

Memorandum

Date: October 18, 2010

To: File 81-11925

From: Craig L. Saxton

Re: Beneficial use for 81-11925

IDWR staff, Aaron Marshall conducted a field exam on 07-29-10. Aaron reported that the water use developed under permit no 81-11925 provided no additional beneficial use above that already authorized by water right 81-4011 from Little Smith Creek and 81-11978 from Big Smith Creek. In the beneficial use field report submitted on October 20, 2008, he writes (emphasis added):

"A 2-inch diameter pipeline delivers water from Little Smith Creek into the upper pond as authorized by right 81-4011. In addition to water for irrigation and stockwater uses, right 81-4011 provides up to 6.0 acre-feet of water for recreation storage and 0.28 cfs for diversion to storage. Since the three ponds have a total combined storage volume of 2.1 acre-feet, right 81-4011 provides water to fill the ponds, and right 81-11978 provides water from Big Smith Creek to flow through the ponds, permit 81-11925 provides no additional beneficial use and should be relinquished or voided."

However, 81-11978 authorizes water from Big Smith Creek for live flow only. The storage developed under 81-4011 is from Little Smith Creek. Therefore the ability to store water in the ponds from Big Smith Creek has not been licensed under 81-4011 or 81-11978.

Therefore, beneficial use of Big Smith Creek water has been developed under right 81-11925.

POD:

Same as 81-11978

Diversion Rate:

0.09 cfs per licensing field exam

Diversion Volume:

Pond capacity is 2.11 af. Can recommend 1 AF of storage

Overlap:

Both 81-11925 and 81-11978 both divert from the same point of diversion. The field examiner found that the capacity of the POD is 0.09 cfs. Need to limit 81-11925 and 81-11978 to 0.09 cfs.

According to the field exam, 81-4011 authorizes recreation storage of 6 AF for the same storage ponds as

developed under 81-11925, yet the licensing field exam found capacity of 2.11 AF. Limit 81-4011 and 81-11925 a combined storage volume of 6 AF.

Conditions:

-Condition 115 reads:

115: Prior to the diversion and use of water under this right, the right holder shall install and maintain a measuring device, including a data logger, at the authorized point of diversion, in accordance with Department specifications.

The field exam confirms that this condition has not been met. 81-11978 had the same issue at licensing. The permit holder submitted a request to remove the condition. The department issued an order replacing the condition with 197:

197: Upon specific notification by the Department, the right holder shall install and maintain an acceptable measuring device, including data logger, at the authorized point of diversion, in accordance with Department specifications.

We can apply the request to remove the measuring device and data logger submitted for 81-11978 to 81-11925. An order will be issued to change condition 115 to condition 197.

-Add X35 that limits use of 81-11925 and 81-11978 to 0.09 cfs

-Add modified condition 220:

220: The ponds established by the storage of water under rights 81-4011 and 81-11925 shall not exceed a total capacity of 6.0 acre-feet.

-029: Condition met. Not carried to license

~~029: Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.~~

-077: Change to 218 since use is fire protection storage

~~077: Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.~~

218: Water shall not be diverted from fire protection storage except to fight or repel an existing fire.

-01H: Replace with R02

~~01H: Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.~~

R02: Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

-26A: Remove – Not carried to license

~~029: Prior to the diversion and use of water under this approval, the right holder shall comply with all fish~~

~~screening and/or fish passage requirements of the Idaho Department of Fish and Game.~~

-Retain the following condition:

This right does not authorize the continuous diversion of water into and through the reservoir after it has been filled.

-Retain the following condition:

The reservoir created in connection with this right shall not exceed 1/4-acre in surface area.