*, 16 FERC ¶ 61,209 (1981).

Form P-1 (Revised April 2011)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF
PRELIMINARY PERMIT

Article 1. The purpose of the permit is to maintain priority of application for a license during the term of the permit while the permittee conducts investigations and secures data necessary to determine the feasibility of the proposed project and, if the project is found to be feasible, prepares an acceptable application for license. In the course of whatever field studies the permittee undertakes, the permittee shall at all times exercise appropriate measures to prevent irreparable damage to the environment of the proposed project. This permit does not authorize the permittee to conduct any ground-disturbing activities or grant a right of entry onto any lands. The permittee must obtain any necessary authorizations and comply with any applicable laws and regulations to conduct any field studies.

Article 2. The permit is not transferable and may, after notice and opportunity for hearing, be canceled by order of the Commission upon failure of the permittee to prosecute diligently the activities for which a permit is issued, or for any other good cause shown.

Article 3. The priority granted under the permit shall be lost if the permit is canceled pursuant to Article 2 of this permit, or if the permittee fails, on or before the expiration date of the permit, to file with the Commission an application for license for the proposed project in conformity with the Commission's rules and regulations then in effect.

Article 4. No later than the last day of each six-month period from the effective date of this permit, the permittee shall file a progress report. Each progress report must describe, for that reporting period, the nature and timing of what the permittee has done under the pre-filing requirements of 18 C.F.R. sections 4.38 and 5.1-5.31 and other applicable regulations; and, where studies require access to and use of land not owned by the permittee, the status of the permittee's efforts to obtain permission to access and use the land. Progress reports may be filed electronically via the Internet, and the Commission strongly encourages e-filing. Instructions for e-filing are on the Commission's website at <http://www.ferc.gov/docs-filing/efiling.asp>. To paper-file instead, mail four copies of the progress report to the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 5, 2015

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE Rm 1A
Washington, D.C. 20426

Re: In the Matter of Consolidated Irrigation Company; Notice of Preliminary
Determination of a Qualifying Conduit Hydropower Facility and Soliciting
Comments and Motions to Intervene
FERC Project No. CD15-2-000

IDAHO DEPARTMENT OF FISH AND GAME'S SUPPLEMENTAL
COMMENTS

Dear Secretary Bose:

In accordance with 18 C.F.R. § 385.2001(a)(1)(iii) attached for your files in the above-named matter is the original of the IDAHO DEPARTMENT OF FISH AND GAME'S ("IDFG") SUPPLEMENTAL COMMENTS TO IDFG'S DECEMBER 19, 2014, NOTICE OF INTERVENTION.

Thank you for your assistance in this matter.

Sincerely,

/s/ Harriet A. Hensley

HARRIET A. HENSLEY
Deputy Attorney General
Natural Resources Division

HH/vw
Attachment

cc: The official Service List compiled by the Secretary in Project No. CD15-2-000.

STATE OF IDAHO'S SUPPLEMENTAL COMMENTS TO IDFG'S DECEMBER 19, 2014, NOTICE
OF INTERVENTION

Page 1

MAIL 120513

LAWRENCE G. WASDEN
Attorney General
State of Idaho

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

HARRIET A. HENSLEY
Deputy Attorney General
Natural Resources Division
J.R. Williams Bldg., 2nd floor
700 W. State Street
P. O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-2400
Facsimile: (208) 854-8072
Idaho State Bar #5235 (Hensley)

Attorneys for State of Idaho

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

In the Matter Consolidated Irrigation	) Docket No. CD15-2-000
Company; Notice of Preliminary	)
Determination of a Qualifying Conduit	) IDAHO DEPARTMENT OF FISH AND
Hydropower Facility and Soliciting	) GAME'S SUPPLEMENTAL
Comments and Motions to Intervene	) COMMENTS TO IDFG'S DECEMBER
	) 19, 2014, NOTICE OF INTERVENTION

TO: KIMBERLY D. BOSE, SECRETARY, FEDERAL ENERGY REGULATORY COMMISSION.

On November 12, 2014, Consolidated Irrigation Company, ("project proponent") filed a notice of intent with the Federal Energy Regulatory Commission ("Commission") to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 ("HREA"). The Glendale Conduit Hydro Project ("project") would be located near the city of Preston in Franklin

STATE OF IDAHO'S SUPPLEMENTAL COMMENTS TO IDFG'S DECEMBER 19, 2014, NOTICE OF INTERVENTION

County, Idaho. By notice dated November 19, 2014, the Commission issued a preliminary determination that the proposal satisfies the requirements for a qualifying hydropower facility not required to be licensed or exempted from licensing and solicited comments and motions to intervene.

On December 19, 2014, the State of Idaho, *ex rel.*, the Department of Idaho Fish and Game (“IDFG”) and the Idaho Water Resource Board (“Water Board”), by and through the State’s undersigned counsel, Harriet A. Hensley, Deputy Attorney General, provided notice of its intervention pursuant to 18 C.F.R. § 385.214(a)(2) setting out the agencies’ statutory authorities and interests in this proceeding. In that document, the IDFG advised that it would be obtaining more information about the project’s potential impact on fish and wildlife resources and as appropriate provide additional comments.

As indicated by the attached correspondence, IDFG has previously advised the project proponent of concerns about the adverse effect on fish and wildlife resources of altering the timing of water diversions from historic practices for the purpose of hydropower production. Specifically, past winter diversion rates from the Cub River by the project proponent averaged about 17 cfs (average was estimated from available diversion records for the years 1994 – 2013). The project proponent’s point of diversion is the most upstream irrigation diversion on the Cub River. Winter water withdrawals at this point of diversion affect about 80% of the Cub River (about 30 miles). It is our understanding that the project proponent intends to divert a maximum of 60 cfs for hydropower production. This diversion rate represents about twice the amount of historical winter base flow at the proponent’s point of diversion.

Historically, winter bypass flows in this section of the river, coupled with other existing water management and habitat conditions on the Cub River, have supported one of the highest

densities of Bonneville Cutthroat Trout populations in Idaho. The IDFG is concerned that the reconfiguration of the water delivery system for the purpose of hydropower production will reduce or eliminate winter bypass flows critical for Bonneville Cutthroat Trout production and survival in the Cub River system. In addition, it is not clear whether the proposed project will capture additional water from Worm Creek.

It is not the purpose of the IDFG to support or oppose the proposed project. The IDFG is interested in further discussions with the project proponent to identify whether there will be a change in historical water diversion practices, the potential adverse effects on Bonneville Cutthroat Trout populations in the Cub River, and how any adverse effects might be avoided, minimized, or mitigated.

DATED this 5th day of January, 2015.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

/s/ Harriet A. Hensley
HARRIET A. HENSLEY
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 5th day of January, 2015, served the foregoing document, STATE OF IDAHO'S SUPPLEMENTAL COMMENTS TO IDFG'S DECEMBER 19, 2014, NOTICE OF INTERVENTION, upon each person designated on the official service list compiled by the Secretary in this proceeding email..

LYLA DETTMER
PROJECT MANAGER/AGENT
98 EAST 800 NORTH, SUITE #5
PRESTON, IDAHO 83263
FSWCD@earthlink.net

/s/ Harriet A. Hensley
HARRIET A. HENSLEY
Deputy Attorney General
Natural Resources Division



IDAHO DEPARTMENT OF FISH AND GAME

Southeast Region
1345 Barton Rd
Pocatello, ID 83204

C.L. "Butch" Otter / Governor
Virgil Moore / Director

August 29, 2014

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, ID 83405-0130

Dear Robert,

It is not the purpose of Idaho Department of Fish and Game to support or oppose this proposal. Resident species of fish and wildlife are property of all Idaho citizens, and IDFG and the Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate and manage all fish and wildlife in Idaho (Idaho Code 36-103(a)). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following comments.

It is our understanding that the project will be licensed under a conduit exemption (section 30(a) of the FPA) requiring the facility be situated on a conduit used primarily for agricultural, municipal, or industrial consumption. The project makes use of existing irrigation diversions (Glendale Diversion of the Cub River and another diversion from Mink Creek). A portion of the existing open canal will be piped to reduce water loss from seepage. The hydroelectric facility will be located along this pipeline just before the water is discharged into Glendale Reservoir.

If this project description is accurate, we would appreciate additional information concerning:

1. Are there plans to alter the current timing of water diversions for irrigation delivery and storage to increase power generation opportunities, including; will the historic pattern of the fill and drawdown be altered? We fully appreciate the irrigation company contractual agreements to satisfy water right holders. This question stems from the valuable fishery resource in Glendale Reservoir and the benefits accrued from stable reservoir water levels.
2. Mink Creek irrigation water, will this project alter the amount of water bypassing your current diversion structure and as, above, will the historic patterns of diversion be altered?

We appreciate the opportunity to seek additional clarifying information concerning this project.

Sincerely,

Mark Gamblin
Southeast Regional Supervisor

Keeping Idaho's Wildlife Heritage

Submission ID 539128

Submission Description State of Idaho's Supplemental Comments to IDFG's December 19, 2014, Notice of Intervention under CD15-2-000.

Submission Date 1/5/2015 1:58:38 PM

Filed Date 1/5/2015 1:58:38 PM

Current Status Pending

Dockets

Docket	Description
CD15-2-000	Notice of Intent / Pre-Application Document of Consolidated Irrigation Company

Files

Security Level	Filename
Public	Consolidated Irrigation Supplement.pdf

Filing Party/Contacts

Filing Party	Signer (Representative)	Other Contacts (Principal)
State of Idaho Agencies	harriet.hensley@ag.idaho.gov	cindy.robertson@idfg.idaho.gov
State of Idaho Agencies		garrick.baxter@idwr.idaho.gov
State of Idaho Agencies		jim.mende@idfg.idaho.gov



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Hahn & Crapo P.L.L.C.
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Email: rharris@holdenlegal.com

January 27, 2015

Mark Gamblin
Southeast Regional Supervisor
Idaho Department of Fish and Game
Southeast Region
1345 Barton Road
Pocatello, ID 83204

RE: *Response to Letter dated August 29, 2014 Concerning Consolidated Irrigation Company Hydroelectric Facility.*

Dear Mr. Gamblin:

Thank you for your letter dated August 29, 2014. Your letter was in response to my letter dated July 18, 2014, which solicited comments under the Idaho Department of Water Resources' administrative rules (IDADA 37.03.08.040.05.g). Your letter requested additional information regarding whether the hydroelectric facility would alter historic irrigation operations of Consolidated.

Consolidated does not intend to alter the current timing of water diversions for irrigation delivery and irrigation storage. There is never a hard-and-fast date when Consolidated begins diverting water for irrigation or irrigation storage purposes. Consolidated's operations will continue to be driven by irrigation demand, not hydropower demand. As such, the determination of when to begin diverting water for either irrigation or irrigation storage purposes already authorized under Consolidated's water rights is a product of many variables, including water supply (snowpack), reservoir levels, availability of stream flow due to other water right holders' use patterns, and demand from Consolidated stockholders for delivery of irrigation water. This is true of Consolidated's Cub River and Worm Creek water rights, as well as its Mink Creek water right.

With specific regard to releases from Glendale Reservoir, there will be no alteration to the historic draw down pattern of storage water in the reservoir. If the hydroelectric facility was at the dam, then we could understand the potential concern there. However, we do not see how the hydroelectric plant located above Glendale Reservoir would alter releases from the reservoir. The determination of how much storage water to release from the reservoir is not driven by hydroelectric demand. There are three factors which determine storage water release from the Glendale Reservoir. First, irrigation demand, as previously described. Second, since the dam is

Established in 1896

Mark Gamblin
January 27, 2015
Page 2 of 2

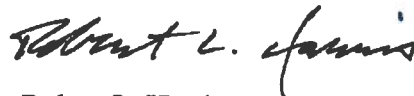
protected by a fuse plug rather than a concrete lined working spillway, maintaining the proper safety freeboard at appropriate times of the season is often accomplished by planned releases. Third, from time to time, the reservoir is purposely drained to expose the inner toe of the dam and certain areas on the reservoir floor for safety inspections and maintenance (this last factor is also true so the other reservoirs, especially the Foster Reservoir). It should also be noted that much of the water delivered under stream flow rights, especially the Mink Creek Right, are passed through the Glendale Reservoir.

With specific regard to Mink Creek, Consolidated's water right does not allow water to be diverted under it for irrigation storage. Irrigation is the only authorized beneficial use. As a result, water will not be diverted from Mink Creek to fill Consolidated's reservoir system. As with the other water rights, there is some variability in the actual start date when diversions occur based on analysis of the same variables described above. Therefore, it will only be diverted if and when there is sufficient irrigation demand under it to justify diverting under this water right. We should also point out that there are physical constraints to diverting Mink Creek water. It is still primarily an open canal with a north-facing slope that generally does not allow diversion of water in the winter months. Therefore, the hydroelectric facility will not alter the historic operation of Consolidated's Mink Creek system. There is variability from year to year of when water is actually diverted and delivered, but that variability will be driven by weather conditions, and irrigation demand and delivery, not electricity generation.

We hope this additional information proves helpful. Because Consolidated does not intend to alter its historic irrigation diversion practices, it appears that no additional clarifying information is needed, and we will provide your letter, as well as a copy of this letter and our July 18th letter, to IDWR demonstrating that these are the only comments you have submitted and that no additional concerns have been raised.

We appreciate your attention to this matter.

Best Regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Docket No. CD15-2-000– Idaho
Glendale Conduit Hydro Project
Consolidated Irrigation Company

January 26, 2015

Lyla Dettmer
Consolidated Irrigation Company
98 East 800 North Suite #5
Preston, ID 83263

**Subject: Determination that the Glendale Conduit Hydro Project Meets Qualifying
Conduit Hydropower Facility Criteria**

Dear Ms. Dettmer:

On November 12, 2014, you filed a notice of intent, pursuant to section 30(a) of the Federal Power Act (FPA), 16 U.S.C. § 823a (2012), as amended by Section 4 of the Hydropower Regulatory Efficiency Act of 2013, Pub. L. 113-23, § 4a, 127 Stat. 493 (2013), to construct a qualifying conduit hydropower facility, the Glendale Conduit Hydro Project, to be located near the city of Preston in Franklin County, Idaho.

On November 19, 2014, Commission staff issued a public notice that preliminarily determined that the project met the statutory criteria for a qualifying conduit hydropower facility, and thus was not required to be licensed under Part I of the FPA. The notice established a 45-day period for entities to contest whether the project met the criteria. On December 19, 2014 and supplemented on January 5, 2015, the State of Idaho, ex rel., the Department of Idaho Fish and Game and the Idaho Water Resource Board filed a notice of intervention and comments. The comments do not contest that the project meets the qualifications, but raise concerns for the fisheries in the vicinity. Qualifying conduit hydropower facilities remain subject to other applicable federal, state, or local laws and regulations. Accordingly, this letter constitutes a written determination that the Glendale Conduit Hydro Project meets the qualifying criteria under FPA section 30(a), and is not required to be licensed under Part I of the FPA.

If you have any questions, please contact Mr. Robert Bell at (202) 502-6062 or robert.bell@ferc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Houff". The signature is stylized with a large, looped "K" and a cursive "Houff".

Kelly Houff
Chief, Engineering Resources Branch
Division of Hydropower Administration
and Compliance