

State of Idaho
Department of Water Resources
Water Right License

AMENDED***AMENDED***

WATER RIGHT NO. 32-07128

Priority: September 08, 1982

Maximum Diversion Rate: 45.00 CFS
Maximum Diversion Volume: 32,600.0 AF

It is hereby certified that TED S SORENSON
5203 S 11 E
IDAHO FALLS ID 83404

And/Or

SORENSON ENGINEERING
5203 S 11 E
IDAHO FALLS ID 83404

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 08, 1982; and has submitted Proof of Beneficial Use on September 22, 1989. An examination indicates that the works have a diversion capacity of 79 cfs of water from:

SOURCE

BIRCH CREEK

Tributary: SINKS

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
POWER	01/01 to 12/31	45.00 CFS	32,600.0 AF

LOCATION OF POINT(S) OF DIVERSION:

BIRCH CREEK SE¼SW¼ Sec. 34, Twp 09N, Rge 30E, B.M. CLARK County

PLACE OF USE: POWER

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
08N	31E	14		X															

CONDITIONS OF APPROVAL

1. Use of water under this right shall be non-consumptive.
2. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 32D.
4. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works. A second measuring device shall be maintained near the end of the feeder ditch so that the amount of water lost in the feeder ditch can be determined.

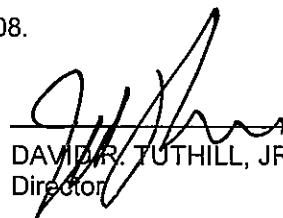
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5. The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.
6. The diversion and use of water for hydropower purposes under this license is subject to review by the Director after the date of expiration of license 7194-001 issued by the Federal Energy Regulatory Commission. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.
7. The right holder shall maintain the pond and irrigation system that utilizes 0.11 cfs of water, described in the BLMs "Finding of No Significant Impact and Decision/Rationale," EA Number ID-030-9-46 (January 11, 1990) including but not limited to 6 to 8 ponds below the hydropower diversion that create 2.46 acres of riparian habitat.
8. If the right holder does not comply with Condition No. 7 listed above, the right holder shall build and maintain a gate in the hydropower diversion located in the SESW, S34, T9N, R30E, B.M. and shall allow 11% of the flow of Birch Creek or 5.0 cfs, whichever is smaller, to flow past the feeder canal diversion on Birch Creek, said water to remain in the natural channel of Birch Creek.
9. Provisions shall be made to return the water to Birch Creek at the end of the first 1 1/2 mile of feeder ditch to assure that the section of feeder ditch will not be dewatered if the generator malfunctions or icing occurs or any other event necessitates that the water not be conveyed to the generator.
10. The first 1 1/2 miles of ditch must be maintained and operated in a manner that supports a fishery as described in the report entitled Feasibility of Developing a Trout Population in the Proposed Birch Creek Hydroelectric Project Feeder Ditch written by J.S. Griffith, PhD, and found in the official record of application for this water right.
11. The feeder canal shall be maintained in a manner that will reduce the amount of seepage loss by at least 11% of the flow at the point of diversion.
12. Right 32-07136 is also diverted through the point of diversion described above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 4th day of June, 2008.

For



DAVID R. TUTHILL, JR.
Director