

MEMORANDUM

September 23, 2024

Water Right: 21-13204

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Subject: Clarification of Source

US Forest Service filed Application for Permit 21-13204 on June 14, 2016. The application listed the proposed source as Overland Flow tributary to Fall River. The application stated that Thompson Hole is a natural wetland. In the past, there was a dam built at the outlet to Fall River, expanding the size of the wetland and the volume of water held in the Thompson Hole area. At some point, the dam was breached. Application 21-13204 proposed to restore the dam and resume holding additional water in Thompson Hole for wildlife habitat. Public notice described the source as Overland Flow tributary to Fall River. No protests were filed against the application.

During the licensing field exam, the examiner observed a distinct stream channel flowing into the pond and a similar channel below the dam and pond. The USGS stream stats tool also shows a stream channel through the Thompson Hole pond. The scope of the water right is still consistent with the application and public notice. The Thompson Hole dam captures the water upstream of the dam, whether that is overland flow or, as observed by the field examiner, flows through a defined stream channel. Because the public notice stated that the water was tributary to Fall River, water users with water rights on Fall River had an opportunity to protest when the application was published. Permit 21-13204 included conditions stating that the use water within Water District 1 and that the diversion was subject to regulation by the watermaster.

Recent decisions by the Department suggest that the Department cannot issue water rights for diffused surface water (overland flow). The proper source name should be Unnamed Stream tributary to Fall River. This clarification of source does not require re-advertisement because the water captured and its connection to Fall River was adequately described in the original public notice.