

Nelson, Dan

From: Nelson, Dan
Sent: Tuesday, February 02, 2021 11:11 AM
To: 'Chris Hecht'
Subject: RE: Dan Nelson / 208-287-4856 / Hydro Electric Power Co ops

Chris,

Thank you for this information. We didn't know how the PUC addressed small hydropower systems that sold their power to smaller electric companies, so this is extremely helpful.

I had already found the documents you sent on your website, so I am glad I did navigate through your website correctly.

Thank you again for helping us out on this subject. We add conditions onto the water right to review the water right after so many years. We use FERC or PUC dates when available, and if they are not available, then we use a standard life of the equipment. This saves us a great deal of searching for the PPA dates on your website for these smaller systems.

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Chris Hecht [mailto:Chris.Hecht@puc.idaho.gov]
Sent: Tuesday, February 02, 2021 10:59 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Subject: FW: Dan Nelson / 208-287-4856 / Hydro Electric Power Co ops

Dan,

The IPUC would not necessarily have records of any agreements for small electric coops unless they had an agreement with the larger regulated utilities - Idaho Power, Avista or Rocky Mountain Power. Hydro plants might have a PURPA contract with one of the regulated utilities to see power, but I couldn't find any agreements for Rock Creek Hydro.

I was able to find this Decision Memo with both Rock Creek and Salmon River Electric mentioned. If there is an existing agreement between the Coop and Rock River Hydro it would not fall under jurisdiction of the IPUC.

Sincerely,
Chris Hecht
Utilities Compliance Investigator
Idaho Public Utilities Commission
(208) 334-0306 Voice Mail
chris.hecht@puc.idaho.gov

(208) 805-0077 Mon – Fri 8:00-5:00

From: Ida Elmasian <ida.elmasian@puc.idaho.gov>

Sent: Friday, January 29, 2021 3:32 PM

To: PUC-Consumer <PUC-Consumer@puc.idaho.gov>

Cc: Front <front@puc.idaho.gov>

Subject: Dan Nelson / 208-287-4856 / Hydro Electric Power Co ops

Hello,

Mr. Nelson with the state agency IDWR (Idaho Dept of Water Resources) called about agreements for small coops. Specifically, Rock Creek Hydro and Salmon River Electric. He wanted to know if they had and agreements with the PUC.

Thank you,

ida

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY PROJECTS

Docket No. CD15-17-000 – Idaho
Fulton Hydropower Project
Gordon Fulton

Mr. John Crockett
3296 Snowflake Way
Boise, ID 83706

February 5, 2015

Subject: Determination that the Fulton Hydropower Project Meets Qualifying
Conduit Hydropower Facility Criteria

Dear Mr. Crockett:

On December 12, 2014, you filed a notice of intent, pursuant to section 30(a) of the Federal Power Act (FPA), 16 U.S.C. § 823a (2012), as amended by Section 4 of the Hydropower Regulatory Efficiency Act of 2013, Pub. L. 113-23, § 4a, 127 Stat. 493 (2013), to construct a qualifying conduit hydropower facility, the Fulton Hydropower Project, to be located near the city of Mackay in Custer County, Idaho.

On December 18, 2014, Commission staff issued a public notice that preliminarily determined that the project met the statutory criteria for a qualifying conduit hydropower facility, and thus was not required to be licensed under Part I of the FPA. The notice established a 45-day period for entities to contest whether the project met the criteria. No comments were filed in response to the notice.¹ Accordingly, this letter constitutes a written determination that the Fulton Hydropower Project meets the qualifying criteria under FPA section 30(a), and is not required to be licensed under Part I of the FPA. Qualifying conduit hydropower facilities remain subject to other applicable federal, state, or local laws and regulations.

¹ On January 12, 2015, the State of Idaho, *ex rel.*, the Idaho Department of Fish and Game and Idaho Water Resource Board, filed a notice of intervention without contesting the qualifications or raising any substantive issues. Under Rule 214(a)(2) of the Commission's Rules of Practice and Procedure, these entities became parties to the proceeding upon their notices of intervention. 18 C.F.R. § 385.214(a)(2) (2014).

Docket No. CD15-17-000

- 2 -

If you have any questions, please contact Christopher Chaney at (202) 502-6778 or christopher.chaney@ferc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Houff". The signature is fluid and cursive, with the first name "Kelly" and last name "Houff" clearly distinguishable.

Kelly Houff
Chief, Engineering Resources Branch
Division of Hydropower Administration
and Compliance

Document Content(s)

CD15-17-000.PDF.....1

**BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION
NOTICE OF INTENT TO CONSTRUCT QUALIFYING CONDUIT
HYDROPOWER FACILITY**

INTRODUCTORY STATEMENT

Gordon Fulton applies to the Federal Energy Regulatory Commission for a determination that the Fulton Hydropower Project is a Qualifying Conduit Hydropower Facility, meeting the requirements of section 30(a) of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA).

The location of the facility is:

State or Territory: IDAHO
County: CUSTER
Township or Nearby Town: MACKAY
Water Source: ROCK CREEK

The exact name and business address of the applicant(s) is:

Applicant's Name: Gordon Fulton
Address: 5907 HWY 93
Mackay, ID 83251
Telephone Number: (208)588-3118
Email Address: tailingart@yahoo.com

The exact name and business address of each person authorized to act as agent for the applicant(s) in this notice of intent is:

Name of Agent: John Crockett
Address: 3296 Snowflake
Boise, ID 83706
Telephone Number: (208)344-5319
Email Address: johncrockett@cableone.net

NON-FEDERAL CONDUIT

The Fulton Hydropower Project will not use the hydroelectric potential of a federally owned conduit.

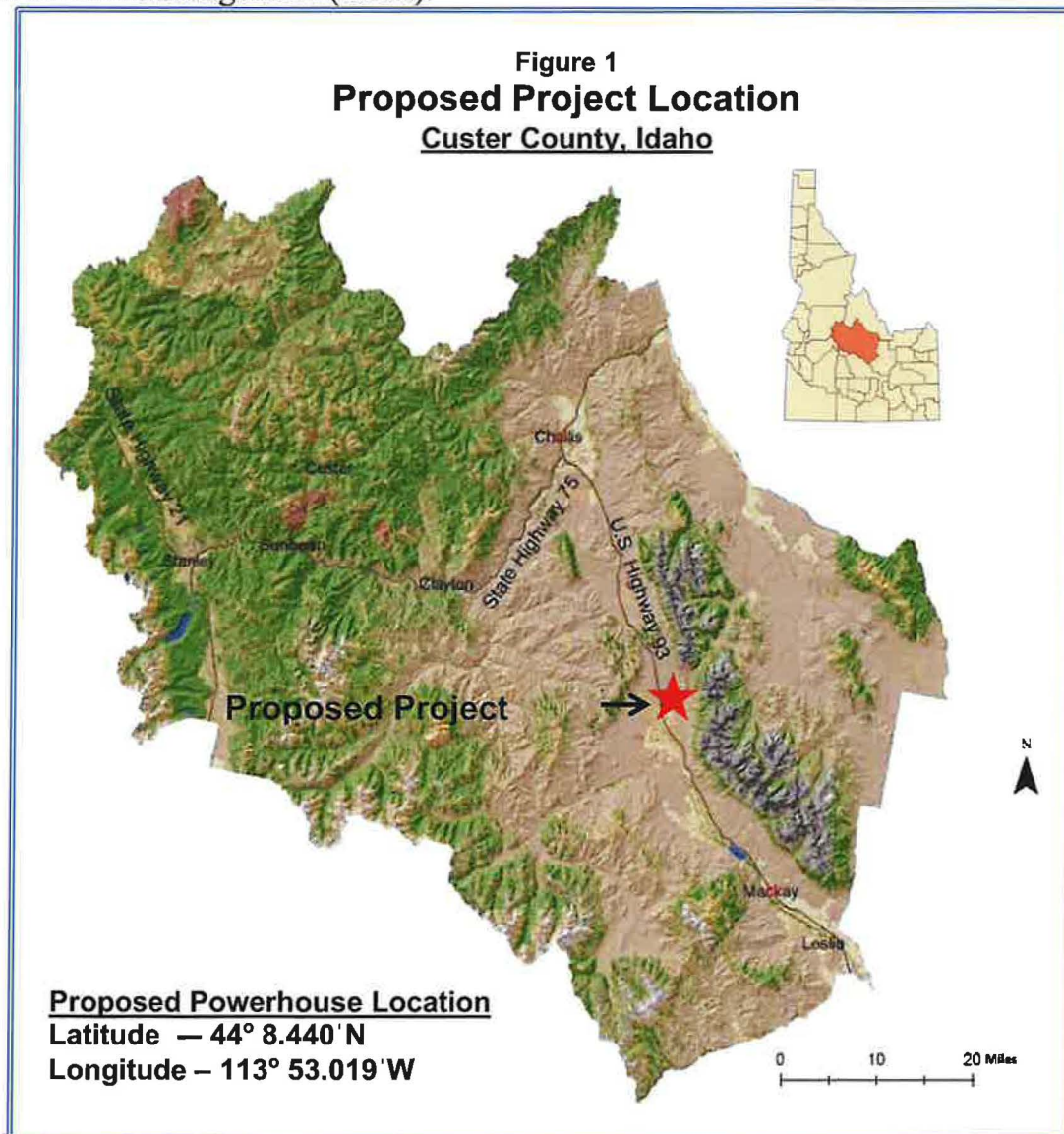
[According to section 30(a)(3)(C)(i) of the FPA, as amended by HREA, a qualifying conduit hydropower facility may not use the hydroelectric potential of a federally owned conduit.]

ORIGINAL PROJECT

The Fulton Hydropower Project has not been licensed or exempted from the licensing requirements of Part I of the FPA, prior to the enactment of the Hydropower Regulatory Efficiency Act on August 9, 2013.

PROJECT INFORMATION

The proposed project is located about 22-miles north of Mackay and 32-miles south of Challis; on the eastern side of Idaho State Highway 93 and on the western slopes of the Lost River Range in Custer County (Figure 1). Water in Rock Creek is diverted near elevation 7,190-feet MSL into a 20-inch diameter buried pipeline for about 12,280 feet. At the end of the pipeline the flow is diverted north and south to irrigated farmland. The diversion and upper portion of the pipeline are on land administered by the Challis National Forest. The remaining portion of the pipeline is on land administered by the Bureau of Land Management (BLM).



The conceptual design of the project is to pressurize the Rock Creek pipeline and produce power as an intermediate step in the irrigation and stockwater water conveyance system. The conversion of the system will require some limited modifications to the existing water intake facility, the existing pipeline, construction of a new powerhouse at the end of the pipeline, and installation of an interconnection to the existing powerline. A plan view drawing of the proposed hydropower facilities identifying the facilities as either existing or proposed is shown on Figure 2.

Rocky Creek is a disconnected tributary to Chilly Slough in the Big Lost River basin. The Big Lost River Watershed is the western-most of the local Central Valleys watersheds that collectively make up the Sinks Drainages. The Little Lost River, Birch Creek, Medicine Lodge Creek, and Beaver-Camas watershed are located to the east and make up the remaining watersheds of the Sinks Drainages. These are the watersheds that disappear into valley fill material of the longitudinal valleys formed by the mountain ranges separating the watersheds.

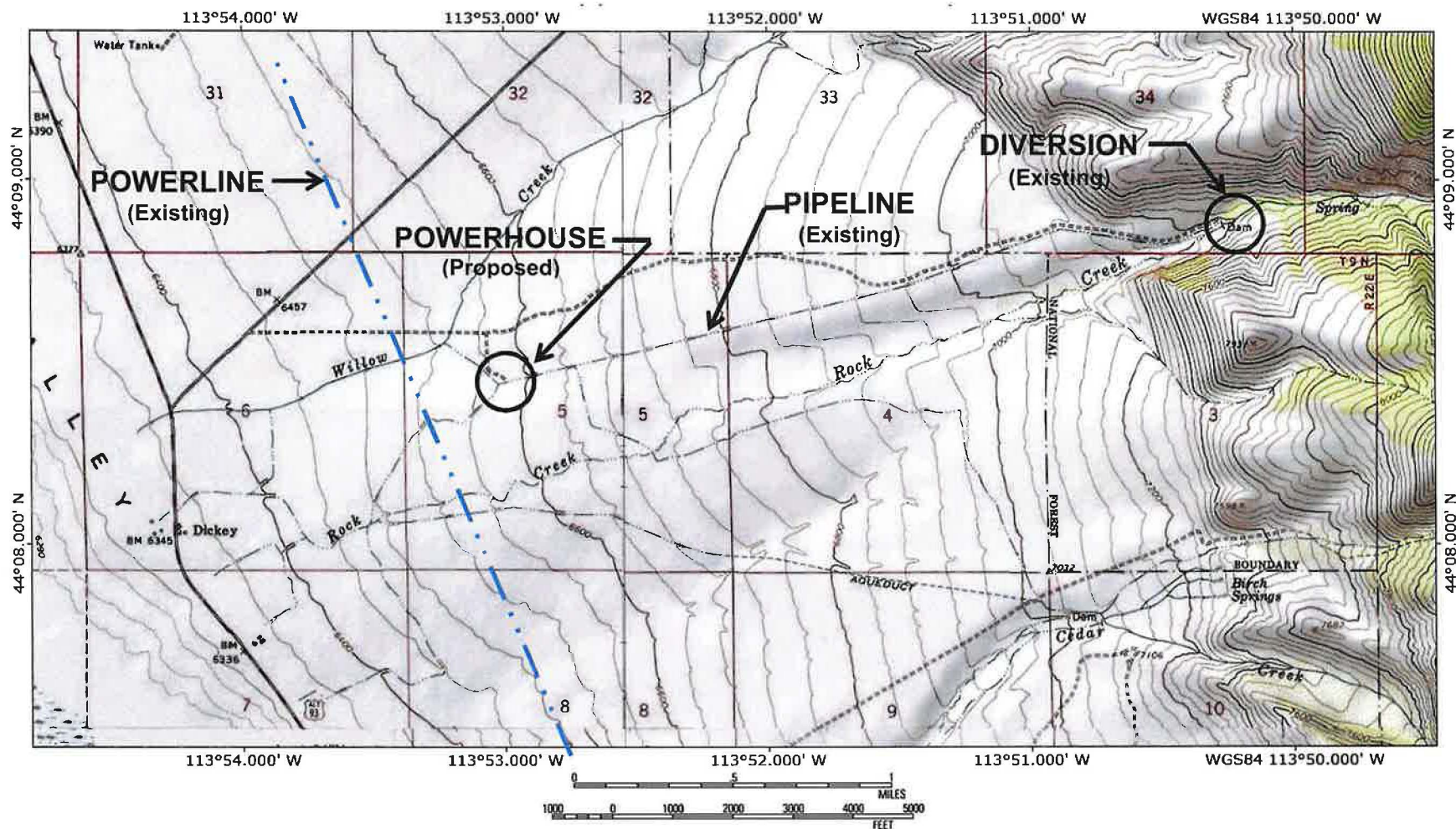
Like other streams in this area, Rock Creek disappears into the alluvium before connecting to another waterway. Since the area was first developed, settlers devised various means to capture the water and deliver it to their cropland before it disappeared. Water rights on Rock Creek date back to as early as 1887. The purpose of the 20-inch diameter buried pipeline is to deliver irrigation and stockwater. Figure 3 shows the irrigation and stockwater system. It was installed in 1984 after the Challis Earthquake damaged a concrete flume that had previously delivered the water. The pipe has a 3/8-inch wall thickness and is in good condition.

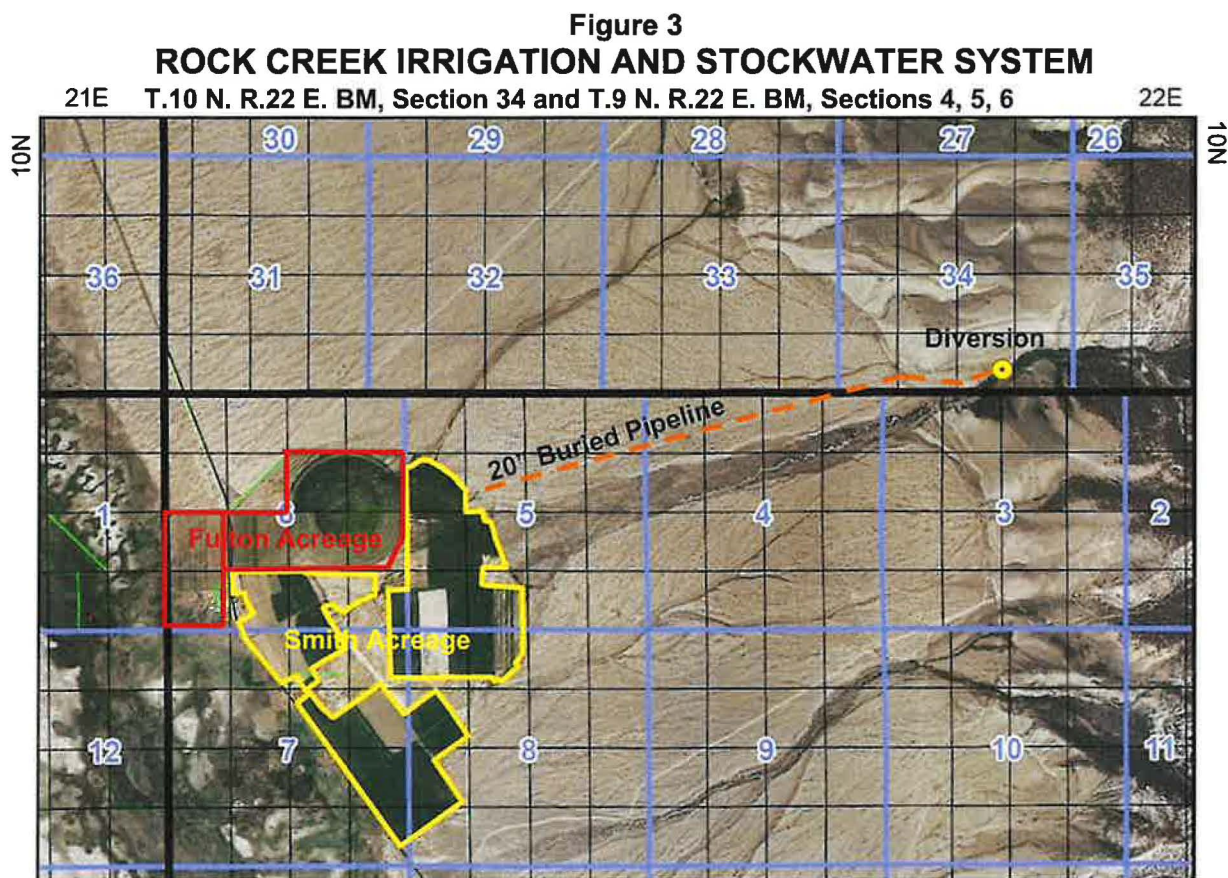
The pipeline is jointly owned by Gordon Fulton and Wiley Smith who use the water for irrigation and stockwater. Figure 4 is the Bureau of Land Management right-of-way documents that provide proof of ownership and purpose. Gordon Fulton will be developing the project. Figure 5 provides documentation from Wiley Smith authorizing the use of the pipeline to also be used for power purposes.

The existing diversion intake facility is a concrete L-shaped structure, about 60-feet in length, with two separate stop log sections and the intake section. There is no significant impoundment at the intake and the hydropower plant will be run-of –the-river project with no change in the impoundment.

Figure 2

PLAN VIEW OF THE
ROCK CREEK HYDROPOWER PROJECT
T.10 N. R.22 E. BM, Section 34 and T.9 N. R.22 E. BM, Sections 4, 5, 6





Adapted from Idaho Department of Water Resources water right maps. No scale is provided but each Section is approximately one square mile.

The powerhouse will be a rectangular metal building with about 850 square feet of floor space and a tailrace outletting just above an existing irrigation distribution box. In order to assure the delivery of irrigation water, it will also have a butterfly valve and means to dissipate the energy to bypass the powerhouse. The powerhouse will have a single turbine-generator and all appurtenant equipment. The turbine will be a Pelton-Twin Jet and the preliminary design is to use an induction generator rated at 406 KW, 4860 volts, and 900 rpm. An oil-cooled outdoor transformer will be placed next to the powerhouse. The interconnection line from the powerhouse will travel about 2,500 feet to the existing line owned by Salmon River Electric Cooperative.

The approximate static head for this project is 610-feet and estimated monthly power production is about 1,330,000 kWh per year. Final design of project facilities will be contingent upon all regulatory authorizations and the interconnection agreement.

EXISTING PRELIMINARY PERMIT OR PERMIT APPLICATION PENDING

There is no existing or pending preliminary permit for the project.

Figure 4.
BLM Right-of Way Documents Show Proof of Ownership and Purpose
(Page 1 of 2)

A2ILO-113
 (August, 1960)

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT
 Land Office
 P. O. Box 2237
 Boise, Idaho

LO:VSS
 Idaho 011980

DEC 21 1960

DECISION

:

Right-of-way Granted

DETAILS OF GRANT

Serial number of grant: Idaho 011980

Name of grantee: Francis Smith and David Fulton

Map showing the location and dimensions of grant:

Map designations: Smith-Fulton Concrete Ditch Development

Date filed: December 5, 1960

Permitted use by grantee: Irrigation Ditch

Authority for grant: Act of March 3, 1891 (26 Stat. 1101) as amended

Regulations applicable to grant:

Code reference: 43 CFR, Subparts A and B, Part 244
 Circular numbers: 1915

Date of Grant DEC 21 1960

Expiration date of grant: . .

Rental:

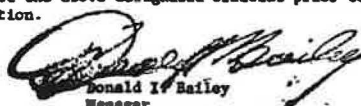
Amount: None
 When payable by grantee: None

TERMS AND CONDITIONS OF GRANT

Pursuant to the authority vested in the undersigned by Order No. 541 of the Director, Bureau of Land Management, dated April 21, 1954 (19 F.R. 2473), as amended, a right-of-way, the details of which are shown above, is hereby granted subject to the following terms and conditions:

1. All valid rights existing on the date of the grant.
2. All regulations in the circulars specified above.
3. Filing of proof of construction within five years of the date of the grant.
4. Further terms and conditions as follows:

(a) Pursuant to 43 CFR 244.9 the District Manager, Salmon District Office, Box 385, Salmon, Idaho, has the authority to conduct all business with the grantee with respect to use of lands and disposition of resources, and the grantee is requested to contact the above-designated official prior to beginning of construction.


 Donald I. Bailey
 Manager

Strobel:rb-12/20/60
 cc: Case Record
 Director, BLM, Wash., D.C. w/copy map
 DM I-4

Figure 4 Con't.
BLM Right-of Way Documents Show Proof of Ownership and Purpose
(Page 2 of 2)

BUREAU OF LAND MANAGEMENT
CASE RECORDATION
(LIVE) SERIAL REGISTER PAGE

Run Date/Time: 05/27/14 04:18 PM

Page 1 of 1

01 03-03-1891;026STAT1101;43USC946-951

Total Acres

Serial Number

Case Type 287100: ROW-IRRIGATION FAC

27.642

IDI--- 0 011980

Commodity 971: NON-ENERGY FACILITIES

Case Disposition: AUTHORIZED Case File Juris: CHALLIS FIELD OFFICE

Serial Number: IDI--- 0 011980

Name & Address

Int Rel

%Interest

FULTON DAVID
SMITH FRANCISMACKAY ID 83251
MACKAY ID 83251HOLDER
HOLDER100 00000000
100 00000000

Serial Number: IDI--- 0 011980

MerTwp Rng Sec STYPE Nr Suff Subdivision

District/Resource Area County Mgmt Agency

08 0090N 0220E 004 LOTS 14.
 08 0090N 0220E 005 ALIQ S2NE.SENW.
 08 0090N 0220E 005 LOTS 1.
 08 0100N 0220E 034 ALIQ S2SW.SWSE

CHALLIS FIELD OFFICE CUSTER BUREAU OF LAND MGMT
 CHALLIS FIELD OFFICE CUSTER BUREAU OF LAND MGMT
 CHALLIS FIELD OFFICE CUSTER BUREAU OF LAND MGMT
 CHALLIS FIELD OFFICE CUSTER CHALLIS NF

Serial Number: IDI--- 0 011980

Act Date

Code

Action

Action Remarks

Pending Office

11/01/1980 124 APLN RECD RSP
 11/07/1980 393 DEC ISSUED APLN REJ-DEN
 12/05/1980 103 ADDTL INEN RECD CORR TRACING MIF
 12/21/1980 307 ROW GRANTED-ISSUED
 12/21/1980 503 LENGTH IN MILES 2.28;
 12/21/1980 504 WIDTH IN FEET (TOTAL) 100;
 02/28/1986 287 PROOF CONST/USE ACPT
 11/01/1983 304 AUTH AMENDED/MODIFIED /A/ SEE REMARK
 11/01/1983 505 DIAMETER OF PIPE (INCHES) 15;
 01/20/1989 466 ADM-JURIS TRF OUT ES;
 01/20/1989 974 AUTOMATED RECORD VERIF
 04/21/2009 011 COMPL EXAM/RPT COMPLETED
 04/24/2009 950 COMPLIANCE APPROVED
 01/01/9999 763 EXPIRES

Line Nr Remarks

Serial Number: IDI--- 0 011980

0001 ORIGINAL CONSTRUCTION WAS CONCRETE IRRIGATION DITCH
 0002 05/15/1989 CASEFILE TRANSFERRED TO USFS REGION 4
 0003 /A/THE CHALLIS-AREA EARTHQUAKE OF OCT 1983 DESTROYED
 0004 THE CONCRETE TROUGH. THE ROW HOLDERS REPLACED IT
 0005 WITH BURIED, 15-INCH STEEL PIPE.

NO WARRANTY IS MADE BY BLM
 FOR USE OF THE DATA FOR
 PURPOSES NOT INTENDED BY BLM

Figure 5.

Documentation of Second Pipeline Owner Authorization for Power Plant

Form 205/206
12/99

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

34-00836
Water Right No.
34-04039
34-10585

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, Wiley Francis Smith (name) of MACKEY (city)

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

2. Corporation:

I, _____ (name) of _____ (city)

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

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

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 _____

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

Wiley F. Smith
Applicant

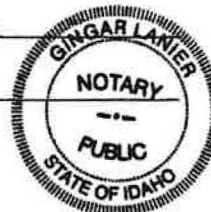
STATE OF IDAHO)
County of Custer) ss

On this 11th day of June, 20 10, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

SEAL

My commission expires: 4/4/14

Ginger Lammie
Notary Public residing at
Asotin, ID



34-14389

VERIFICATION

This Notice of Intent is executed in the:

State of: Idaho
County of: Custer

by: Gordon Fulton
5907 HWY 93
Mackay, ID 83251

I verify, under penalty of perjury, that the contents of this Notice of Intent are true and correct to the best of my knowledge and belief.

Executed on July __, 2014 .”

Gordon Fulton

Document Content(s)

FULTON FERC NOI 7 9 2014 ver 2-3.DOCX.....1