

Cefalo, James

From: Cefalo, James
Sent: Thursday, August 12, 2021 10:39 AM
To: 'Jerry Rigby'; Kent Fletcher (wkf@pmt.org); Travis Thompson; 'Sarah Higer'; 'mmortimer@rex-law.com'
Cc: 'Rob Harris'; 'Kristin Moore'
Subject: Application for Transfer 84843 (Olsen) - Proposed Conditions
Attachments: Palisades Creek Rights.pdf

Dear Parties:

In an effort to resolve the issues of protest, the parties have agreed that the following conditions should be added to Transfer Approval 84843:

- The right holder shall maintain a totalizing measuring device of a type approved by the Department as a part of the diverting works.
- Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 1.
- A measuring device (not totalizing) must be provided at the point where Palisades Creek discharges into Snake River and at the Palisades Canal diversion. The rate of flow diverted under this right shall at no time exceed the rate of flow of Palisades Creek where it discharges into Snake River, nor shall it exceed the rate of flow available at the Palisades Canal diversion located at T01N R44E S26 SWSWSE.

I don't have any concerns with the first two proposed conditions. I recommend changing the last condition. I just visited with Tony Olenichak about water rights and flows in Palisades Creek. He confirmed that, in recent years, there is always flow from Palisades Creek entering the Snake River. Attached is a list of all water rights on Palisades Creek (excluding instream stockwater rights). As you can see, the largest rights on the creek are fairly junior (23-50E = 26.4 cfs, 6/1/1900; 23-104 = 97.8 cfs, 1/22/1916). These rights would only be available during the snowmelt runoff period, when flow in Palisades Creek is at its highest levels. Because Palisades Creek is fed by high elevation mountains, its runoff pattern is similar to the runoff pattern for the entire system. The USGS does not currently operate a stream gage on Palisades Creek, but it did have a gage on the creek in the 1930s. That data from the 1930s shows that flow in the creek can exceed 400 cfs during peak runoff. As the flow in the creek starts to decline, the 1916 and 1900 rights are curtailed (based on water right priorities available on the Snake River). In the last two weeks, there has only been 13 - 21 cfs of rights in priority on the creek. Even though there are approximately 180 cfs of water rights in the Palisades Canal when all rights are deliverable, the canal rarely diverts more than 80 cfs.

At this time, there isn't a concern about flow from Palisades Creek making it to the Snake River. However, there could be concerns in the future. Water District 1 currently allows Palisades Canal to deliver storage water through exchange. It is possible that the Palisades Canal could divert the entire flow in the creek (any water diverted above and beyond the available water rights would be charged as storage). This would dry up the creek below the Palisades Canal diversion. After consulting with Tony, I propose the following conditions:

- Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Palisades Creek in the SWSE, Section 26, T01N, R44E.

- Diversion of water under this right is limited to the quantity of water available under this right at the original point of diversion on Palisades Creek or the quantity of water at the confluence of Palisades Creek and the Snake River, whichever is less.
- Upon specific notice from the watermaster or the Department, the right holder shall install a measuring device on Palisades Creek near the confluence with the Snake River to measure the amount of water entering the Snake River from Palisades Creek.

I've copied Rob Harris and Kristin Moore on this email in case these same conditions could be used to address some of the issues of protest in Application 84815 (Cook).

Let me know if it would help to prepare a draft transfer approval.

James Cefalo
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