

MEMORANDUM

Date: April 4, 2008
To: Water Right File 47-7991
From: medl
Re: voided permit meeting

Water right 47-7991 is embodied by a fourth turbine with hydraulic capacity of 40 cfs which was in place but not in use, when the field exam for the companion right 47-7768 was done in Oct 1986. Beneficial use was established for the generating capacity of the three units that were in operation at the time of the exam, but not for the fourth. The field examiner believed that he had verified beneficial use for both 47-7768 and 47-7991 with that single exam but included statements in his narrative which contradicted that premise. The permit holder did not realize the ramifications of the field examiners report and was not informed that there was a potential impediment to licensing 47-7991 until I had completed my license review for the companion right.

I had several lengthy phone conversations with Mr. Tom McCauley, the operator of Crystal Springs Hydroelectric LP, in response to the Department's letter of March 25, 2008; Notice of Intent to Void permit 47-7991. Tom McCauley contended that the Department was in error and he was willing to come to Boise and discuss options for resolving the issue.

I arranged for a meeting with Mr. McCauley and Shelley Keen, my supervisor, on Wednesday morning April 2, 2008. I recommended that Mr. McCauley bring with him operation and maintenance logs, start-up test records or other documents related to the successful addition of the 4th unit to the plant capacity. Mr. McCauley agreed to locate and bring supporting documents if they existed. I also recommended that he concentrate his records search to the time frame before the proof statement was submitted in February 1987. He reminded me that the water volume necessary to bring the 4th unit online, in conjunction with the other 3 units, would not have been available in the winter months.

In the interim, Shelley Keen and Jeff Peppersack met and discussed the sequence of events associated with this water right and arrived at another potential resolution based on the requirements for submitting proof of beneficial use. They identified errors in processing the proof of beneficial use and the notifications needed to properly usher permit 47-7991 through the water rights licensing process.

Our meeting convened on the scheduled morning. Tom McCauley presented project as-built plans, an event time-line and documents that demonstrated beneficial use of an additional 40 cfs of water via the 4th turbine had occurred less than two years after the field exam.

Shelley Keen presented the solution that he and Jeff Peppersack had worked out in their discussion. To paraphrase: Permit 47-7991 lapsed because the Department erred in not notifying the permit holder that proof of beneficial use had not been established. And although proof was due in 1991, the department erred in not notifying the permit holder of the deadline. To reinstate the permit, an order summarizing Department findings and conclusions would be drafted and a newly signed proof of beneficial use statement would be needed.

I reviewed the operation and streamflow documents that Mr. McCauley had brought with him. One of the documents was a printout of daily average streamflow data for water year 1988 from USGS station #13093550, Cedar Draw near Filer. I used data from this same station in my

license review of the companion water right. To allow simultaneous operation of all four turbines requires a flow rate of 150 cfs or greater. That rate was available several days in 1988.

Mr. McCauley also brought with him Idaho Power Co production data and a binder of daily operation logs for 1988. The hand written operator logs showed which units were online and for how long. From September 21st to 30th, 1988 operators reported that all four units were online each day. In particular, the operation logs show that all four turbines were continuously online the 24-hours beginning approximately, 8:00 am September 29 to 9:00 am September 30. Idaho Power Co production records for those days supported the operation notes. All four generators had to have been online simultaneously for several hours each day in order to produce the kW documented by Idaho Power Co. Copies of Mr. McCauley's documentation are attached to this memo.

Based on the permit lapse concept that Shelley had presented and on my table-top review of the flow, operation and production data, Mr. McCauley was willing to complete a new proof of beneficial use form which encompassed the fourth turbine.