

MEMORANDUM

Date: October 20, 2005
To: Water Right File 45-13852
From: cskinner
Re: Minimum flow and measuring device requirement

During review of this application, the question was raised if whether or not a minimum flow requirement for Marsh Creek should be required as a condition of the permit if the application is approved. The typical reason for requiring a minimum flow to remain in the creek between the diversion and return back to the creek is to allow for fish passage in the stream. However, in this particular case, an existing rating structure exists in the stretch of the stream between the proposed diversion and return point. This rating structure is an existing fish barrier and the water use proposed by this application will actually allow fish passage around the existing fish barrier in Marsh Creek. The applicant's intent is to divert all of Marsh Creek, up to 30 cfs, through the diversion and system (ponds) proposed by this application. If flows in the creek exceed 30 cfs, the amount of water above and beyond 30 cfs will flow down the original Marsh Creek channel.

There was also discussion regarding the location of measuring devices for the proposed permit. The Department recently approved permit 45-13897 involving water storage at a reservoir (Point of Rock Dam) directly downstream of the development proposed by this application. Typically this type of storage would require condition 18C (upstream and downstream measuring devices) in a water district. However, Allen Merritt and I discussed the need for this condition with Gary Spackman and it was determined that due to the location of the reservoir on Marsh Creek without other users below, it did not appear warranted to require upstream and downstream measuring devices as a condition of approval. Therefore, for permit 45-13852, it is recommended that only a measuring device at the proposed diversion be installed and that a measuring device at the return point back to the original Marsh Creek channel not be installed.