

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE CLARK FORK-PEND OREILLE RIVER
BASIN WATER SYSTEM
RECEIVED

CIVIL CASE NUMBER: 69576

Claim ID: 96-2180

Date Received: 10-27-2022

Receipt No: N041661

Claim Fee: \$50.00 By: NS

OCT 27 2022

IDWR / NORTH

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

- Name of claimant(s) Avista Corporation Phone (509) 495-2941
Mailing address 1411 E. Mission Ave. Spokane WA Zip 99220-3727
Street or Box City State
Email address (optional) bruce.howard@avistacorp.com
- Date of priority: (Only one per claim) 11/7/1950 (Explain priority date selected in Remarks)
Month/Day/Year (YYYY)
- Source of water supply (Check one) Ground Water () or Other (✓) (a) Clark Fork River
which is tributary to (b) Pend Oreille Lake
- a. Location of point of diversion is: Township 55N, Range 3E, Section 27,
NE 1/4 of SE 1/4, Govt. Lot _____, BM, County of Bonner
Parcel no. _____
Additional points of diversion, if any: T55N, R3E, S27 NWSE, SWNE, SENE
If available, GPS Coordinates _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,
Govt. Lot _____, BM, County of _____
Ending point is: Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,
Govt. Lot _____, BM, County of _____
- Description of existing diversion works (dams, reservoirs, ditches, wells, pumps, pipelines, headgates, etc.),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

Cabinet Gorge Dam across the Clark Fork River for hydropower generation.

6. Water is claimed for the following purposes:

(dates are inclusive MM-DD) (cfs) (acre-feet)

For Power purposes from 1/1 to 12/31 amount 10,000 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 10,000 (cfs) and/or (b) _____ (acre-feet)

8. Non-irrigation uses; describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.) _____

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 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	
55	3E	27			P	P									P	P			

Parcel no(s). _____ Total number of acres irrigated _____

10. In which county(ies) are lands listed above as place of use located? Bonner

11. Do you own the property listed above as place of use? Yes (☒) No (☐)
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
96-2179, 96-2269, 96-4565, 96-9705 or None (☐)

13. Remarks (Include an explanation of the priority date selected):

Priority date is based on IDWR issued license, 96-2180. Avista Corporation and the State of Idaho own the property described in the place of use as explained in State of Idaho, Department of Lands, Term of Easement No. 6853, dated February 17, 2010 (see attached). Avista operates the Cabinet Gorge development pursuant to FERC License #2058, as amended (see attached). Avista's operations are described in Article 429 of FERC License #2058, as amended; license requirements are subject to change.

Name of claimant(s) Avista Corp. Claim ID 96-2180

14. Basis of claim (Check one) Beneficial Use () Posted Notice () License (☒) Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 96-2180

15. **Signature(s)**

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Clark Fork-Pend Oreille River Basin Water System Adjudication."

(b.) I/We do () do not (☒) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 3

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the foregoing document in the space below as the

Senior Director, Environmental Affairs of Avista Corporation
Agent's title (Please print) Name of organization (Please print)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent  Date 10/26/2022

Printed Name of Authorized Agent Bruce Howard

16. **Notice of Appearance:**

Notice is hereby given that I, (please print) Chris M. Bromley, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature  Date 10/26/2022

Address 380 S. 4th St., Ste. 103, Boise, ID 83702

Name of claimant(s) Avista Corp. Claim ID 96-2180

Avista Corporation
Cabinet Gorge Dam

96-2179, 96-2180, 96-2269, 96-4565, 96-9705



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles



IDAHO DEPARTMENT OF LANDS

300 N. 6th St., Suite 103
PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-3698

I.D.X.
FILED BY

2010 FEB 25 P 2:18

MARIE SCOTT
BONNER COUNTY RECORDER

DEPUTY

788365

STATE OF IDAHO

TERM EASEMENT NO. 6853

THIS INDENTURE, made this 17th day of February 2010, by and between the **STATE OF IDAHO, Department of Lands**, 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050, acting by and through the State Board of Land Commissioners, (Grantor), and **AVISTA CORPORATION**, P.O. Box 3727 (MSC 25), Spokane, Washington 99220, (Grantee);

WITNESSETH: That for and in consideration of a one-time administrative fee in the amount of TWO THOUSAND SIX HUNDRED SIXTEEN and 00/100ths DOLLARS (\$2,616.00), lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee, their successors and assigns, a non-exclusive easement for the purpose of operating and maintaining a hydroelectric dam over and across the following described lands situated in **BONNER COUNTY**, State of Idaho, so much of the following described lands which were below the natural or ordinary high water mark on the date the State of Idaho was admitted to the Union with the right to additions thereto and subject to deletions there from which have occurred, causing the boundary of the state's ownership to change, to-wit:

A strip of land 700 feet wide lying 550 feet northwesterly (downstream) and 150 southeasterly (upstream) of the following described line which contains Cabinet Gorge Dam and aprons built across the submerged original Clark Fork River channel, located in Section 27, Township 55 North, Range 3 East Boise Meridian, Bonner County, Idaho:

Beginning at the East Quarter Corner of said Section 27, thence North 51° 18' 13" East 868.95 feet to a point known as State Line Monument 83 between Idaho and Montana;

Thence South 73° 51' 32" West 2,106.02 feet to a point (instrumentation Pt. 5) on the northerly side of Cabinet Gorge Dam. Said point being the True Point of Beginning;

Thence South 41° 37' 07" West 390.77 feet to a point (instrumentation Pt. 1) on the southerly side of Cabinet Gorge Dam. Said point being the terminus of the above described line.

Containing 6.27 acre, more or less and as illustrated on the attached Exhibit "A".

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I. DURATION: This easement shall remain in effect for the term of Federal Energy Regulatory commission, hereinafter FERC, License Number 02058 for the Clark Fork Project or until March 1, 2046. (A) This license is issued to Avista Corporation (Licensee) for a period of 45 years, effective March 1, 2001, to operate and maintain the Clark Fork Project No. 2058. This license is subject to the terms and conditions of the Federal Power Act (FPA), which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the FPA. This easement shall be subject to the terms and provisions of the requirements of Grantees' license with FERC, as granted or later amended.

If the project is re-licensed by FERC, the easement shall be renewed subject to the Grantor's rules and regulations in place at the time of renewal.

II. PURPOSE: This easement is granted for the following purpose: Operating, and maintaining a hydroelectric project, known as the Cabinet Gorge Hydroelectric Development of the Clark Fork Project. Construction and installation and/or alterations may commence only after Grantor has received maps of the facilities located or to be located within the easement area.

III. PROJECT WORKS: Project works for Cabinet Gorge Hydroelectric Development consist of:

A 395-foot-long, 208-foot-high concrete gravity arch dam; a saddle dam, located in a depression near the south abutment, consisting of a 75-foot-long, 12-foot-high concrete gravity section, buttressed by earth fill on the downstream face; a 3,200-acre reservoir with a gross storage capacity of 105,000 ac-ft at full pool elevation of 2,175 feet, and an active storage capacity of 42,780 ac-ft in the top 15 feet of the reservoir (no minimum reservoir elevation is established); four 27-foot-diameter, concrete-lined penstocks ranging in length from 447 feet to 564 feet with the last 110 to 155 feet steel-lined; a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing three fixed-blade propeller turbines rated at 70,500 hp each, and one Kaplan turbine runner rated at 86,290 hp, and generators producing a total of about 263.2 MW at full turbine capacity and full pool; a structure northeasterly within the river channel being a movable trash boom, along with a boater safety cable; six (6) 230 kV transmission power lines and appurtenant facilities.

Appurtenant facilities include an operations and maintenance warehouse, office buildings, communications lines, storage areas, access roads, recreational facilities and protection, mitigation, enhancement measures.

IV. LIMITED PURPOSE: If the Grantee desires to use the easement for an additional or different purpose than the one specified herein, the Grantee shall make a request in writing to the Grantor. If approved, at Grantor's discretion, the original easement shall either be amended, or canceled and replace by a new easement.

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The Grantee may allow its agents, licensees, and contractors, hereinafter referred to as Permittees, to exercise the rights granted herein. This easement does not give the Grantee authority to permit third party use of the easement area for any permanent purpose. Only the Grantor may authorize third party use. The Grantor may permit third party use only on the condition that said use shall not interfere with the Grantee's rights as hereby authorized. Third party use is herein defined as those wanting use of the easement area other than the Permittees of the Grantee.

V. FEES: Grantees shall pay to the Grantor a one-time fee of ONE THOUSAND THREE HUNDRED and 00/100ths DOLLARS (\$1,300.00) and a one-time royalty payment of ONE THOUSAND THREE HUNDRED SIXTEEN and 00/100ths DOLLARS (\$1,316.00). This payment is based upon a FIVE DOLLAR (\$5.00) per megawatt of installed capacity X 263.2 megawatt rating.

VI. ADDITIONAL RIGHTS RESERVED TO THE GRANTOR: It is understood and acknowledged that all rights are contingent upon all parties' compliance with applicable provisions of the FERC license for Project No. 02058 issued to Grantees on March 1, 2001, and as such license may be amended. All individuals or entities authorized by the Grantor to enter upon or to cross this easement shall insure against damage to the easement or Grantees' property in the sum of one million dollars (\$1,000,000.00).

The Grantor expressly reserves the following rights:

A. Oil and gas, geothermal, and all other mineral rights.

B. To grant additional easements over or leases, permits or licenses upon the easement area, provided that such easement, lease, license, or other use shall not unreasonably interfere with the Grantees' use of its easement.

C. The Grantor, its agents, contractors, lessees, permittees, and other authorized individuals and entities may enter upon and across the easement area to inspect the improvements and for other lawful uses, so long as such use does not unreasonably interfere with Grantees' use of this easement. For national security purposes Grantor shall coordinate any access to the Cabinet Gorge Hydroelectric Development with the Grantee. In addition to the insurance provided above, all those authorized by the Grantor to use the easement area shall be bonded in an amount sufficient to insure that access roads shall be maintained in and restored to the condition they were in prior to commencement of any subsequent grant for multiple usage of the described area.

VII. RESPONSIBILITY - HOLD HARMLESS CLAUSE: Grantees shall indemnify and hold harmless Grantor against any and all liability, claims and expenses of any kind, including reasonable attorney fees, for any injury to any person or damage to property caused by any negligent or other wrongful act of Grantees, or their officers, employees, agents, or invitees in connection with the activities of the easement. Grantor shall indemnify and hold harmless Grantees against any and all liability, claims and expenses of any kind, including reasonable attorney fees, for any injury to any person or damage

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to property caused by any negligent or other wrongful act of Grantor, or its officers, employees, agents or invitees in connection with the activities of the easement. The party seeking indemnification under this provision shall give the other party written notice of the claim for indemnification within ten (10) working days after it receives notice or has knowledge of the claim and shall give the other party a reasonably opportunity to defend against the claim including cooperation in the defense of the claim. Grantees shall not be considered an agent of the Grantor in the construction, operation, maintenance or use of the easement area or the facilities, structures, or improvements situated thereon.

VIII. DEFAULT: If at any time the Grantees are in default of any of the terms of this agreement then the Grantor shall notify the Grantees as to the nature and extent of said default by certified letter. The Grantees shall then have a period of ninety (90) days after the date of receipt of said certified letter in which to remedy or to challenge any alleged default. If the Grantees are proceeding in good faith to cure any acknowledged default the Grantor may extend the 90-day provision to any degree which it deems proper. In the event of an unsatisfactory cure of a default by the Grantees within the time limit or extensions thereof, then any Secured Party shall have further ability to cure said default as per the provisions of item XVII which follow in this agreement. If at any time the Grantor is in default of any of the terms of this agreement then the Grantees shall notify the Grantor as per the terms of this provision and all other terms of this provision shall apply.

IX. ASSIGNMENT: The Grantees shall not sublet all or any part of the easement or assign or transfer this easement or any interest therein, except as follows:

Subject to the prior written consent of the Grantor which shall not be unreasonably delayed or denied, the Grantees may assign this easement to an assignee who agrees to perform all of Grantees' obligations under this agreement.

The Grantees may mortgage or otherwise create a security interest in the Grantees' interest in this easement to secure indebtedness incurred by the Grantees, or to secure the Grantees' obligations to a third party under a lease to the Grantees of the improvements constituting the Project, in the event that any or all of the improvements are constructed or acquired by the third party and leased by it to the Grantees.

X. MORTGAGES: In the event that the Grantees shall mortgage or otherwise create a security interest in its interest in the easement as permitted in Article IX, the holder of the mortgage or security interest (the "Secured Party") shall notify the Grantor by certified letter of the creation of such mortgage or security interest and the name and address for the service of notice upon the Secured Party. The Grantor hereby agrees for the benefit of the Secured Party that:

Upon serving the Grantees with any notice of default, Grantor shall simultaneously serve a copy of such notice upon the Secured Party. No notice to the Grantees shall be effective unless a copy is also served upon the Secured Party.

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In the event of any default by the Grantees hereunder, the Secured Party shall at its option have the right to perform any of the Grantees' covenants, to cure any defaults by the Grantees, and/or to exercise any election, option or right conferred upon the Grantees by the terms of this easement.

The Grantor will not terminate this easement or the Grantees' right of possession for any default of the Grantees if within a period of thirty (30) days after the expiration of the period of time within which the Grantees might cure said default under the provisions of this easement, the Secured Party cures the default or causes the default to be cured, or if within a period of thirty (30) days after the expiration of the period of time within which the Grantees might commence to eliminate the cause of such default, the Secured Party proceeds diligently and with reasonable dispatch to eliminate the cause of the default.

The Grantor will not terminate this easement if the Secured Party takes possession of the easement upon default by the Grantees under the terms of the mortgage, provided that the fees due and payable under this easement shall continue to be paid and the other covenants, conditions and agreements of this easement on the Grantees' part to be kept and performed shall continue to be kept and performed. Secured Party shall have a period of thirty (30) days after taking possession within which to commence performance.

No right, privilege or option available to the Grantees to cancel or terminate this easement shall have been exercised effectively unless joined in by the Secured Party.

Notwithstanding anything to the contrary herein, upon the occurrence of any event of default, the Grantor shall take no action to effect a termination of this easement without first giving to the Secured Party a reasonable time within which either to obtain possession of the easement (including possession by a receiver) or to institute, prosecute and complete foreclosure proceedings or otherwise acquire the Grantees' interest under this easement with diligence.

The Secured Party, upon obtaining possession or acquiring the Grantees' interest under this easement, shall be required promptly to cure all defaults then reasonably susceptible of being cured by the Secured Party.

In the event of the termination of this easement, the Grantor shall serve upon the Secured Party written notice that the easement has been terminated. The notice shall include a statement of any and all sums which would be due under this easement but for such termination and of all other defaults, if any, under this easement then known to the Grantor. If within thirty (30) days after the Grantor's notice, the Secured Party shall request a new easement, the Grantor shall enter into a new easement with the Secured party, or its designee, in accordance with and upon the following terms and conditions: the new easement shall be prepared at the reasonable cost of the Grantees, named therein, the new easement shall be effective as of the date of termination of this

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easement, the new easement shall be for the same term of this easement and at its same rent, agreements, terms, covenants, and conditions, the new easement shall require the Grantees named herein to perform any unfulfilled obligation of the Grantees under this easement which is reasonably susceptible of being performed by such Grantees.

Upon the execution of such new easement, the Grantees named therein shall pay any and all sums which would, at the time of its execution, be due under this easement but for such termination and shall pay all expenses, including reasonable counsel fees, court costs and disbursements incurred by the Grantor in connection with such default and termination, the recovery of possession of the easement, and the preparation, execution and delivery of the new easement.

XI. INSURANCE: Grantees shall secure and maintain during the tenure of this easement, public liability, property damage, and products liability insurance at least in the sum of one million dollars (\$1,000,000.00) for injury or death; and in the sum of one million dollars (\$1,000,000.00) for damages to property and products damage caused by an occupancy, use operations or any other activity upon the easement area carried on by the Grantees, its assigns, agents, operators or contractors. The Grantee may meet this requirement through a reasonable program of self insurance. A self insured Grantee shall provide sufficient evidence to the Grantor that the self insured maintains a fully funded reserve account, sufficient to meet reasonably anticipated claims of not less than One Million Dollars (\$1,000,000.00) that indemnifies the State and the Department of Lands from third party liability claims for bodily injury and property damage. The Grantor, and Avista Corporation, and their assigns shall each be named insured in all instances.

A signed, completed certificate of insurance shall be submitted to the Director of the Department of Lands prior to the execution of this easement.

XII. WASTE: Grantees shall not allow waste to accumulate upon the easement area. Grantees shall, at all times, keep the premises free from abandoned machinery, motor vehicles, refuse and other unsightly materials. Grantees shall gate the access to the powerhouse and intake structure.

XIII. REVERSION FOR NON-USE: In the event that the easement is not used for the purpose for which it was granted, for any five (5) year period, the easement is presumed abandoned and shall automatically terminate. The Grantor shall notify the Grantees and the Secured Party, if any, in writing of the termination. The Grantees and the Secured Party, if any, shall have thirty (30) calendar days from the date of notification to reply in writing to the Grantor to show cause why the easement should be reinstated. Within sixty (60) calendar days of receipt of the statement to show cause, the Grantor shall notify the Grantees and the Secured party in writing as to the Grantor's decision concerning reinstatement. The Grantees or the Secured party shall have thirty (30) calendar days of receipt of the Grantor's decision to appeal an adverse decision to the State Board of Land Commissioners.

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XIV. RELINQUISHMENT: The Grantees may relinquish this easement by filing a written relinquishment with the Grantor. Thirty (30) days thereafter, the Grantees shall be relieved of liability under this easement, timely removal of equipment and improvements and/or the release of the performance bond for the removal of equipment and improvements if required by the Grantor, the reclamation of the premises, and compliance with all other duties and payments of all liabilities required by this easement or by law or regulation, which accrued prior to the filing of the relinquishment.

XV. COVENANT: It is mutually understood and agreed by the parties that all of the terms, covenants, conditions, and obligations in this easement contained are of the essence and shall be binding upon the heirs, executors and assigns of this easement.

XVI. COMPLIANCE WITH APPLICABLE LAWS: All applicable laws and regulations of the United States and the State of Idaho and its political subdivisions are incorporated herein by reference except as lawfully varied by the contractual terms of this easement. Grantees shall comply with all such applicable laws and regulations.

XVII. TERMINATION: Except as provided in paragraph VI above, the Grantor may terminate this easement for any material breach of its terms ninety (90) days after written notice of default has been given to the Grantees and Secured party, unless the breach has been cured to the Grantor's satisfaction before the ninety (90) day period has expired.

In the event that Grantor declares a termination of the easement, pursuant to the terms of this easement, thereafter the easement shall be completely and finally extinguished and all right and title thereto shall automatically revert to the Grantor or to the record owner of the Grantor's interest in the lands subject to this easement; provided that the Grantees shall remain bound to comply with all duties and liabilities required by this easement or by law, which accrued prior to the date of extinguishment; the Grantees and/or Secured Party shall quietly and peaceably surrender possession of the easement to the Grantor; and the Grantor may pursue all other remedies at law and in this easement.

XVIII. FORCE MAJEURE: In the event that any performance required of either party by this easement is delayed by any reason beyond its control, including but not limited to fire, flood, storms, strikes, labor disputes, riots, insurrection, inability to procure materials or the act of omission of the other party, the affected party shall notify the other party of the delay and the reasons for it. The time for which the affected performance is required shall be excused and/or extended for the amount of time the performance is delayed. Nothing in this paragraph shall excuse the Grantees from making timely payment of the fees due under this easement.

XIV. NOTICE: All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered in hand to such party or mailed by certified or registered mail, postage prepaid, return receipt

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State of Idaho
Term Easement No. 6853
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requested, addressed:

If to the Grantees: Avista Corporation
Attn: Real Estate Department
P.O. Box 3727 (MSC 25)
Spokane, Washington 99220

If to the Grantor: Director
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, ID 83720-0050

or, in each case to such other address as may be specified in a written notice delivered in compliance with the foregoing requirements.

XX. AUTHORITY:

This easement is issued by the authority of the rules for easements on submerged lands and formerly submerged lands IDAPA 20.03.09 dated July 1993.

XXI. FEDERAL ENERGY REGULATORY COMMISSION (FERC) REGULATION:

Both parties recognize that the Project and therefore this easement are subject to the regulatory jurisdiction of FERC. Any performance required under this easement is expressly conditioned on it being in compliance with FERC rules, regulations, or orders. If any performance under this easement requires FERC approval, that performance is conditioned upon the receipt of that approval. Both parties shall take all reasonable and appropriate steps to insure that the performance required under this contract are within FERC rules, regulations and orders and that applications for required approvals are filed in a timely manner.

XXII. ACCEPTANCE:

Use of this easement Grantee constitutes acceptance of the easement and agreement to be bound by the terms hereof.

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IN WITNESS WHEREOF, the Grantee has caused these presents to be duly executed
the day and year first above written.

AVISTA CORPORATION

Donald J. Malisani

STATE OF Washington)
) ss.
COUNTY OF Spokane)

On this 22nd day of January, 2010, before me, a Notary Public in
and for said county and state, personally appeared Donald J. Malisani,
known to me to be the Real Estate Dept. mgr. of AVISTA CORPORATION, that
executed the same instrument and acknowledged to me that they executed the same
for and on behalf of said corporation.



Theodore M. Baker
THEODORE M. BAKER
NOTARY PUBLIC for Washington
Spokane
Residing at Meacham, WA
My Commission expires: 1/31/12

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IN WITNESS WHEREOF, the State Board of Land Commissioners has caused these presents to be executed by its President, the Governor of the State of Idaho, and countersigned by the Secretary of State and the Director, Idaho Department of Lands.

STATE BOARD OF LAND COMMISSIONERS

STATE BOARD OF LAND COMMISSIONERS

E. J. Bush

Governor of the State of Idaho and President
of the State Board of Land Commissioners

Countersigned:

Ben Zeman
Secretary of State

George Bacon
Director, Idaho Department of Lands



* * * * *

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 17th day of February, 2010, before me, a Notary Public in and for said State, personally appeared C.L. "BUTCH" OTTER, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners; **BEN YSURSA**, known to me to be the Secretary of State for the State of Idaho; and **GEORGE B. BACON**, known to me to be the Director of Department of Lands of the State of Idaho, that executed the same instrument and acknowledged to me that such State of Idaho and State Board of Land Commissioners executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year written above.



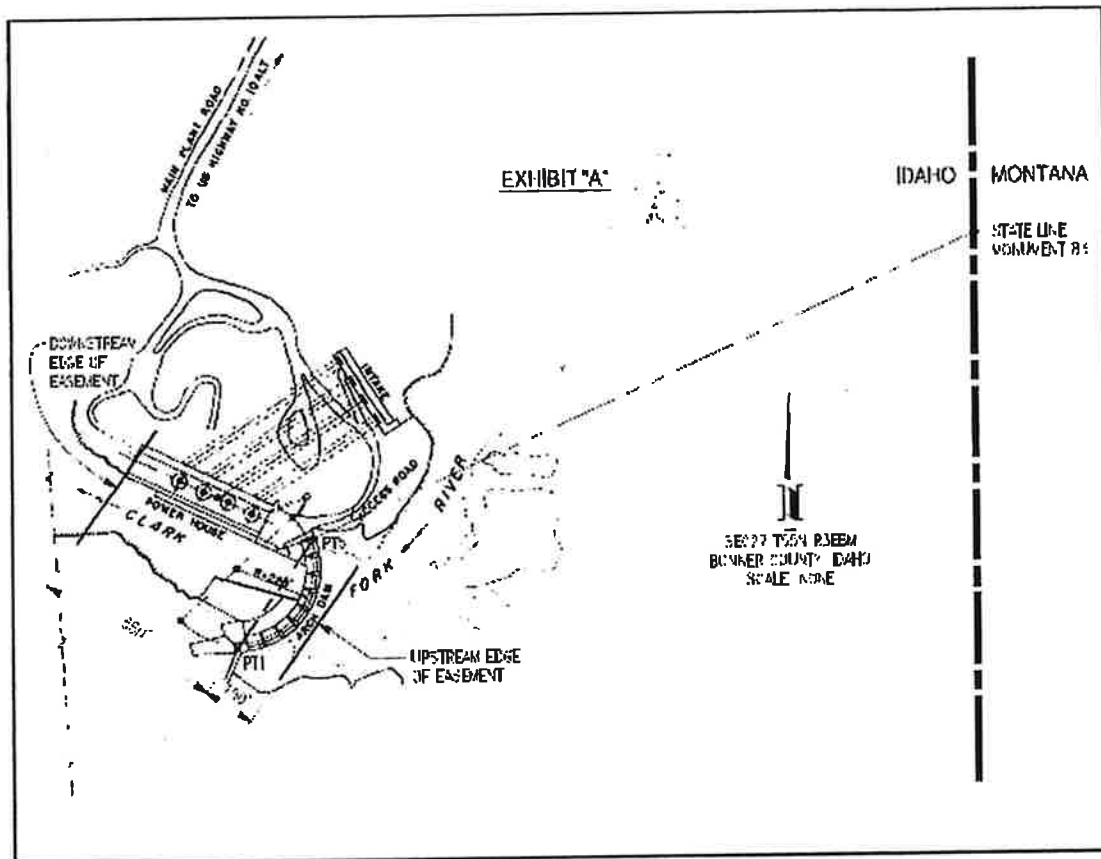
Vanessa Wilson

NOTARY PUBLIC for Idaho

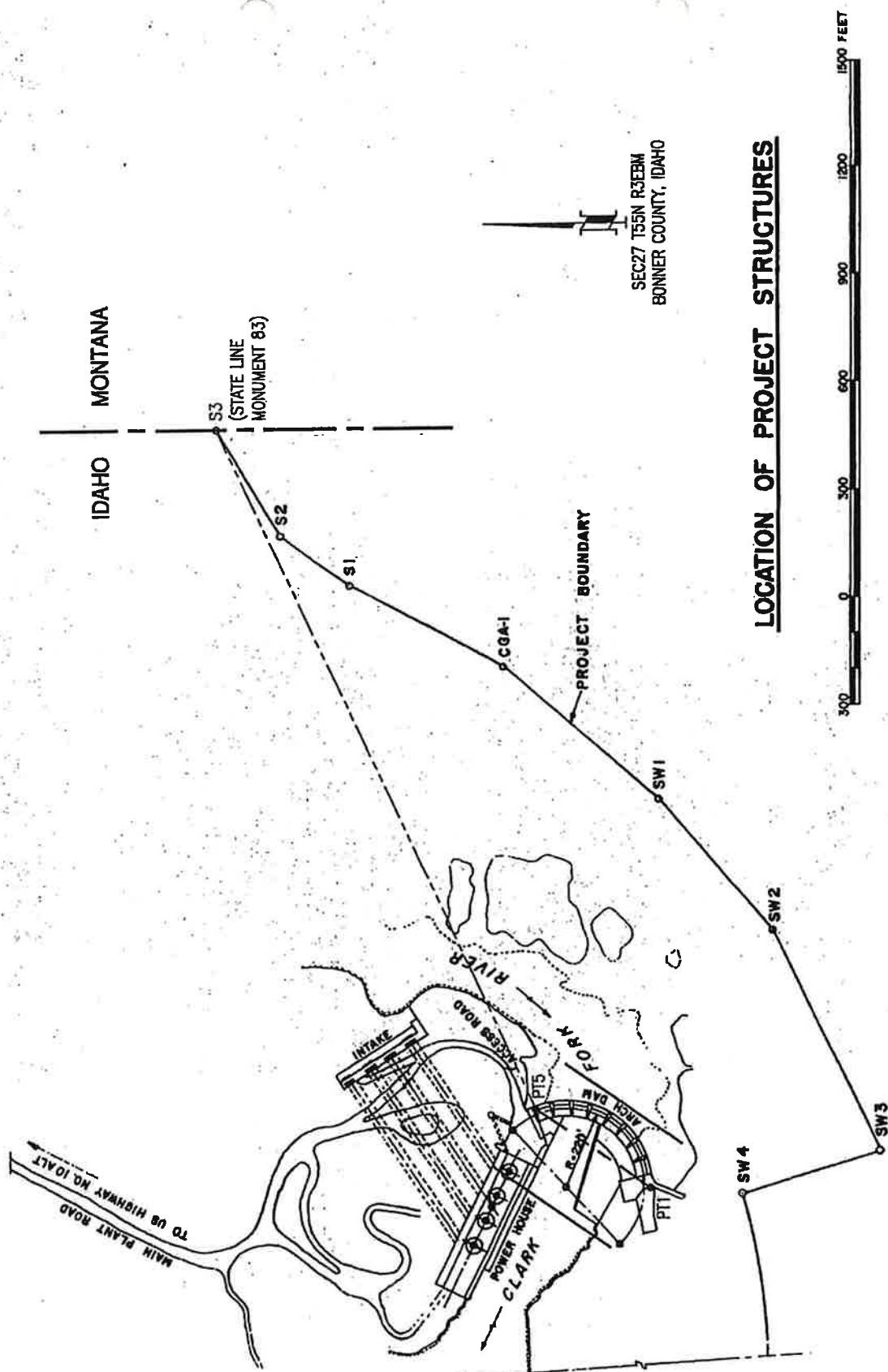
Residing at Besse, Idaho

My Commission expires: 8-11-2014

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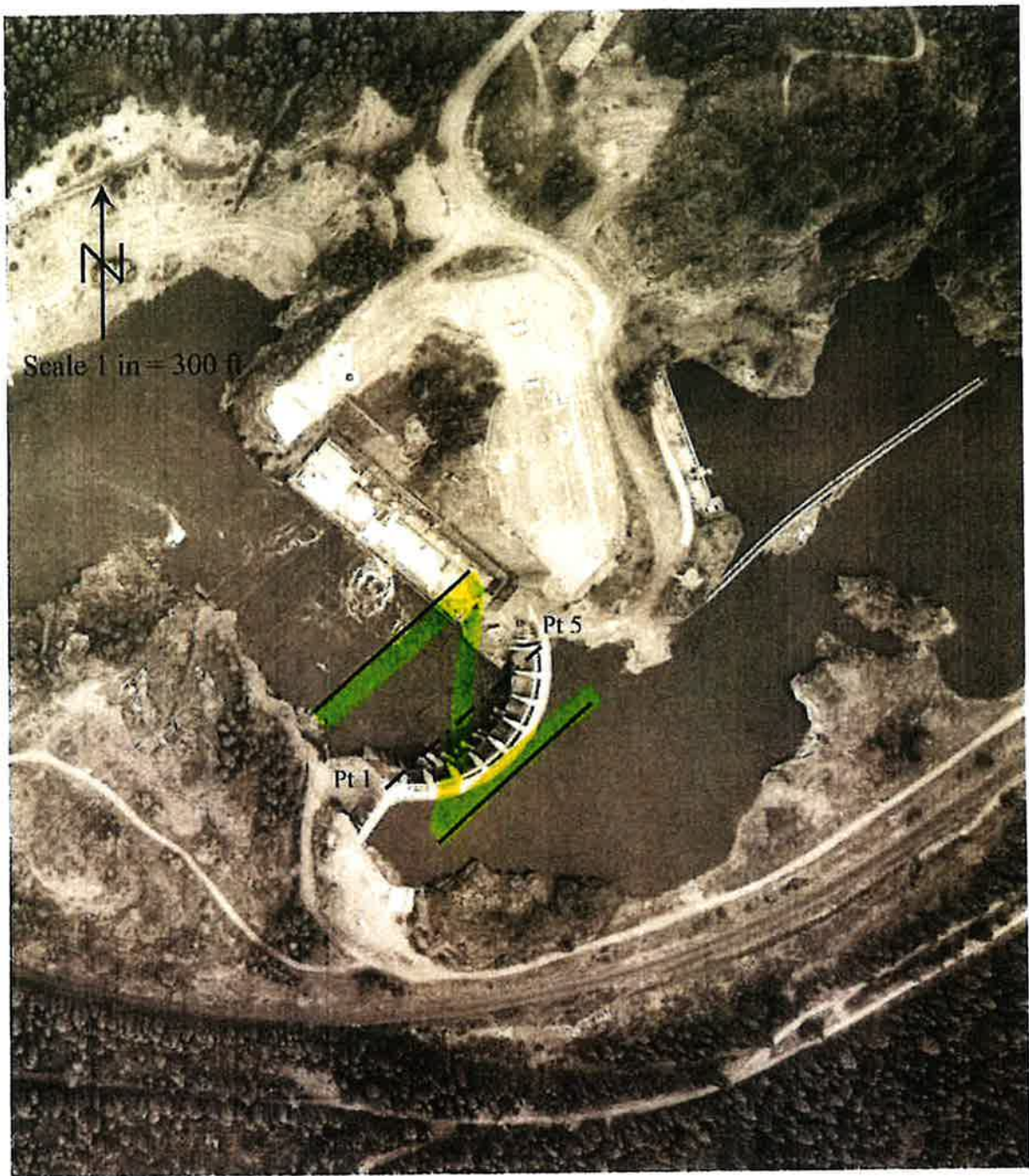
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LOCATION OF PROJECT STRUCTURES

SEC 27 T55N R3E2B1M
BONNER COUNTY, IDAHO

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51565 Easement Area
350' x 391'
3.14 acres

UNITED STATES OF AMERICA 106 FERC ¶ 62,106
FEDERAL ENERGY REGULATORY COMMISSION

Avista Corporation

Project No. 2058-038

ORDER AMENDING LICENSE AND REVISING ANNUAL CHARGES

(Issued February 13, 2004)

On July 18, 2003, Avista Corporation, licensee for the Clark Fork Project, FERC No. 2058 filed an amendment application to amend the authorized installed capacity of the project. The project is located on the Clark Fork River in Bonner County, Idaho and Sanders County, Montana.

BACKGROUND

A new license, issued on February 23, 2000, authorized the project with two developments, the Noxon Rapids and the Cabinet Gorge for a total authorized capacity of 697 MW.¹ The developments adjoin one another over a distance of 58 miles on the Clark Fork River. The Noxon Rapids Development includes a semi-outdoor concrete powerhouse integral with the dam and containing five Francis turbines, four rated at 130,800 horsepower (hp) (98.1 MW), each and one rated at 167,500 hp (125.6 MW), and generators producing a total of about 466 MW at full turbine capacity and full pool. The Cabinet Gorge Development includes a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing four turbines: three fixed-blade propeller turbines rated at 70,500 hp (52.9 MW) each, and one Kaplan turbine runner rated at 86,290 hp (64.7 MW), and generators producing a total of about 231 MW at full turbine capacity and full pool.

Prior to licensing, in an order issued March 17, 1995,² the Commission authorized the upgrade of Unit 3 at the Cabinet Gorge Development. The upgrade consisted of the replacing the turbine runner and rewinding the generator. The installed capacity of the turbine Unit 3 was amended to 83,000 hp (62.2 MW), and the installed capacity of the generator was amended to 59.4 MW. However, the license order of 2000 describes the turbine capacity of Unit 3 as 70,500 hp (52.9 MW).

¹ See, 90 FERC & 61,167 (2000).

² See, 70 FERC & 62,176 (1995).

Project No. 2058-038

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PROPOSED AMENDMENT

In its application, the licensee requests an amendment of the license to revise the authorized installed capacity at the Cabinet Gorge Development to reflect the tested performance in Unit 3, and for an efficiency upgrade of Unit 2.

The licensee explains that the Unit 3 turbine upgrade that was approved in 1995 was delayed several years, mainly due to budget constraints. The Unit 3 upgrade project began in January 1999 and finished in March 2001. However, after the upgrade, the turbine unit was tested resulting in a 10 MW capacity increase. Therefore, in the filing, the licensee requests an amendment of the license to revise the authorized installed capacity of Unit 3.

In addition to updating the license to reflect the installed capacity of Unit 3, the licensee requests an amendment to increase the installed capacity of Unit 2. The licensee proposes to replace the existing propeller-type turbine runner with a modern mixed-flow runner. The Unit 2 generator will be rewound to accommodate the higher turbine output. Additional improvements associated with the proposed upgrade will include replacement of neutral current transformers and refurbishing of turbine generator parts to like-new condition.³ In the application, the licensee indicates that the completed upgrade of Unit 3 and the proposed upgrade of Unit 2 would result in a change of the total hydraulic capacity from 36,000 cfs to about 37,400 cfs at a normal pool elevation of 2,175 feet.

CONSULTATION

On November 5, 2003, the Commission issued a public notice concerning the proposed amendment application. The notice set December 5, 2003, as the deadline for filing protests and motions to intervene. In a letter filed December 3, 2003, the United States Department of the Interior states no comments to the proposed amendment. In a letter filed December 16, 2003, the Idaho Fish and Game commented that the proposed capacity increase will not impact fish, and recommends the licensee to operate the project in accordance with licensing conditions. No other comments or motions to intervene were received.

³ Through a telephone communication on February 5, 2004, the Licensee informed staff they have started the upgrade work on Unit 2 in January 2004.

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DISCUSSION

A. Installed Capacity

In the filing the licensee submitted a revised exhibit A, which reflects the changes in the generating units at the project. The revised exhibit A includes a table describing principal features of the generating units currently in operation for both developments. In reviewing the capacities for the Cabinet Gorge Development project, staff found that the completed Unit 3 turbine upgrades resulted in a capacity increase from 62.2 MW⁴ to 72.2 MW. The proposed upgrade of turbine Unit 2 would result in a capacity increase from 52.9 MW to 72.2 MW. According to Commission's regulations at 18 CFR § 11.1 (2) (i), the authorized installed capacity means the lesser of the ratings of the generator or turbine units. Therefore, staff determined the authorized installed capacity for annual charges purposes should be revised as shown in the table 1 below:

Table 1.

Development	Unit No.	Turbine (T)		Generator (G)		Authorized Capacity (MW)
		Rated Output (MW)		Nameplate Capacity (MW)		
		Licensed	Proposed	Licensed	Proposed	
Noxon Rapids	1	98.1	98.1	91.8	91.8	91.8 (G)
	2	98.1	98.1	76.8	76.8	76.8 (G)
	3	98.1	98.1	91.8	91.8	91.8 (G)
	4	98.1	98.1	91.8	91.8	91.8 (G)
	5	125.6	125.6	114.0	114.0	114.0 (G)
Cabinet Gorge	1	64.7	64.7	59.4	59.4	59.4 (G)
	2	52.9	72.2	53.1	73.2	72.2 (T)
	3	62.2	72.2	59.4	73.2	72.2 (T)
	4	52.9	52.9	59.4	59.4	52.9 (T)
Total						722.9

Based on the limiting factor of turbine/generator capacity, the completed upgrade of Unit 3, and the proposed upgrade of Unit 2 would increase the Cabinet Gorge Development installed capacity from 231.3 MW to 256.7 MW. The project's total authorized capacity would increase from 697 MW to 722.9 MW. As such, we will amend in ordering paragraph (E) of this order the annual charges of the license under Article 201.

⁴ Unit 3 capacity as authorized by the 1995 order (70FERC ¶ 62,176).

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B. Revised Exhibits

In the filing, the licensee submitted two revised exhibit F drawings for approval with the Commission. The revised drawings show the powerhouse and the one line diagram, and reflecting both the installed capacity of Unit 3, and the proposed Unit 2 upgrade at the Cabinet Gorge Powerhouse. The revised drawings conform to the Commission's rules and regulations, and are approved and made a part of the license, as we are requiring in ordering paragraph (G).

C. Environmental Considerations

Discharges from the Cabinet Gorge development vary seasonally as well as hourly. Historical data from the U.S. Geological Survey gaging stations on the Clark Fork River provide a record of streamflow. The data indicates that during late spring and early summer, flows generally exceed the hydraulic capacity of the Cabinet Gorge development. At such times, the peaking operations of the facility become essentially negligible as the project generally operates run-of-river and any excess flow is spilled. It is at these times that the increased hydraulic capacity would generally be used. When flows are less than the current hydraulic capacity of the project, other license requirements such as maximum and minimum forebay elevations and minimum project discharges, preclude the licensee from operating at full capacity. The increased capacity in Unit 3 and the proposed upgrade to Unit 2 would have limited use during low flow periods.

The licensee is required to release 5,000 cfs minimum flow. The minimum flow helps reduce the range of daily flow fluctuations downstream caused by peaking operations. The minimum flow and reservoir drafting requirements remain unchanged under the licensee's proposed amendment request; therefore, the volume of water discharged, when inflow is less than the hydraulic capacity of the development, should remain unchanged but could occur over a shorter time frame. The small incremental difference between the current maximum hydraulic capacity and the proposed maximum capacity should not cause any appreciable difference in the downstream flow fluctuations which are attenuated by the minimum flow releases. Consequently, there should be no substantial impacts to fisheries resources below the project and also negligible changes in downstream erosion rates. Similarly, with no changes in the operational requirements of the project, an increase in turbine efficiency should have no affect on recreation or terrestrial resources.

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When flow is spilled, concerns regarding dissolved gas super saturation are an issue at the Cabinet Gorge development. Those concerns were taken into account at the time of relicensing. The licensee, under the approved protection, mitigation and enhancement measures, is required to implement a number of actions related to total dissolved gas levels at the project. With the increased capacity in Unit 3, the proposed upgrade to unit 2, and the added hydraulic capacity, the Cabinet Gorge development would spill less water during high river flows and pass it through the turbines. This would help ameliorate gas super saturation below the Cabinet Gorge dam and improve water quality.

The licensee prepared the amendment application in consultation with the project's management committee which is comprised of state and federal resource agencies. No objections to the amendment request were received. There is no evidence to suggest that the increased capacity in Unit 3 and the proposed upgrade of unit 2 at the Cabinet Gorge development would have any substantial affects on the environmental resources of the project. During times when inflow exceeds the hydraulic capacity of the project, there could be a positive impact to water quality as more flow is passed through the turbines and less spilled reducing the potential for gas super saturation. Accordingly, the proposed amendment request does not constitute a major federal action significantly affecting the quality of the human environment.

SUMMARY

Our review found the change in installed and hydraulic capacities of the project would not have any adverse environmental impacts. This order approves the proposed increase of the project's installed generating capacity to 722.9 MW.

This order revises Article 201 of the license, regarding the annual charges for the purpose of reimbursement to the United States Government for the costs of administration of Part I of the Federal Power Act. The annual charges for the project will be based on: an installed capacity of 703.5 MW, effective on January 1, 1999, which is the starting date of Unit 3 capacity upgrade; and 722.9 MW, effective on January 1, 2004, which is the starting date of Unit 2 capacity upgrade.⁵ Furthermore, in ordering paragraph (F) of

⁵ International Falls Power Co., 66 FERC ¶ 61,086 at 61,117 (1994). The order states that, "With respect to substantial changes in installed capacity that receive prior approval, the effective date for revised annual charges will be the date of the commencement of construction of the revised capacity."

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this order we are requiring the licensee to install new capacity nameplates on the upgraded units and submit photos of the new nameplate.

The Director orders:

(A) The license for the Clark Fork Project, FERC No. 2058, is amended as provided in this order, effective the first day of the month in which this order is issued.

(B) The revised exhibit A, project description, filed on July 18, 2003, conforms to the Commission's rules and regulations and is approved and made part of the license, superseding the existing exhibit A.

(C) The authorized installed capacity for the Clark Fork Project is 722.9 MW.

(D) The project description in ordering paragraph (B)(2) of the license is revised, in part, as follows:

The Cabinet Gorge Development, consisting of:...a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing: one Vertical Kaplan and three Vertical Propeller turbines with a total hydraulic capacity of 37,400 cfs at normal pool elevation of 2175 ft, connected to four generators with a total rated capacity of 265.2 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

(E) Article 201 of the license for the Clark Fork Project is revised to read:

Article 201. The licensee shall pay the United States an annual charge, for the purposes of reimbursing the United States for the Cost of administration of Part I of the federal Power Act, as determined in accordance with the provisions of the Commission's regulations in effect from time to time, as follows:

1. Effective December 1, 1999, the authorized installed capacity for that purpose is 703.5 MW.
2. Effective January 1, 2004, the authorized installed capacity for that purpose is 722.9 MW.
3. For the purpose of recompensing the United States for the use, occupancy and enjoyment of 1,269 acres of its lands, the Licensee shall pay a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time.

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(F) Within 30 days of the date of completion of upgrades on the Cabinet Gorge Development the licensee shall install capacity nameplates on the upgraded generating units to reflect the capacities authorized in this order. Within 30 days of installation of the nameplates, the licensee shall provide photographs of the new nameplates to the Commission and the Commission's Portland Regional Office.

(G) The following exhibit F drawings, filed on July 18, 2003, conform to the Commission's rules and regulations, and are approved and made a part of the license. The superseded drawings are eliminated from the license.

EXHIBIT	FERC DRAWING No.	FERC DRAWING TITLE	SUPERSEDED FERC DRAWING No.
F-4	2058-1079	CABINET GORGE, POWERHOUSE- CROSSECTION	2058-1043
F-14	2058-1080	CABINET GORGE ONE-LINE DIAGRAM	2058-1053

(H) Within 90 days of the date of issuance of this order, the licensee shall file three original sets of aperture cards of the approved drawing. All aperture cards should be reproduced on silver or gelatin 35 mm microfilm. All microfilm should be mounted on a type D (3 3/4" x 7 1/4") aperture card.

Prior to microfilming, the FERC Drawing Number (2058-1079 and 2058-1080) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number should be typed in the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (i.e., F-4 and F-14), Drawing Title, and date of this order should be typed in the upper left corner of each aperture card. See Figure 1.

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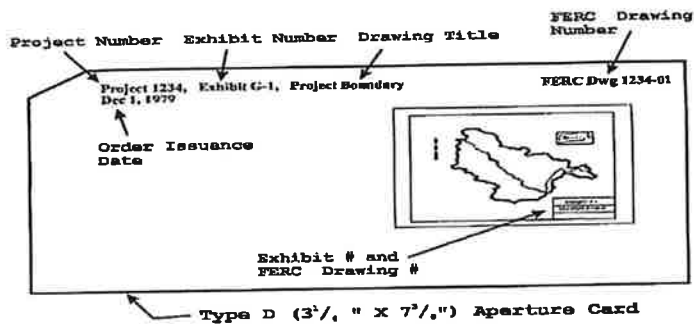


Figure 1 Sample Aperture Card Format

Two original sets of aperture cards should be filed with the Secretary of the Commission. The remaining set of aperture cards should be filed with the Commission's Portland Regional Office.

(I) This order constitutes final agency action. Requests for a rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. ' 385.713.

Mohamad Fayyad
Engineering Team Lead
Division of Hydropower Administration
and Compliance

UNITED STATES OF AMERICA 116 FERC ¶62,028
FEDERAL ENERGY REGULATORY COMMISSION

Avista Utilities

Project No. 2058-045

ORDER AMENDING LICENSE AND REVISING ANNUAL CHARGES

(Issued July 13, 2006)

On April 14, and supplemented on May 26, 2006, Avista Utilities (Avista), licensee for the Clark Fork Project, FERC No. 2058 filed a request for an amendment for the project. The project is located on the Clark Fork River in Bonner County, Idaho and Sanders County, Montana.

BACKGROUND

A new license, issued on February 23, 2000,¹ authorized the project with two developments, the Noxon Rapids and the Cabinet Gorge. The developments adjoin one another over a distance of 58 miles on the Clark Fork River. In an order issued February 13, 2004,² the Commission amended the installed capacity at the Cabinet Gorge Development to reflect the upgrade of two existing units in the powerhouse (Units 2 and 3). The installed capacity at the Cabinet Gorge Development was revised from 231.3 MW to 256.7 MW, and the total installed capacity of the project was revised from 697.0 MW to 722.9 MW.

PROPOSED AMENDMENT

In its application, Avista requests an amendment of the license to further revise the authorized installed capacity of the project to reflect the proposed upgrade of an existing unit (Unit 4) at the Cabinet Gorge Powerhouse. Avista explains that the proposed upgrade would result in additional efficiency increase at the Cabinet Gorge Development, without changing total daily discharge or water surface elevations in the forebay. The work will include repair of the discharge ring, turbine generator bearings, thrust bearing runner plate, turbine shaft, and wicket gates. Avista is not planning to rewind the generator, since it was already rewound in 1992.

¹ See, 90 FERC ¶ 61,167 (2000).

² See, 106 FERC ¶ 62,106, Order Amending License and Revising Annual Charges (2004).

Doc. NO. 2006-0260
A

In addition, Avista is requesting a revision of the installed capacity at the Noxon Rapids Development to reflect the rewinding of generator Unit 3. Avista explains in the filing, that Unit 3 generator stator began showing signs of failure. Therefore, Avista rewound the generator from August 2004 to March 2005. The improvement increased the overall plant efficiency, but it did not impacted in the operation of the project. Along with the application, Avista included a photo of the new nameplate capacity of the unit as a result of the upgrade. Avista indicates that the proposed upgrade of Unit 4 at the Cabinet Gorge Powerhouse and the completed upgrade of Unit 3 at Noxon Rapids Powerhouse will not result in a change of the total hydraulic capacity, which remains at 88,830 cubic feet per second (cfs), as authorized in the license.

CONSULTATION

On May 5, 2006, the Commission issued a public notice concerning the proposed amendment application. The notice set June 5, 2006, as the deadline for filing protests and motions to intervene. In a letter filed May 31, 2006, the United States Department of the Interior states no comments to the proposed amendment. No other comments or motions to intervene were received.

DISCUSSION

A. Installed Capacity

In the May 26, 2006, supplemental filing, Avista submitted a revised Exhibit A, which reflects the changes in the generating units at the project. The revised Exhibit A includes a table describing principal features of the generating units currently in operation for both developments. In reviewing the capacities for the Cabinet Gorge Development project, staff found that the proposed upgrade of turbine Unit 4 will increase its capacity from 52.9 MW to 65.1 MW. In addition, as a result of the rewinding of generator Unit 3, of the Noxon Rapids Development, its installed capacity increased from 91.8 MW to 99.0MW.

According to 18 CFR § 11.1 (2) (i), the authorized installed capacity means the lesser of the ratings of the generator or turbine units. Therefore, staff determined the authorized installed capacity for annual charges purposes should be revised as shown in the Table 1 below:

Table 1.

Development	Unit No.	Turbine (T)		Generator (G)		Authorized Capacity (MW)
		Rated Output (MW)		Nameplate Capacity (MW)		
		Licensed	Proposed	Licensed	Proposed	
Noxon Rapids	1	98.1	98.1	91.8	91.8	91.8 (G)
	2	98.1	98.1	76.8	76.8	76.8 (G)
	3	98.1	98.1	91.8	99.0	98.1 (T)
	4	98.1	98.1	91.8	91.8	91.8 (G)
	5	125.6	125.6	114.0	114.0	114.0 (G)
Sub Total						472.5
Cabinet Gorge	1	64.7	64.35	59.4	59.4	59.4 (G)
	2	72.2	72.2	73.2	73.2	72.2 (T)
	3	72.2	72.2	73.2	73.2	72.2 (T)
	4	52.9	65.1	59.4	59.4	59.4 (G)
Sub Total						263.2
Total						735.7

The table includes a revision to the installed capacity of turbine Unit 1 at the Cabinet Gorge Development from 64.7 MW to 64.35 MW. Avista explains in its filing, that the figure had to be adjusted to match the existing nameplate rating. Based on the limiting factor of turbine/generator capacity, we found that the revision will not impact the authorized installed capacity of the unit since it is limited by the generator rating of 59.4 MW. In addition the proposed upgrade of Unit 4 at the Cabinet Gorge Development, and the upgrade of Unit 3 at the Noxon Rapids Development would increase the installed capacity at the Cabinet Gorge Development from 256.7 MW to 263.2 MW, and at the Noxon Rapids Development from 466.2 MW to 472.5 MW. Consequently, the project's total authorized capacity will increase from 722.9 MW to 735.7 MW. Due to the changes in stalled capacity, we will revise the annual charges under Article 201 of the license, for the purpose of reimbursement to the United States Government for the costs of administration of Part I of the Federal Power Act. The revised annual charges will be effective the date of commencement of construction of the revised capacity.³ As such, the annual charges will be revised as follows:

³ International Falls Power Co., 66 FERC ¶ 61,086 at 61,117 (1994). The order states that, "With respect to substantial changes in installed capacity that receive prior approval, the effective date for revised annual charges will be the date of the commencement of construction of the revised capacity."

1. The annual charges for the project will be based on an installed capacity of 729.2 MW, effective on August 1, 2004, which is the starting date of Unit 3 capacity upgrade, as shown in ordering paragraph (D).

2. The annual charges for the project will be based on an installed capacity of 735.7 MW, effective on the date of start of construction of Unit 4 capacity upgrade. As such, we are requiring the licensee in ordering paragraph (F), to notify the Commission, within 30 days from the start of such construction, of the exact date of commencement of Unit 4 upgrade. We will use such date to further amend license Article 201.

B. Revised Exhibits

In the filing, Avista submitted a revised Exhibit A, and two revised exhibit F drawings for approval by the Commission. The revised Exhibit A describes the installed capacity of the generating units at both developments. The revised Exhibit A conforms to the Commission's rules and regulations, and is approved as shown in ordering paragraph (B) of this order. The revised drawings show the powerhouse and the one line diagram reflecting the proposed upgrade of Unit 4 at Cabinet Gorge Powerhouse. The revised drawings conform to the Commission's rules and regulations, and are approved and made part of the license as shown in ordering paragraph (H) of this order.

C. Environmental Review

The Noxon Rapids Development is located upstream from the Cabinet Gorge Dam. During normal operation, the Noxon Reservoir is typically drawdown on a daily basis and refilled over the weekend when demand is lower. The efficiency upgrade, by way of a generator rewind at the Noxon Rapids Powerhouse, does not affect the hydraulic capacity of Unit No. 3 and therefore, does not change flow through the project. The current operation would remain unchanged. The amendment application indicates that with all five turbines operating at full gate, the total hydraulic capacity of the development would remain approximately 51,430 cfs; consequently, it is expected that there would be no environmental impacts associated with the rewind work at the Noxon Rapids Powerhouse.

Flows exiting the Noxon Rapids Development immediately enter the Cabinet Gorge Reservoir. The reservoir is drawn down approximately three to five feet during the week with a seven foot maximum drawdown. A continuous minimum flow of 5,000 cfs is released below the dam, and the current hydraulic capacity of the Cabinet Gorge

Development is 37,400 cfs. The proposed changes to Unit No. 4 include repairing the discharge ring, turbine generator bearings, thrust bearing runner plate, turbine shaft, and wicket gates. These changes would improve the unit's efficiency. None of the changes would modify the maximum flow through the unit; therefore, the hydraulic capacity would remain essentially the same at 37,400 cfs. Further, the proposed changes would not affect or change the current mode of operation at the development, therefore, it is expected that the modifications should not adversely affect water quality or environmental resources.

SUMMARY

This order approves the capacity upgrades to Units 3 and 4, which revises the authorized installed capacity of the project from 722.9 MW to 735.7 MW. In ordering paragraph (C) we are amending the project description reflecting the revised capacities at both developments. In ordering paragraph (E) we are requiring the licensee to start construction of the Unit 4 upgrades within two years, and complete construction within four years from the date of this order. Furthermore, in ordering paragraph (G), we are requiring the licensee to install new capacity nameplates on the upgraded unit and submit photo of the new nameplate.

The Director orders:

(A) The application to amend the license for the Clark Fork Project, FERC No. 2058 to increase the project's installed capacity, as filed April 14 and supplemented on May 26, 2006, is approved as provided in this order.

(B) The revised exhibit A, project description, filed on May 26, 2006, conforms to the Commission's rules and regulations and is approved and made part of the license, superseding the existing exhibit A.

(C) The project description in ordering paragraph (B)(2) of the license is revised, in part, as follows:

The Cabinet Gorge Development, consisting of: "...; "a 355-foot-long by 106-foot-wide semi-outdoor powerhouse, containing: one Vertical Kaplan and three fixed-blade propeller turbines with a total hydraulic capacity of 37,400 cfs at normal pool elevation of 2,175 feet, connected to four generators with a total rated capacity of 263.2 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

The Noxon Rapids Development, consisting of:...; "a 485-foot-long by 190-foot-wide semi-outdoor powerhouse, containing: five Vertical Francis turbines with a total hydraulic capacity of 51,430 cfs at normal pool elevation of 2,331 feet, connected to five generators with a total rated capacity of 472.5 MW, (see table 1 of this order for the rating of individual units); and appurtenant facilities.

(D) Article 201 of the license for the Clark Fork Project is revised by replacing items 1 and 2 with new item 1, and by renumbering item 3 as 2, to read:

Article 201. The licensee shall pay the United States an annual charge, effective, for the purposes of reimbursing the United States for the Cost of administration of Part I of the federal Power Act, as determined in accordance with the provisions of the Commission's regulations in effect from time to time, as follows:

1. Effective August 1, 2004, the authorized installed capacity for that purpose is 729.2 MW.
2. For the purpose of recompensing the United States for the use, occupancy and enjoyment of 1,269 acres of its lands, the licensee shall pay a reasonable annual charge as determined by the Commission in accordance with its regulations in effect from time to time.

(E) The licensee shall start the upgrade of Unit 4 at the Cabinet Gorge Development within two years from the date of this order and complete construction within four years from the date of this order.

(F) Within 30 days after the start of construction of Unit 4 upgrade, the licensee shall notify the Commission of the date the unit upgrade began. The filing should include written documentations and photographs of all work performed since the start of construction. The date of commencement of construction will be used to further amend Article 201 of the license.

(G) Within 30 days of the date of completion of the upgrade in Unit 4 at the Cabinet Gorge Development the licensee shall install a nameplate on the upgraded generating units to reflect the capacity authorized in this order. Within 30 days of installation of the nameplate, the licensee shall provide photographs of the nameplate for verification to the Commission and the Commission's Portland Regional Office.

(H) The following exhibit F drawings, filed on April 14, 2006, conform to the Commission's rules and regulations, and are approved and made a part of the license. The superseded drawings are eliminated from the license.

EXHIBIT	FERC DRAWING No.	FERC DRAWING TITLE	SUPERSEDED FERC DRAWING No.
F-4	2058-1081	CABINET GORGE, POWERHOUSE- CROSSECTION	2058-1080
F-14	2058-1082	CABINET GORGE ONE-LINE DIAGRAM	2058-1081

(I) Within 45 days of the date of issuance of this order, the licensee shall file the approved exhibit drawings in aperture card and electronic file formats.

a) Three sets of the approved exhibit drawings shall be reproduced on silver or gelatin 35mm microfilm. All microfilm shall be mounted on type D (3-1/4" X 7-3/8") aperture cards. Prior to microfilming, the FERC Drawing Number (i.e., P-2058-1081 and P-2058-1082) shall be shown in the margin below the title block of the approved drawings. After mounting, the FERC Drawing Number shall be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit F-4 and F-14, Drawing Title, and date of this order shall be typed on the upper left corner of each aperture card. See Fig. 1.

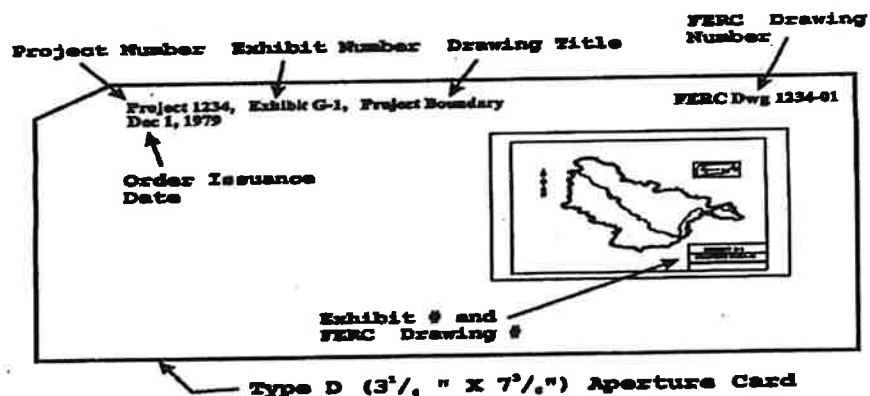


Figure 1 Sample Aperture Card Format

Two of the sets of aperture cards shall be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's Division of Dam Safety and Inspections Portland Regional Office.

b) The licensee shall file two separate sets of exhibit drawings in electronic raster format with the Secretary of the Commission, ATTN: OEP/DHAC. A third set shall be filed with the Commission's Division of Dam Safety and Inspections Portland Regional Office. The drawings must be identified as (CEII) material under 18 CFR § 388.113(c). Each drawing must be a separate electronic file, and the file name shall include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this order, and file extension [i.e., 2058-1081, F-4, Cabinet Gorge Powerhouse-Cross Section, MM-DD-2006.TIF]. Electronic drawings shall meet the following format specification:

IMAGERY - black & white raster file
FILE TYPE - Tagged Image File Format, (TIFF) CCITT Group 4
RESOLUTION - 300 dpi desired, (200 dpi min.)
DRAWING SIZE FORMAT - 24" X 36" (min), 28" X 40" (max)
FILE SIZE - less than 1 MB desired

(J) This order constitutes final agency action. Requests for a rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Mohamad Fayyad
Engineering Team Lead
Division of Hydropower Administration
and Compliance