

MEMO

TO: Gary Spackman, Jeff Peppersack
FROM: James Cefalo JRC
DATE: March 17, 2017
RE: License Review for Permits 22-13589 and 22-13979 (City of Driggs)

In November 2016, Eastern Region staff (Blake Jordan and James Cefalo) initiated a licensing review for Permits 22-13589 and 22-13979 for the City of Driggs. Both of the permits are for Municipal use. Consistent with Idaho law and guidance memos of the Department, Blake prepared licenses that reflect the amount of water beneficially used by the city under the permits, not the maximum capacity of the city's infrastructure. Based on the evidence provided by the city, we believe Permit 22-13589 can be licensed for the full permitted amount (1.10 cfs). Permit, 22-13979, however, can only be licensed for 0.12 cfs (original permit was for 0.61 cfs).

Blake and I feel our calculations and proposed licenses are quite generous. I've attached an email I sent to Kristin Moore at Rocky Mountain Environmental (RME) in January 2017, explaining the calculations and reasoning behind our proposed licenses. There are three decisions/assumptions we made in favor of the city:

- 1) We based our review on data collected during the summer of 2016 (one of the hottest/driest summers on record in Eastern Idaho) even though proof of beneficial use for Permit 22-13589 (the larger permit) was filed in 2012. We relied on data collected by the city during late July, one of the hottest weeks of the summer.
- 2) The city provided diversion data (SCADA system report) for diversions from late July 2016. In the SCADA report, the diversion rate for one of the wells (the Tank Well) seemed to be erroneous for that time period. Rather than use the diversion rate from the SCADA report, we used a measurement conducted by RME in June 2016. This was a difference of 400 gpm (0.9 cfs) in favor of the city. (In one of the well photos provided by RME from its June 2016 exam, there is a wrench still attached to the top of a nearby fire hydrant, suggesting the RME measurements may be somewhat inflated.)
- 3) We accounted for the city's spring water use. The city diverts a portion of its municipal supply from a spring in Wyoming. The spring is tributary to Teton Creek upstream of the Grand Teton Canal Company (GTCC) headgate. The city's rights are junior to rights held by GTCC. Currently, the city has an arrangement with GTCC which allows the city to divert its junior right throughout the summer. Recognizing that there is a risk the spring water right may be curtailed in the future, we included the current use of spring water in our calculation of maximum city demand. This made a difference of 675 gpm (1.50 cfs) in favor of the city. Stated differently, we tried to maximize the ground water licenses by stating that they could be used to replace spring diversions. This approach requires a combined rate limit between the spring water rights and the proposed licenses.

The issue before the Department is quite simple. We must decide whether the City of Driggs and the two permits under review should be treated like all other non-RAFN municipal permits. If so, the licenses should be limited to the amount of water actually beneficially used by the city, not the maximum capacity of the city system. Under this scenario, the licenses proposed by Eastern Region are not only fair, they are quite generous. The city argues that it should be treated differently because of the timing of its filings relative to the change in the municipal statute. The chronology summary prepared by RME appears to be accurate. I am not familiar enough with the statutory changes to know whether existing permits were immune to the statutory changes. If you feel the city is entitled to the full permitted diversion rate, we can easily make the necessary changes to the licenses. Or, if you feel the assumptions made by Eastern Region are too generous and the proposed licenses should be reduced, we are also willing to make that change.