

Rob Harris

From: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Sent: Friday, March 11, 2016 1:05 PM
To: Rob Harris
Subject: FW: Application for Permit 74-16030 (Timber Cr. Water Users) - Data from IDWR
Attachments: Partial Decree for Water Right 75-13316.pdf; Shoup Gage and 75-13316 Data.pdf

From: Cefalo, James
Sent: Monday, August 31, 2015 11:19 AM
To: 'Price, Fredric'; 'fjwhitt@yahoo.com'; 'jwinfield@fs.fed.us'; Cassel, Amy; 'mkellner@idahoconservation.org'; 'jgough@fs.fed.us'; 'carlellsworth@me.com'; 'merrill.beyeler@yahoo.com'; Case, Morgan; 'kristina.fugate@ag.idaho.gov'; 'jeff.diluccia@idfg.idaho.gov'; 'Bramer, Randall - OGC'; 'bigbird@centurytel.net'
Subject: Application for Permit 74-16030 (Timber Cr. Water Users) - Data from IDWR

Dear Parties:

During our preliminary conference, I agreed to review water right 75-13316 (the Salmon River Wild & Scenic water right) and consult with IDWR legal staff to determine whether it is possible to issue new water rights that are not protected by the subordination described in water right 75-13316 and, therefore, would not count against the basin-wide totals. I also agreed to assemble streamflow data to better understand water right 75-13316.

I've attached a copy of the SRBA partial decree for water right 75-13316. The decree states that water right 75-13316 "does not prohibit the appropriation, diversion and use of water within the Salmon River basin upstream from the ending point of the Salmon Wild and Scenic River . . . when the stream flow at the Shoup gage exceeds the flow amount in Section 3.a and is less than 13,600" (Paragraph 3.c) In other words, water right 75-13316 does not block future appropriations that are not protected by the subordination agreement as long as those future water rights are administered as junior to water right 75-13316. IDWR legal staff reviewed the partial decree and agree that new water rights can be issued which do not count against the basin-wide subordination totals, if the new rights are administered as junior to water right 75-13316. The provisions describing the future water rights which are protected by subordination and the limits placed on subordination are found in paragraph 10.b and its subsections.

The next question would logically be "When would such a junior, unprotected water right be available?" Water right 75-13316 is measured at a specific USGS Stream gage (13307000, Salmon River near Shoup). I've prepared a spreadsheet showing the flows at the Shoup gage between May 1 and July 31 from 2003 to the present day. I've also color-coded the data for easy reference.

The days highlighted in yellow represent times when the flow in the Salmon River is more than 13,600 cfs and less than 28,400 cfs. According to water right 75-13316, when the Shoup gage is above 13,600 cfs, the United States is entitled to all flows up to 28,400 cfs. (Paragraph 3.b) Therefore, if the Shoup gage is above 13,600 cfs but below 28,400 cfs, there would be no water available to fill junior water rights.

The days highlighted in blue represent times when the flow in the Salmon River is less than 13,600 cfs, but the wild & scenic rates described in Paragraph 3.a are not being satisfied. Junior water rights (which are not protected by the subordination agreement) would not be deliverable during this time period.

Finally, the days highlighted in red represent times when the flow in the Salmon River are above 13,600 cfs and the wild & scenic rates described in Paragraph 3.a are satisfied. These are days when water would be available to fill junior water rights. According to the data, a junior right could have used water 319 days out of a possible 1,196 days between 2003

and 2015 (assuming a season of use of May 1 – July 31). This equates to about 27% of the days or approximately 24.5 days per year. As you can see, in some years there can be more than 40 days of water available. In other years, however, the junior water right would never be on.

I found the streamflow data to be pretty valuable and hope that it will focus our discussion when we meet again on October 7th. Please let me know if there is other data that I can collect prior to our meeting.

James Cefalo
Water Resources Program Manager
IDWR Eastern Region
(208) 525-7161