

MEMORANDUM

TO: Application Nos. 77-14327 & 77-14328

FROM: Steve Lester 

DATE: December 21, 2009

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

This memo has been updated based on parallel review with SO (Shelley Keen).

The applications propose new infiltration galleries in the South Fork Salmon River to replace numerous existing rights/permits from the same source for domestic and irrigation water in portions of Copenhaver Subdivision. The intent is to provide more reliable and more efficient systems with fewer impacts to fisheries and other natural resources. The project was discussed at scoping meetings attended by IDWR and other natural resource agencies. IDWR sent a follow up letter to a participating engineer on June 10, 2009 (no formal consultant for these applications).

Water Users Association #1 filed Application 77-14327 for the south portion of the subdivision, part of the landing strip and related land. Water Users Association #2 filed Application 77-14328 for the north portion of the subdivision, part of the landing strip and related land. A third application is pending - 77-14323 filed by Dodge for land owned by Dodge and Smith - for some of the lots and part of the landing strip between the other two applications. That application will be processed when the Rule 40 information is provided. Apparently Dodge/Smith do not want to be part of either association.

Association #1 and #2 applications discuss duplicate coverage from the proposed source for those lot owners who will use the new systems. This presents issues about handling duplication as discussed in this memo.

The site is on the west bank of the river about 1 mile upstream from the confluence with the main Salmon River.

Two attached spreadsheets will help in reviewing these applications.

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

The Rule 40 information plus favorable comment letters from IDFG and IDEQ were submitted as attachments (left side of files) for each application.

Effect on Existing Water Rights: Impacts on other rights are not expected for the limited amounts requested for this remote area.

Sufficiency of Water Supply: The South Fork Salmon River has an abundant supply of water.

Good Faith, Delay or Speculative Purposes: The applications are filed in good faith. The applicants are working with the US Army Corps of Engineers for any related approvals that might be needed.

Financial Resources: Additional information is unnecessary because each project is estimated to cost less than \$5000.

Local Public Interest: IDFG recommended construction during low water periods, and IDEQ suggested minimal site disturbance. Neither agency recommended specific information useful for possible conditions of approval. Based on conversations with the applicants, they plan to follow those suggestions for any work done during low water periods. Assuming protests are not filed, the applications are in the local public interest by providing better systems with fewer impacts on natural resources.

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, 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 these Applications - WSR processing is required because the proposed source and diversions are upstream from and hydraulically connected to WSR 77-11941 on the main Salmon River. WSR legal notice remark will be used. The applications were added to the WSR tracking spreadsheet. Note proposed irrigation is not "replacement" and domestic cannot be "replacement" under the WSR definition for replacement water.

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

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.

reviewer checks MSF issues and documents the file with the results (7/8/09 telephone conference).

Downstream MSF right 3-8 on the Snake River ⁵ 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 these Applications - MSF analysis is required for the proposed source and use upstream from MSF rights 3-8 and 79-14119.

The applications propose water also involved with South Fork Salmon River MSF right 77-14174. That right is subordinated to future dcmi uses and to 20.6 cfs future non-dcmi uses. None of the future non-dcmi has been approved yet.

Because the review memo extensively covers WSR and MSF issues, SO Planning Bureau comments are not needed yet. However, Planning will be contacted for comments during the legal notice process as a precaution.

This leads to the following conclusions for both applications:

- Senior MSF right 3-8 will not be subordinated to these proposed uses.
- Senior MSR right 79-14119 will be subordinated to the proposed domestic use but not to the proposed irrigation use.
- Senior MSR right 77-14174 will be subordinated to the proposed domestic and irrigation uses.

A MSF summary spreadsheet for Basin 77 is attached. ⁷

Discussion

Duplicate Coverage - Duplicate coverage from the river for some of the subdivision lots is summarized in the attached “Copenhaver Subd.” spreadsheet. Application 77-14327 covers Lots 1-9 and related areas. Some of those lots already have 0.14 cfs domestic use from the river. Some of the existing domestic uses might include limited yard use. There are no existing irrigation rights/permits from the river for the application POU.

Application 77-14328 covers Lots 15-23 and related areas. Some of those lots already have 0.18 cfs domestic use from the river. Some of the existing domestic uses might include limited yard use. There are no existing irrigation rights/permits from the river for the application POU.

Irrigation under both applications is a new use from this source. Domestic under both applications duplicates coverage on some of each proposed POU. Ideally, the senior overlap rights will be relinquished or abandoned. In case that does not happen to some extent for whatever reasons, any approval of the applications should be conditioned to deal with duplicate coverage from the river (condition 217 modified for this situation per agreement with SO).

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

⁷ N/WR Processing/BS 77-79 Folder/Bs # MSF Rights. Perhaps eventually superseded by SO tracking tools made available to staff?

Portions of the site also have existing rights/permits from one or more springs. Irrigation overlap from other sources can be addressed with standard conditions. Domestic overlap from other sources can be addressed in possible future licensing of the applications.

Both applications propose new diversion works separate from any existing river diversions.

Applicant Name/Contact Information - The IDSOS website shows business entity registration C162975 in the name of Copenhagen Homeowners Association Inc., officers Howard and Kimble. The applications include documents about two separate entities, Copenhagen Water Users Association #1 (Howard and Acker c/o Howard) and #2 (Acker and Howard c/o Acker). Adequate information supports applicant names and contact information.

Other Information – Proposed sites are within private land in HES 701. The area is unsurveyed for section information. Prior IDWR files about this site have relied on map projections etc. to estimate ¼ ¼ details. Also, current ArcMap projections are available for these details. Current information is adequate to estimate legal descriptions within HES 701.

The two applications exclude part of the subdivision and presumably part of the landing strip (lower landing strip on subdivision plat). Lots 11-14 and associated landing strip portion are excluded from Association #1 and #2 applications but are covered in Dodge application 77-14323. Lot 10 is excluded from all applications. Lot 10 is identified for 3 lots in tax lot layer, twice for Howard and once for Dodge. This can be sorted out in eventual licensing if new development is completed.

Conditions of Approval

Modify standard conditions when needed to fit these applications. See license 77-7335 for examples of modified X60 about irrigation and domestic POU. It is not necessary to use 071 to limit each domestic connection to 13,000 gallons/day even though each connection will undoubtedly remain within that limit.

Use standard 029 for IDFG issues even though diversions might not include intake pipes above the bed of the river and probably will not impede fish passage, but standard covers everything just in case.

Suggested for Each Application

Proof due 5 years.

026 – start in 1 year.

217 – modified for possible duplication of rights, final language to be determined.

132 (substitute to WB5) – domestic ___ homes without yard etc. irrigation.

X60 – domestic in lots ___ within HES 701, Copenhagen Subd.

R66 – irrigation all rights combined at 0.03 cfs/3 af per acre.

X60 idea repeated for irrigation – irrigation in lots ___ and portion of Lower Landing Strip within HES 701, Copenhagen Subd.

029 – IDFG issues.

195 through 198 – use all 4 WSR conditions.

004 – no trespass etc.

121 – possible future mitigation, fish flows.

BS 77 MINIMUM STREAMFLOW RIGHTS -- QUERY 12/1/2009

Basin	Sequence	Priority	Source	Subordinate to Future DCMI	Subordinate to Future Non DCMI (CFS Limit)	Non DCMI CFS Approved Since 4/1/2005
77	14167	4/1/2005	BARGAMIN CREEK	YES	1.2	0
77	14209	4/1/2005	BEAR VALLEY CREEK	YES	4.7	0
77	14178	4/1/2005	BIG CREEK - downstream	YES	12.8	0
77	14182	4/1/2005	BIG CREEK - upstream	YES	0.5	0
77	14202	4/1/2005	BLACKMARE CREEK	YES	0.4	0
77	14191	4/1/2005	BRUSH CREEK	YES	0.6	0
77	14195	4/1/2005	BUCKHORN CREEK	YES	1	0
77	14204	4/1/2005	BURNTLOG CREEK	YES	0.7	0
77	14198	4/1/2005	CAMAS CREEK	YES	9	0
77	14171	4/1/2005	CHAMBERLAIN CREEK	YES	4.8	0
77	14170	4/1/2005	CHAMBERLAIN CREEK WEST FK	YES	0.3	0
77	14199	4/1/2005	DYNAMITE CREEK	YES	0.4	0
77	14211	4/1/2005	ELK CREEK	YES	1.9	0
77	14188	4/1/2005	FITSUM CREEK	YES	0.5	0
77	14173	4/1/2005	FRENCH CREEK	YES	2.3	0
77	14172	4/1/2005	HORSE CREEK	YES	3.6	0
77	14200	4/1/2005	INDIAN CREEK	YES	1.9	0
77	14194	4/1/2005	JOHNSON CREEK	YES	4.1	0
77	14212	4/1/2005	LAKE CREEK	YES	0.4	0
77	14183	4/1/2005	LICK CREEK	YES	0.6	0
77	14180	4/1/2005	LOGAN CREEK	YES	0.4	0
77	14203	4/1/2005	LOON CREEK	YES	8.1	0
77	14201	4/1/2005	MARBLE CREEK	YES	2.8	0
77	14210	4/1/2005	MARSH CREEK	YES	3.5	0
77	14179	4/1/2005	MONUMENTAL CREEK	YES	2.1	0
77	14205	4/1/2005	PISTOL CREEK	YES	2.6	0
77	14176	4/1/2005	PORPHYRY CREEK	YES	0.6	0
77	14187	4/1/2005	PROFILE CREEK	YES	0.4	0
77	14186	4/1/2005	QUARTZ CREEK	YES	0.3	0
77	14207	4/1/2005	RAPID RIVER	YES	2.5	0
77	14184	4/1/2005	RUSH CREEK	YES	1.5	0
77	14190	4/1/2005	SALMON RIVER EAST FK SOUTH FK	YES	8.2	0
77	14174	4/1/2005	SALMON RIVER SOUTH FK - downstream	YES	20.6	0
77	14192	4/1/2005	SALMON RIVER SOUTH FK - upstream	YES	7.7	0
77	14175	4/1/2005	SECESH RIVER - upstream	YES	2.3	0
77	14181	4/1/2005	SECESH RIVER - downstream	YES	4	0
77	14168	4/1/2005	SHEEP CREEK - trib Salmon R.	YES	0.8	0
77	14185	4/1/2005	SHEEP CREEK - trib South FK Salmon R.	YES	0.9	0
77	14197	4/1/2005	SHEEP CREEK - trib Middle FK Salmon R.	YES	0.5	0
77	14196	4/1/2005	SILVER CREEK	YES	1.1	0
77	14177	4/1/2005	SMITH CREEK	YES	0.4	0
77	14193	4/1/2005	SUGAR CREEK	YES	0.3	0
77	14208	4/1/2005	SULPHUR CREEK	YES	1.2	0
77	14189	4/1/2005	TAMARACK CREEK	YES	0.3	0
77	14206	4/1/2005	WARM LAKE CREEK	YES	0.4	0
77	14169	4/1/2005	WIND RIVER	YES	0.9	0

DCMI APPL OK, NON-DCMI APPL OK WITHIN ALLOWABLE PARAMETERS. SEE "PROCEDURE" BELOW.

PROCEDURE: DCMI APPL ok for all msf rights in Bs 77 as noted in review memo. **NON-DCMI CONSUMPTIVE USE APPL:** See if within drainage with msf right. For that msf right, if column G (last) is less than column F (2nd to last), ok to process appl. Note in review memo that senior msf right will be subordinate to junior application under the future non-dcmi clause. Do not need to repeat for msf rights downstream from the msf right you are actively checking since the downstream future non-dcmi rates are higher for those bigger sources. Satisfying the smaller upstream rate test satisfies the larger downstream rate test. For the msf right you are actively checking, if column G (last) is equal to or greater than column F (2nd to last), consult supervisor for next step.

EXAMPLE: Appl 77-14234 for 0.14 cfs irrigation, future non-dcmi consumptive use, unnamed streams trib to Johnson Creek. Johnson Creek msf right with 4/1/2005 priority is subordinate to 4.1 cfs future non-dcmi use, zero approved since 4/1/2005. Process appl and note review memo that senior msf rights will be subordinated to this junior application. Updates to this spreadsheet will eventually show 0.14 of the 4.1 future non-dcmi cfs has been approved for Johnson Creek.

* 77-14174 - from confluence w/ E. FK. S. FK.
- to mouth of S. FK, Copenhagen Subd.
in that reach

Copenhaver Subd - 23N 8E Sec. 6 - South Fk. Salmon River Active Records - December 2009

Basin	Sequence	Basin	Priority Date	Rate(cfs)	Water Use(s)	Source Table	Notes
77	14323	Appl	7/30/2009	0.06	IRRIGATION	DODGE, ROBERT S (Current)	Lots 11-14 & associated part of airstrip, n/a to Assn #1 & # 2 appls below
77	14327	Appl	9/9/2009	0.2	IRRIGATION	COPENHAVER WATER USERS ASSN #1 (Current)	Lots 1-9 & associated part of airstrip etc.
77	14328	Appl	9/10/2009	0.2	IRRIGATION	COPENHAVER WATER USERS ASSN #2 (Current)	Lots 15-23 & associated part of airstrip etc.
77	7359	License	6/30/1997	0.04	DOMESTIC	HOWARD, BRIAN M (Current)	Lots 9 & 10, 50% (lot 9) replaced by appl 77-14327
77	7362	License	7/2/1997	0.06	DOMESTIC	DODGE, ROBERT S (Current)	Lots 12-14 n/a to appls 77-14327 & 77-14328
77	7372	License	6/12/1998	0.04	DOMESTIC	MC CAULEY, JERRY (Current); MC CAULEY, ROBIN (Current)	Lot 1, use to be replaced by appl 77-14327
77	7382	Permit	10/8/1999	0.04	DOMESTIC	PYLE, BARBARA G (Current)	Lot 18, use to be replaced by appl 77-14328
77	7386	Permit	2/2/2005	0.04	DOMESTIC	DORRIS, MICHAEL R (Current)	Lot 19, use to be replaced by appl 77-14328
77	14162	Permit	9/3/2004	0.02	DOMESTIC	DEWEY, CHRISTINE (Current); DEWEY, DAVID (Current)	Lot 16, use to be replaced by appl 77-14328
77	14221	Permit	10/4/2005	0.04	DOMESTIC	ROBINSON, CINDY (Current); ROBINSON, JERRY (Current)	Lot 15, use to be replaced by appl 77-14328
77	14223	Permit	8/31/2005	0.04	DOMESTIC	WRIGHT, STEVE M (Current)	Lot 4, use to be replaced by appl 77-14327
77	14272	Permit	12/1/2005	0.04	DOMESTIC	HOWARD, BRIAN M (Current)	Lot 9, use to be replaced by appl 77-14327
77	14274	Permit	2/22/2007	0.04	DOMESTIC	GESTRIN, SHERI J (Current); GESTRIN, TERRY F (Current)	Lots 20-21, use to be replaced by appl 77-14328

"Replacement" noted below does not meet replacement definition in Wild & Scenic right 77-11941

Domestic use from above (0.14 cfs) to be replaced by Assn #1 appl 77-14327

Domestic use from above (0.18 cfs) to be replaced by Assn #2 appl 77-14328