

Reeder, Jana

From: Olenichak, Tony
Sent: Monday, September 21, 2009 3:59 PM
To: Reeder, Jana; Swank, Lyle
Cc: Merritt, Allen; Yenter, Cindy
Subject: RE: SWID permit 45-14183 draft conditions

Looks good to me.

Tony

From: Reeder, Jana
Sent: Monday, September 21, 2009 3:36 PM
To: Olenichak, Tony; Swank, Lyle
Cc: Merritt, Allen; Yenter, Cindy
Subject: RE: SWID permit 45-14183 draft conditions

Tony-

Does this work...

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 140. Delivery is closely related to diversions out of the Snake River regulated by the watermaster of State Water District 01. Delivery accounting of this right will be governed by the watermaster of Water District 01 with regulation authority shared by Water District 01 and Water District 140. Diversion and use under this right may not occur if the natural flow in the Snake River is not sufficient to fill senior rights diverting from the Snake River as determined by the Watermaster of Water District 01.

Jana

From: Olenichak, Tony
Sent: Monday, September 21, 2009 3:14 PM
To: Reeder, Jana; Swank, Lyle
Cc: Merritt, Allen
Subject: RE: SWID permit 45-14183 draft conditions

Jana,

I would strongly recommend removing the reference to "downstream" and "injury" in the last sentence of the second paragraph below R05 that says: *As determined by the Watermaster of Water District 01, diversion and use under this right may not occur if injury would result to downstream senior rights diverting from the Snake River.*

This diversion has the potential to affect the delivery to both upstream and downstream senior rights if it is not regulated properly by the Watermaster. Also, using the word "injury" in this condition could potentially cause some interpretation problems for the future. Water District #1 does not make an "injury" analysis on senior rights each time it curtails diversions that are junior and out-of-priority on the Snake River. Water District #1 assumes if there isn't enough natural flow to fill all senior diversions, the junior diversion is curtailed without trying to determine whether or not the senior diversions are actually "injured" absent curtailment. Our definition of "injury" may be different than the definition of "injury" held by the attorney representing the junior diverter, so we don't ever want to get into that debate.

Perhaps the language in the last sentence of this condition could be changed to something like: *Diversion and use under this right may not occur if the natural flow in the Snake River is not sufficient to fill senior rights diverting from the Snake River as determined by the Watermaster of Water District 01.*

Tony

From: Reeder, Jana
Sent: Monday, September 21, 2009 2:00 PM
To: Olenichak, Tony; Swank, Lyle
Cc: Merritt, Allen
Subject: SWID permit 45-14183 draft conditions

Gentlemen,

I have attached the drafted conditions for the SWID application for permit # 45-14183. I believe we addressed the concerns Tony indicated last week in Cindy's office. Please look them over and get back with us if you have any concerns or changes you would like to discuss. We are hoping to forward the application to the State Office this week so let us know as soon as possible.

Thank you,

Jana

<< File: SWID cond.doc >>