

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

RECEIVED

MAY 26 2009

DEPARTMENT OF
WATER RESOURCES

1. Matter being protested:

Application for Permit No. 78-12361 in the name of Tony Cesario and Billie Cesario

RECEIVED

2. Name of protestant:

United States Department of the Interior (USDOI)
Bureau of Land Management (BLM)
Idaho State Office (ISO)

MAY 28 2009

WATER RESOURCES
WESTERN REGION

3. Protestant's Representative for service (If different than protestant):

Fredric W. Price, Water Rights Specialist, ID933B

4. Service mailing address:

United States Department of the Interior (USDOI)
Bureau of Land Management (BLM)
Idaho State Office (ISO)
1387 South Vinnell Way
Boise, Idaho 83709

5. Service telephone #: (208) 373-3831 Fred Price Email Address: Fredric_Price@blm.gov

6. Basis of protest (including statement of facts and law upon which the protest is based):

Claimants' Application for Permit #78-12361 includes federal public land (see below):
Point of Diversion: T23N, R01E, S22, SESE.

The Claimants are not authorized to construct facilities on federal public land, such as a diversion and pipeline. A water right cannot be established by aid of trespass.

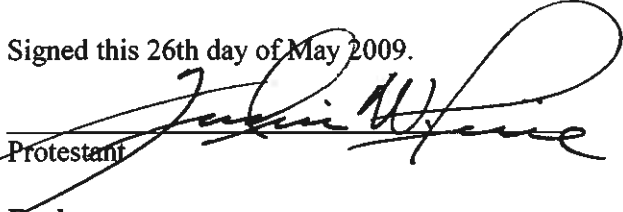
It is also our understanding that an authorization from FERC (i.e. 5 MW Exemption, or Conduit Exemption) may be necessary to generate power if the conduit crossed federal public land, however the placement of a Point of Diversion (POD) on federal public land is not allowed.

7. What would resolve your protest?

BLM's protest could be resolved by either withdrawal of the application for water permit, or by amending the application for water permit to describe a Point of Diversion (POD) that does not include federal public land, nor cross federal public land with the pipeline/conduit. Both options would require the removal of facilities (POD) and pipeline/conduit from federal public land.

I hereby, acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 26th day of May 2009.


Protestant

Fredric W. Price
Protestant's Representative

Enclosures:

Copy of Application for Permit No. 78-12361 for Tony Cesario and Billie Cesario from IDWR weekly water Right report.

Copy of Application for Permit No. 78-12361 for Tony Cesario and Billie Cesario from IDWR website.

Copy of Application for Permit No. 78-12361 for Tony Cesario and Billie Cesario form #202 submitted by applicant Tony Cesario and Billie Cesario

Master Title Plats (MTPs)

NOTARY: Subscribed and sworn to before me on this 26th day of May 2009.



Jacqueline L. Simmons
Jacqueline L. Simmons
Notary Public in and for: State of Idaho
Residing at: Boise, Idaho
My Commission expires: April 7, 2011

FOR DEPARTMENT USE ONLY

Received by S.O. by DB Date: 5-26-09 Time: 4:30 AM/PM (PM)
\$25.00 fee Received by SR7 # C088731 Date: 5-26-2009

CERTIFICATE OF MAILING

I certify that a true and correct copy of the "Notice of Protest" was mailed on **May 26, 2009**, with sufficient first-class postage to the following:

Original with check to:

State of Idaho
Idaho Department of Water Resource
State Office
322 East Front Street
Boise, Idaho 83720

Copies:

State of Idaho
Idaho Department of Water Resource
Northern Regional Office
7600 Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815-7763

Tony Cesario
Billie Cesario
PO Box 159
Riggins, Idaho 83549-0159

United States Department of the Interior
Bureau of Land Management
Coeur d'Alene District (ID400)
Cottonwood Field Office (ID420)
ATTENTION: CRAIG JOHNSON
1 Butte Drive
Cottonwood, Idaho 83522

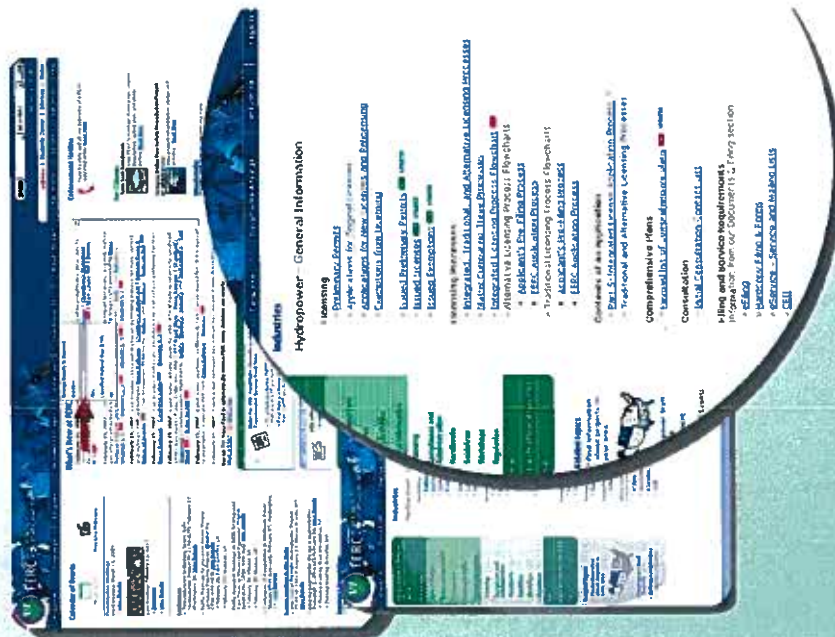
United States Department of the Interior
Bureau of Land Management
Coeur d'Alene District (ID400)
Cottonwood Field Office (ID420)
ATTENTION: ROBBIN BOYCE
1 Butte Drive
Cottonwood, Idaho 83522



Guidance on the Internet

To access guidance on small hydropower development:

- Point your browser to www.ferc.gov
- Using the drop down menu from the fifth navy blue tab, Industries, select Hydropower.
- Scroll to the bottom of the page and click on General Information in the lower right hand corner.
- Click on Licensing.



For further assistance please contact us at:
1-866-914-2849 or smallhydro@ferc.gov



Federal Energy Regulatory Commission
888 First St., N.E.
Washington, D.C. 20426

Guide to Developing Small/Low-Impact Hydropower Projects



Federal Energy Regulatory Commission

Developing Small/Low-Impact Hydropower Projects

The Federal Energy Regulatory Commission (FERC) is experiencing increased interest from those seeking to develop small/low-impact hydropower projects. This brochure explains how best to obtain Commission authorization to construct and operate these small/low-impact projects while assuring adequate protection of environmental resources. Benefits of developing these projects include:

- Emission-free renewable source of energy
- Low impacts to environmental resources
- Financial incentives to developers under state Renewable Portfolio Standards



FERC's Role

Under the Federal Power Act, FERC is charged with the authorization and regulation of the nation's non-federal hydropower resources. FERC issues three types of authorizations:

- **License** – Issued for 30- to 50-year terms. Must be renewed. Gives the licensee the power of “eminent domain” to obtain lands or other rights needed to construct, operate, and maintain the hydroelectric project.
- **5-Megawatt (MW) Exemption** – Issued in perpetuity. Must be located at the site of an existing dam or use a natural water feature. Must propose increased capacity. The exemptee must own all lands and facilities other than federal lands to be eligible.

- **Conduit Exemption** – Issued in perpetuity. Must use the potential of a conduit constructed primarily for non-hydropower purpose. The exemptee must own the proposed powerhouse and the lands upon which the powerhouse will be located. A conduit exemption may not use federal lands.



General Process for License and Exemption Applications

Getting started

- Contact FERC staff to get advice on the best way to obtain authorization for your project (1-866-914-2849 or smallhydro@ferc.gov)

Pre-filing consultation and initial project review

- Gather needed information to identify project-related effects
- Send package describing your proposal and environmental effects to Commission staff, all relevant government and tribal agencies, and non-government and public entities
- Meet with all affected agencies and entities to explain your proposal and to request input
- Determine whether and to what degree affected agencies and entities are willing to expedite the consultation process or forego a consultation stage



- Apply for and obtain a state Water Quality Certification or waiver
- Prepare and file a license or exemption application

Application processing

- Commission staff requests comments on application from all interested agencies and entities
- Commission staff conducts comprehensive project review, including issuing environmental document (not usually required for conduit exemption)
- Commission acts on application



How FERC May Expedite the Process



- With resource agency cooperation, waive some pre-filing consultation requirements
- Combine scoping of issues with pre-filing consultation
- Combine public noticing requirements
- Shorten comment periods
- Use a single environmental document in lieu of draft and final documents

Factors that Reduce Time and Cost



- Project at existing dam
- Little change to water flow and use
- Unlikely to: affect threatened and endangered species; or need fish passage
- Applicant owns all lands needed for project construction and operation

- Information on existing environmental resources and project effects readily available

- A complete application that addresses all issues

Examples of Successfully Expedited Projects

- Lower Turnbull Drop Project No. 12597 (5.0 MW), Upper Turnbull Drop Project No. 12598 (4.1 MW), Mill Coulee Drops Project No. 12599 (1.05 MW)- licenses issued (07/28/06) 8 months from filing
- Corriveau Project No. 12629 (350 kW)- exemption issued (10/24/06) 10 months from filing



Ident. No. 78-12361

RECEIVED

NOV 03 2008

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Amount \$

JPC
04/10/09

1. Name of Applicant Tony Cesario & Billie Cesario Phone 208-628-0005
Mailing address PO Box 159 Riggins, ID 83549 Email _____
2. Source of water supply Hat Creek which is a tributary of Little Salmon River
3. Location of point of diversion is Township 23 N Range 1 E Sec. 22, in the _____
SE $\frac{1}{4}$, SE $\frac{1}{4}$, Govt. Lot _____, B.M., Idaho County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
- | |
|--|
| Amount <u>.80</u> for <u>Hydropower</u> purposes from <u>VI</u> to <u>12/31</u> (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) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per year) |
5. Total quantity to be appropriated is (a) .80 and/or (b) _____
cubic feet per second acre feet per year
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source 6" PVC Pipe
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet;
total reservoir capacity _____ acre-feet
- 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? _____
- e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. 614 ft of head, 22 kW
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. _____

*
- NAME corrected
- map
- RSR office visit with both of them

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	
23	1E	21															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? none

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

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. POWER is for our own house & out building - not for sale. A single diversion is proposed, Return flow to creek will be in SWSE Sec 21 at place of use.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Tony Cesario / Billie Cesario
Signature of Applicant

Tony Cesario / Billie Cesario
Print Name (and title, if applicable)

For Department Use:

Received by YM Date 11-3-08 Time 10:18 AM Preliminary check by [Signature]
 Fee \$ 250 - Receipted by [Signature] Receipt No. W037021 Date 11-3-08
 Publication prepared by DB Date 4/30/2009 Published in IDAHO COUNTY FREE PRESS
 Publication approved _____ Date _____ Dates Published MAY 6 & 13, 2009

LITTLE
RIVER

T23N R1E

Grouse
Creek

Dempsey
Flat

Project X
BM
2514

place of use &
return flow to
Creek

SWSE S. 21

pt. of diversion
S. 22 SESE

78-12361

JHC 04-10-29

MAP APPROVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AFFIDAVIT FOR WATER RIGHTS TO BE USED FOR POWER PURPOSES

A. Establishment of Residency: (Complete either 1, or 2).

1. Individual Applicant or Individual Members of a Partnership:

I, Tony or Billie Cesario of Riggins,
(name) (city)

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

2. Corporation:

I, _____ of _____,
(name) (city)

County of _____, State of Idaho, being duly sworn, depose and
say: That I am the designated registered agent of the _____

_____ that as such I am in charge of the registered office of the said
(name of corporation)

corporation as required by Section 30-1-12, Idaho Code, at _____
(city)

Idaho, wherein are kept the corporate records required by Section 30-1-52, Idaho Code; and that _____

_____ is a corporation qualified to do business in the State of Idaho under the laws
(name of corporation)
of the State of Idaho.

B. Ownership of Facilities: (To be completed for hydropower projects only)

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.

Tony Cesario
Applicant

STATE OF IDAHO)
County of Ada)ss

On this 10 day of April, 2009, personally appeared before me the signer(s) of
the above instrument, who duly acknowledged to me that he (she) (they) executed the same.



Lori Harris
Notary Public residing at

Boise, Idaho

Witness: 12-12-2012

April 29, 2009

Legal Notice Department
IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE ID 83530

RE: Application for Permit No. 77-14319, 78-12361 & 79-14216

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

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 05/26/2009. Your cooperation is appreciated.

Sincerely,

Denise Buffington
Administrative Assistant

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

78-12361

TONY CESARIO
BILLIE CESARIO
PO BOX 159
RIGGINS ID 83549-0159

Point(s) of Diversion SESE S22 T23N R01E IDAHO County Source HAT CREEK
Tributary To LITTLE SALMON RIVER

Use: POWER 01/01 To 12/31 0.8 CFS

Total Diversion: 0.8 CFS

Date Filed: 11/03/2008

Place Of Use: POWER

T23N R01E S21 SWSE

Remark: Water will be fully returned to creek at place of use.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 05/26/2009. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Published on May 6th & 13th, 2009

Water Right Report

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report

5/22/2009

WATER RIGHT NO. 78-12361

Owner Type	Name and Address
Current Owner	BILLIE CESARIO
Current Owner	TONY CESARIO
	PO BOX 159
	RIGGINS, ID 83549-0159
	(208)628-0005

Priority Date: 11/03/2008
Status: Active

Source	Tributary
HAT CREEK	LITTLE SALMON RIVER

Beneficial Use	From	To	Diversion Rate	Volume
POWER	01/01	12/31	0.8 CFS	
Total Diversion			0.8 CFS	

Location of Point(s) of Diversion:

HAT CREEK	SESE	Sec. 22	Township 23N	Range 01E	IDAHO County
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POWER Use:

Place(s) of use:

Place of Use Legal Description: POWER IDAHO County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
23N	01E	21		SWSE										

Dates:

Date Application Received: 11/03/2008
Date Application Denied:
Last Date of Beneficial Use:
Extension End Date:
Protest Deadline Date: 5/26/2009
Number of Protests: 0
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:

State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Application Type: New Appropriation
Applicant Remarks: Power is for our own house and out-buildings, not for sale. A single diversion is proposed. Return flow to the creek will be in SWSE S21 at place of use.
Other Water Rights: none, replaces relinquished 78-7198

Time to Complete Works: 5
Transfer Affected Description:
Transfer Affected Contracts:
Old Transfer Number:
Transfer Reason:
Transfer Return Flows:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

IDAHO DEPARTMENT OF WATER RESOURCES
NEW WATER RIGHT FILINGS

DATE: 05/4/09

Application for Permit No. 78-12361

Name: TONY CESARIO
BILLIE CESARIO

Diversion Pt SESE Sec 22 T 23N R 01E IDAHO County Source HAT CREEK
Use: POWER 01/01 To 12/31 0.8 CFS

Total Diversion: 0.8 CFS

Date Filed: 11/03/2008

Place Of Use: POWER

T23N R01E S21 SWSE

Remarks: Water will be fully returned to creek at place of use.

