

MEMORANDUM

TO: Application No. 77-14234

FROM: Steve Lester

DATE: December 31, 2009

RE: Evaluation of Sufficiency of Information Submitted for Salmon-Clearwater Processing - Basins 77, 78 & 79 for Western Region

The application proposes using 2 minor unnamed streams for irrigating 5 acres and incidental stockwater, all on the applicant's property.

The site borders the east side of Johnson Creek about 8 miles south of Yellow Pine.

See the 3/28/2007 database comment about two applications combined into one. A previous review memo dated 11/19/2007 and a spreadsheet attached to this new memo will also help in reviewing this application.

Parallel Processing

Parallel processing is required because the application does not propose a single 42-111 use regardless of source, does not propose a community well system where each connection is a 42-111 use, or does not propose pumping up to 2.00 cfs directly from the Salmon River.

Summary of Parallel Processing Information Submitted

Abbreviated Rule 40 information was received from the applicant 12/28/2009 in response to my 12/2/2009 request for information. Favorable IDFG comments were received 5/1/2007. Favorable IDEQ comments were received 4/20/2007.

Effect on Existing Water Rights: See applicant's Rule 40 response. Little if any effect is expected in the immediate vicinity of the project and in the broader downstream drainage.

Sufficiency of Water Supply: The larger north stream apparently has an adequate supply for the project. According to the applicant, the smaller south stream typically dries up sometime each year but can augment the project when flow is available. There appears to be enough water.

Good Faith, Delay or Speculative Purposes: The application is made in good faith.

Financial Resources: The applicant estimated the project will cost considerably less than \$5000, precluding the need for more financial information.

Local Public Interest: IDFG and IDEQ comments are sufficient without providing any details useful for conditions of approval. Comments from other entities are not needed. Assuming protests are not filed, the application is in the local public interest.

Wild & Scenic River (WSR) Processing

General Information - WSR processing only applies to portions of Bs 77 and 78. It is rarely expected in Bs 78 since WSR right 78-11961 covers federal land upstream from the Rapid River Fish Hatchery slightly southwest of Riggins (does not affect land outside of the Rapid River drainage).¹

Therefore, the typically expected WSR issues would be in Bs 77 upstream from Long Tom Bar on the Salmon River, WSR right 77-11941.² This also incorporates the entire Middle Fork Salmon River drainage, MSR right 77-13844.³

WSR processing is required for any source/diversion upstream from any WSR right. This applies to all sources and uses unless the applicant shows the source is not hydraulically connected to any WSR rights.

Specific Information for this Application - WSR processing is required because the proposed source/diversion are upstream from and hydraulically connected to WSR 77-11941. The application was added to the WSR spreadsheet, limiting the added rate to 0.02 cfs/acre although the application proposes 0.03 cfs/acre (spreadsheet instructions). The WSR legal notice remark was completed and added to the database.

Minimum Streamflow Rights (MSF)

General Information - MSF analysis applies to all surface water upstream⁴ from any MSF rights. Basins 77-79 have various MSF rights that might affect applications. By agreement with SO regarding those basins, specific MSF conditions of approval are not necessary provided the reviewer checks MSF issues and documents the file with the results (7/8/09 telephone conference).

Downstream MSF right 3-8 on the Snake River⁵ does not include subordination to junior domestic, commercial, municipal or industrial uses (dcmi) and also does not include “future non-dcmi cfs” factors. Salmon River MSF right 79-14119,⁶ ending at the confluence with the Snake River, is subordinated to future dcmi uses but does not include future non-dcmi cfs factors.

Specific Information for this Application - MSF analysis is required for the proposed source and use upstream from MSF rights 3-8 and 79-14119.

The application proposes use of water also tributary to (from upstream to downstream direction) MSF 77-14194 for Johnson Creek, MSF 77-14190 for East Fork South Fork Salmon River and MSF 77-14174 for

¹ P/D = T23N-R1W-S.12

² P/D = T25N-R5E-S.31

³ P/D = T23N-R16E-S.33

⁴ Shallow ground water tributary to surface water might involve MSF issues under conjunctive management thinking. Discuss with your supervisor if this comes up.

⁵ P/D = T31N-R5W-S.10

⁶ From mouth of river T29N-R4W-S.14 upstream thru about Shepp Ranch T24N-R6E-S.12

South Fork Salmon River. These MSF rights allow 4.1 cfs, 8.2 cfs and 20.6 cfs, respectively, for future non-dcmi use. None of the future non-dcmi for those 3 MSF rights has been approved yet.

This leads to the following conclusions:

- Senior MSF right 3-8 will not be subordinated to the proposed uses.
- Senior MSF right 79-14119 will not be subordinated to the proposed uses.
- Senior MSF rights for the 3 Basin 77 sources noted above will be subordinated to the proposed irrigation and stockwater uses.

Because this review memo covers WSR and MSF issues, SO Planning Bureau comments are not needed until the legal notice is republished (see Discussion section of memo). Planning will be contacted at that time.

A Basin 77 MSF summary spreadsheet is attached.⁷

Discussion

The application was advertised without protest by early 2008. WSR advertising remarks were not used. Readvertising is therefore required. Previously it seemed that most of the Rule 40 information was not needed (see 11/19/2007 review memo). Further reflection determined that we needed more information. Rule 40 requirements were completed by the applicant's 12/2009 letter.

The north stream will provide most of the water for the project. An overlapping POD is located upstream from the applicant POD for this source, locally known as Umpqua Creek. The overlap POD is Miller's 77-4018, noted in the applicant's cover letter submitted with the application and again in the Rule 40 reply received 12/28/2009. The Miller POU is just north of the application POU. In this case, priority and "higher-ority" are the same, placing Miller's senior POD upstream from the proposed new diversion. That should work. (Note 77-4018 lists Umpqua Creek as the source – that is a misnomer according to the topo, which shows no named source there).

Another neighbor has senior right 77-2188 that includes a diversion closer to the south POD for the applicant. That appears to be a different stream than the application source. Right 77-2188 has multiple sources and serves a POU on the opposite (west) side of Johnson Creek.

The applicant does not have any existing rights beyond an unrecorded domestic well mentioned in the application. Overlap is not a concern for this application.

As noted by the file, a "very small (existing) pond" associated with the south POD will be part of this development. Although we lack details, the pond apparently falls within the 24-hour fill rule of thumb. Allow a small pond with an appropriate condition of approval in this regard.

Conditions of Approval

IDFG comments address the larger of the two proposed sources, noting fishery concerns *probably* (emphasis added) are not present. Their comments presumably cover the lesser source that typically dries

⁷ N/WR Processing/BS 77-79 Folder/Spreadsheet Bs # ... ; perhaps eventually superseded by tracking tools made available on Wenet?

up each year. Nonetheless, include fish screening requirements and leave it to the applicant to deal directly with IDFG in this regard.

Suggested Conditions

Proof - 3 years.

026 – start in 1 year.

029 – IDFG fish screens.

195 thru 198 – WSR issues.

Use under this right may include a storage pond capable of being filled to capacity within a 24-hour period under the above authorized diversion rate.

R66 – irrigation 0.03 cfs/3af per acre.

X02 – stockwater up to 10 horses.

Code # ?? – One of the two unnamed stream sources authorized under this right is locally known as Umpqua Creek.

121 – possible future mitigation for fish flows.