

MEMORANDUM

Date: August 14, 2008
To: Water Right File 47-7991
From: medl
Re: license review

A single Beneficial Use field exam, done by J.U.B. Engineering in October 1986, was intended to confirm beneficial use for two rights: 47-7768 and 47-7991. Unfortunately, beneficial use for this right, 47-7991, was not confirmed by that exam. That deficiency went unrecognized and has complicated the licensing process for this hydro project.

Although the permit holder had until November 1, 1991 to submit proof of beneficial use for both 47-7768 and 47-7991, he chose to submit proof on February 4, 1987. That premature submittal correctly signaled completed development under permit 47-7768, but development under this permit, 47-7991 was incomplete. Permit 47-7991 was tied to the expansion of the Cedar Draw project by the addition of a turbine capable of utilizing 40 cfs. The FERC did not approve the expansion until February 24, 1987, twenty days after proof was submitted.

The field examiner observed that the 4th turbine was in place but not in use during his exam October 7, 1986. However, he recommended that the plant be licensed to its full appropriation of 150 cfs., (110 cfs through right 47-7768, and 40 cfs through right 47-7991). Neither the permit holder nor the Department recognized that the field examiner's recommendations for licensing 47-7991 were not justified by his observations. And unfortunately, the Department reassured the permit holder on at least one occasion that no additional action was needed from his side, in order to perfect either water right.

In my licensing review, I noticed the discrepancy between the field examiners recommendation and his observations. I stated that Department would need to void permit 47-7991 based on no beneficial use found. On March 25, 2008 the Department communicated its intent to void permit 47-7991 in a letter to the permit holder's local representative, Tom McCauley. Mr. McCauley disagreed with the Department's findings and asked for an opportunity to present his clients' perspective.

Mr. McCauley met with IDWR personnel in Boise on April 2, 2008 to discuss options for preserving this water right. He brought several documents with him to our meeting. The documents were focused on establishing beneficial use through permit 47-7991. From a quick review of data selected from Mr. McCauley's documents, I was able to determine that beneficial use had occurred after the field exam but before the original proof due date November 1, 1991. Water Rights Section Manager, Shelley Keen presented Mr. McCauley a solution to re-establish water right 47-7991. And as a consequence, Mr. McCauley signed a new Proof of Beneficial Use statement on April 2, 2008, confirming completed development for 47-7991.

An order reinstating the permit, with no change in priority, was issued on April 7, 2008.

No additional on-site field exam was conducted at the Cedar Draw project. My desk top review of the water data and the file documents for 47-7768 and 47-7991 constitutes the Beneficial Use exam for this water right.

Applicant

This property and the permit may have changed ownership since the permit was approved. According to Twin Falls county tax information, the current owner of the diversion dam property and the current owner of the power house property are not the same and neither property is owned by Crystal Springs Hydroelectric LP.

The permit holder, Crystal Springs Hydroelectric, L.P., had lapsed as a viable business entity in both Idaho and Washington. In the process of licensing the companion water right 47-7768, I requested that Tom McCauley, local agent for the permit holder, reestablish Crystal Springs Hydroelectric as an active business with the Idaho secretary of state. That process was completed on April 30, 2008.

Source, POD

Neither the POD nor the POU shapes had been created prior to my review. I created them based on 2004 NAIP aerial photography and J.U.B.s Beneficial Use field exam for 47-7768. The permit application located the POU in a QQ that differed from where the field examiner and I found them. The powerhouse, (the POU) is located in NWNE Twp 09S, Rge 15E, sec 14. An amendment is needed.

Between April 22, 1985 and October 7, 1991 the USGS maintained stream gauging station #13093550, Cedar Draw near Filer, Idaho. It was sited on one of two arms of Cedar Draw Creek upstream of the diversion dam for this project. In our April 2, 2008 meeting, Mr. McCauley used flow records from this station to characterize the plant inflow. I used USGS approved daily average flow data from this station in my analysis of flow and volume for both 47-7768 and 47-7991.

Water Use

The Cedar Draw Creek hydro plant has a 35-year, firm energy, co-gen contract with Idaho Power Company beginning May 10, 1984.

This hydroelectric plant was licensed by FERC as Cedar Draw Creek, FERC project #8278 on May 24, 1985. The facilities licensed in 1985 included a powerhouse and three generating units with a total capacity of 110 cfs. At the time J.U.B. Engineering completed the field exam in October 1986, an application requesting approval for an expansion to the plant capacity had been submitted to the FERC. FERC approved the amendment and plant expansion on February 27, 1987. A fourth turbine provides an additional 40 cfs to the Cedar Draw plant capacity. This water right, 47-7991 authorizes appropriation of additional flow and volume associated with the 4th turbine.

To satisfy IDF&G requirements, FERCs Cedar Draw license stipulates that the minimum flow in Cedar Draw Creek will be 25 cfs and that the turbines will be bypassed if flow in the channel is less than or equal to that minimum. With the additional capacity contributed by the fourth turbine, the power plant operation range is 25-150 cfs and flows outside of that operation range remain in the Cedar Draw Creek channel.

1988 was the first full calendar year that the 4th unit was available and approved for power generation. According to Idaho Power Company's summaries of small power production for calendar year 1988, the Cedar Draw Creek plant was online, generated electricity every month and therefore beneficially used available water from Cedar Draw Creek the entire year.

I used approved USGS daily average flow data for 1988 from station 13093550 to establish the volume of water beneficially used through the 4th unit. Daily average flows at station 13093550 did not fall below 31 cfs in 1988. Assuming that the ungauged arm of Cedar Draw Creek contributed some flow the entire year and that that unknown flow would contribute the needed minimum flow, then the power plant could have been operational the entire year.

In 1988, daily average flows in Cedar Draw Creek were above the 110 cfs for several days which provided the additional water to warrant bringing the 4th unit online. I considered any flow above 150 cfs as spill and not contributing additional volume. For my volume calculation, I summed the daily average flow between 110-150 cfs, converted that to acre-feet and rounded to three significant figures. Please refer to the attached Excel spreadsheet and graph for my data set. The volume calculation becomes:

sum of day average flows greater than 110 cfs and less than or equal to 150 cfs for calendar year 1988 = 2199 cfs,

multiplied by 1.9835 to convert to acre-feet = 4361.717 AF

and finally rounded to three significant figures = 4360 AFA.



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7829 CENTER BLVD SE
SNOQUALMIE, WA 98065

Type of Business: LIMITED PARTNERSHIP**Status:** CURRENT 30 Apr 2008**State of Origin:** WASHINGTON**Date of Origination/Authorization:** 30 Apr 2008**Initial Registered Agent:** TOM MCCAULEY
324 ELEVENTH AVE NORTH
BUHL, ID 83316**File Number:** L6081**Date of Last Annual Report:****Original Filing:****Filed 30 Apr 2008** REG. OF
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