

**Chapter 173-546 WAC**

**WATER RESOURCES MANAGEMENT  
PROGRAM--ENTIAT RIVER BASIN WATER  
RESOURCE INVENTORY AREA (WRIA) 46**

**Last Update: 8/3/05**

**WAC**

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**WAC 173-546-010 General provisions--Authority and applicability.** (1) This chapter is adopted under the authority of the Watershed Planning Act (chapter 90.82 RCW), Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Water resource management (chapter 90.42 RCW), Regulation of public ground waters (chapter 90.44 RCW) and the Water resources management program rule (chapter 173-500 WAC).

(2) This chapter, including any subsequent additions and amendments, applies to all surface waters in the Entiat River basin, and all ground water hydraulically connected with those surface waters.

(3) This chapter shall not affect existing water rights, including perfected riparian rights, federal Indian and non-Indian reserved rights, or other appropriative rights existing on the effective date of this chapter, unless otherwise provided for in the conditions of the water right in question.

(4) This chapter does not limit the department's authority to establish flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-010, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-020 Purpose.** (1) In enacting this chapter, the department uses the Entiat watershed plan as the framework for making future water resource decisions for the Entiat watershed, per RCW 90.82.130. The plan recommendations were approved by the Entiat watershed planning unit, a group composed of a broad base of water use interests, and also by Chelan County officials. The

plan recommendations are therefore considered an expression of the public interest.

(2) The chapter creates a reservation for future uses that is senior to the instream flows set in WAC 173-546-050.

(3) This chapter sets forth the department's policies to guide the protection, use and management of Entiat River basin surface water and interrelated ground water resources. It protects existing water rights, establishes instream flows, and sets forth a program for the administration of future water allocation and use.

(4) The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Entiat River basin with the instream flows and levels necessary to protect and preserve wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, navigational values, and stock watering requirements.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-020, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-030 Definitions.** For the purposes of this chapter, the following definitions shall be used:

(1) **"Allocation"** means the designation of specific amounts of water for specific beneficial uses.

(2) **"Appropriation"** means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with the requirements of the ground and surface water codes and other applicable water resource statutes.

(3) **"Beneficial uses"** means uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

(4) **"Commercial agriculture"** means uses related to commercial orchards and vineyards, and commercial livestock and farming operations.

(5) **"Commercial/light industrial"** means a water supply for use by small businesses and commercial users. It also refers to the "value added" uses associated with agriculture, as defined by the Chelan County Code, Ch. 11.04.010, or any subsequent amendments. A "value added operation" means any activity or process that allows farmers to retain ownership and that alters the original agricultural product or commodity for the purpose of gaining a marketing advantage.

(6) **"Consumptive use"** means a use of water that reduces the amount of water in the water source.

(7) **"Department"** means the Washington state department of ecology.

(8) **"Domestic water use"** means, for the purposes of this

chapter, use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses. Stock watering is also included in this category. Stock watering uses must be consistent with the Chelan County Code, Section 11.88.030 or any subsequent amendments. It does not apply to feed lots and other activities which are not related to normal grazing land uses.

(9) **"Existing water right"** includes perfected riparian rights, federal Indian and non-Indian reserved rights or other appropriative rights.

(10) **"Hydraulic continuity"** means the interrelation between ground water (water beneath land surfaces or surface water bodies) and surface water (water above ground, such as lakes and streams).

(11) **"Instream flow"** as used in this chapter, has the same meaning as a minimum instream flow under chapter 90.82 RCW, a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW and an administrative flow in the Entiat watershed plan.

(12) **"Nonconsumptive use"** means a use of water that does not reduce the amount of water in the water source.

(13) **"Plan"** or **"watershed plan"** means the Entiat water resource inventory area (WRIA) management plan, approved by the Entiat WRIA planning unit on May 17, 2004, and by the Chelan County commissioners on September 13, 2004.

(14) **"Planning unit"** means the Entiat water resource inventory area (WRIA) planning unit (EWPU), or a successor which is mutually agreed upon by the EWPU. The planning unit was established in 1998 in accordance with chapter 90.82 RCW, Watershed Planning Act. The EWPU presently consists of the landowner steering committee, the Yakama Nation, a technical assistance group, and other interested stakeholders.

(15) **"Public water system"** means any system providing water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence or a system with four or fewer connections all of which serve residences on the same farm. (Consistent with WAC 246-290-020; any subsequent amendments to WAC 246-290-020 will be incorporated by reference.)

(16) **"Reservation"** means an allocation of water set aside for future domestic, stock watering, agricultural, commercial and industrial beneficial uses. For the purposes of this chapter, the priority date of the reservation is senior to the instream flows set in WAC 173-546-050. "Reservation" is the same as "reserved water" in the Entiat WRIA management plan.

(17) **"Stream management unit"** means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular use, action, instream flow level or reserve of water applies. Each of these units contains a control station. A map of the control points is included in this chapter (WAC 173-546-150).

(18) **"Withdrawal"** means the appropriation or use of ground water or surface water.

(19) **"WRIA"** means water resource inventory area. This term can be used interchangeably with "basin" and "watershed."

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-030, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-040 Establishment of stream management units.** The department hereby establishes the following stream management units. The boundaries of the management units are shown on the map in WAC 173-546-150.

**Stream Management Unit Information**

<b>Stream Management Unit Name Control Station Gauge #</b>	<b>Control Station by River Mile (RM); Section, Township and Range; Latitude (Lat.) and Longitude (Long.); Hydrologic Unit Code (HUC)</b>	<b>Stream Management Reach Description</b>
USGS Gauge #12452990 Entiat River near Entiat, WA. ("Keystone Gauge") (Lower Entiat)	River Mile 1.4	From the confluence of the Entiat and Columbia rivers to the terminal glacial moraine at RM 16.2, including all tributaries except the Mad River.
	Sec. 18, T.25 N., R.21 E.W.M.	
	Lat. 47°39'48"	
	Long. 120°14'58" NAD 27	
	HUC 17020010	
USGS Gauge #12452800 Entiat River near Ardenvoir, WA (Upper Entiat)	River Mile 18	From the terminal glacial moraine at RM 16.2, to the Entiat River headwaters, including all tributaries.
	Sec. 27, T.27 N., R.19 E.W.M.	
	Lat. 47°49'07"	
	Long. 120°25'19" NAD 27	
	HUC 17020010	
USGS Gauge #12452890, Mad River at Ardenvoir	River Mile 0.35	From the confluence of the Mad River with the Entiat River to the Mad River headwaters, including all tributaries.
	Sec.19, T.26, R.20 E.W.M.	
	Lat. 47°44'13"	
	Long. 120°22'03" NAD 27	
	HUC 17020010	

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-040, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-050 Establishment of instream flows.** (1) The instream flows established in this chapter are based on the recommendations of the Entiat planning unit and public input received during the rule-making process. These instream flows are established in accordance with RCW 90.82.080, and are necessary to meet the water resource management and ecosystem maintenance objectives of the Entiat watershed plan. Instream flows can serve to protect senior water rights.

(2) Instream flows established in this chapter protect stream flows from future withdrawals, and preserve flow levels that are necessary to protect wildlife, fish, water quality, scenic, aesthetic and other environmental values, navigational values, and stock watering requirements. In addition to protecting instream resources, instream flows serve to protect senior water rights.

(3) Instream flows established here are water rights. In accordance with RCW 90.82.080 (2)(a), the planning unit determined by unanimous vote that the priority date of the instream flows is the effective date of this chapter.

(4) All water rights established after the priority date of the instream flows, and not covered under the reservation, are expressly subject to these instream flows. Water rights junior to the instream flow may be exercised when flow or ground water conditions will provide enough water to satisfy senior rights, including the instream flows. Withdrawals of water which would conflict with instream flows shall be authorized only in situations where it is clear that the overriding considerations of the public interest will be served.

(5) The reservation of water established in WAC 173-546-070 will have a priority date senior to the instream flows. Full use of the reservation will not diminish the protective levels established by the instream flows in WAC 173-546-050, and is necessary to meet the water resource management and ecosystem maintenance objectives under chapters 90.82 and 90.54 RCW.

(6) Instream flows are expressed in cubic feet per second (cfs). Instream flows are measured at the control stations identified in WAC 173-546-040.

(7) Instream flows are established for the stream management units in WAC 173-546-040, as follows:

**Instream Flows in the Entiat River Basin**  
(cubic feet per second)

<b>Month</b>	<b>Days</b>	<b>USGS Gauge #12452990</b>	<b>USGS Gauge #12452800</b>	<b>USGS Gauge #12452890</b>
		<b>Lower Entiat nr. Entiat, RM 1.4</b>	<b>Upper Entiat nr. Ardenvoir, RM 18</b>	<b>Mad River at Ardenvoir RM 0.35</b>
January	1-31	185	175	32
February	1-29	185	175	32
March	1-15	185	175	32
	16-31	250	285	68
April	1-15	250	325	100
	16-30	350	375	100
May	1-15	474	375	100
	16-31	720	375	100
June	1-15	898	325	100
	16-30	617	325	100
July	1-15	359	275	68
	16-31	268	275	68
August	1-15	185	275	68
	16-31	185	275	51

Month	Days	USGS Gauge #12452990	USGS Gauge #12452800	USGS Gauge #12452890
		Lower Entiat nr. Entiat, RM 1.4	Upper Entiat nr. Ardenvoir, RM 18	Mad River at Ardenvoir RM 0.35
September	1-30	185	175	32
October	1-31	185	175	32
November	1-30	185	175	32
December	1-31	185	175	32

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-050, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-060 Lakes and ponds.** In accordance with RCW 90.54.020(3), lakes and ponds in the Entiat watershed shall be retained substantially in their natural condition, including those in the Wenatchee National Forest.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-060, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-070 Reservation of water for specific future uses.** (1) Using the watershed plan as a primary expression of public interest, and consistent with the authority under RCW 90.54.050(1) and 90.82.130(4), the department determines that there is water available, and hereby reserves an amount of surface and ground water, up to five cubic feet per second (5 cfs), for specific future beneficial uses.

(a) The priority date for uses under the reservation is the effective date of this chapter.

(b) The reservation is not subject to the instream flows established in WAC 173-546-050.

(c) Beneficial uses eligible for the reservation include domestic, stock watering, commercial agriculture, and commercial/light industrial uses, consistent with the recommendations of the planning unit and the framework established by the Entiat watershed plan. The 5 cfs of reserved water use will be monitored at the USGS Gauge No. 12452990 (Entiat near Entiat, river mile 1.4), identified in the watershed plan as the "Keystone" gauge. Allocation of water from the reservation will be made as follows.

(2) Domestic and stock watering. The department may allocate up to 1 cfs for these uses. This amount is available for appropriation anywhere within the Entiat River basin.

(a) Outdoor irrigation. The department may allocate water for up to one-half acre of lawn or noncommercial garden from the domestic and stock watering reserve.

(3) Commercial agriculture. The department may allocate up to 3 cfs for these uses. This amount is available for

appropriation only in the Lower Entiat stream management unit as identified in WAC 173-546-040, generally being within the lower 16.2 river miles of the Entiat River watershed, and downstream of the area known as the "Stillwater" reach.

(4) Commercial and light industrial uses. The department may allocate up to 1 cfs for these uses. This amount is available for appropriation only in the Lower Entiat stream management unit as identified in WAC 173-546-040, generally being within the lower 16.2 river miles of the Entiat River watershed, and downstream of the area known as the "Stillwater" reach.

(5) A water right permit issued from the reserve must be consistent with the requirements of RCW 90.03.290.

(6) All water uses from the reserve must be implemented using water use efficiency and conservation practices, consistent with the watershed plan.

(7) This reservation of water shall only be put to beneficial use within the stream management units defined by this chapter. Applications for the withdrawal of water for purposes outside of the stream management units defined in this chapter shall be denied by the department.

(8) A record of all withdrawals from the reservation shall be maintained by the department. For accounting purposes, the department shall use the assumptions and estimates outlined in the plan, which include:

(a) In-house domestic uses: A per capita net use of thirty-five gallons per day.

(b) Outdoor irrigation shall be consistent with the guidelines in Tables 4-14 and 4-15 (below), and with other relevant information as it becomes available.

(c) Commercial agriculture: The consumptive amount of the beneficial use shall be consistent with the crop irrigation requirement specified in Tables 4-14 and 4-15 (below), and with other relevant information as it becomes available. The consumptive amount shall also be consistent, when appropriate, with any amount of conveyance water made unavailable to the river through irrigation bypass.

**Table 4-14. Monthly tree water use<sup>1</sup>(ac-in) at WSU Tree Fruit Research Center, 1972-2002.**

YEAR	APR	MAY	JUN	JUL	AUG	SEP	OCT <sup>2</sup>	SEASON TOTAL
1972	2.03	5.18	7.47	9.20	8.03	4.43	2.00	38.34
1973	2.28	5.40	9.22	11.48	9.80	4.60	2.00	44.78
1974	1.74	4.57	8.69	9.21	8.95	5.21	2.00	40.37
1975	1.72	5.26	8.33	10.49	8.88	4.66	2.00	41.34
1976	1.84	2.82	7.86	10.04	6.71	4.84	2.00	36.11
1977	1.69	4.49	6.67	8.32	5.43	4.32	2.00	32.92
1978	1.92	5.18	8.07	10.20	8.25	4.63	2.00	40.25
1979	2.10	3.78	8.11	9.45	8.31	3.28	2.00	37.03
1980	1.66	4.52	6.25	9.72	7.06	3.61	2.00	34.82
1981	1.61	4.26	6.19	8.53	7.63	3.76	2.00	33.98
1982	1.61	4.60	7.18	8.06	6.74	3.22	2.00	33.41
1983	1.44	5.20	6.66	7.18	6.53	3.89	2.00	32.90

YEAR	APR	MAY	JUN	JUL	AUG	SEP	OCT <sup>2</sup>	SEASON TOTAL
1984	1.47	3.92	6.42	9.86	7.89	3.26	2.00	34.82
1985	1.72	5.18	8.34	10.71	7.93	3.13	2.00	39.01
1986	1.74	4.65	7.69	8.56	7.97	4.08	2.00	36.69
1987	1.88	4.75	7.30	8.28	8.09	4.46	2.00	36.76
1988	1.56	4.22	6.38	10.06	7.57	4.16	2.00	35.95
1989	1.79	4.47	7.65	9.40	7.13	4.43	2.00	36.87
1990	1.78	3.91	6.69	9.39	6.83	4.55	2.00	35.15
1991	1.87	4.21	6.41	10.00	7.42	4.48	2.00	36.39
1992	2.08	6.34	8.58	8.75	7.65	4.22	2.00	39.62
1993	1.10	4.75	6.36	7.46	7.20	3.90	2.00	32.77
1994	1.69	4.74	8.23	12.41	8.53	4.67	2.00	42.27
1995	1.47	5.28	7.90	10.52	7.90	4.66	2.00	39.73
1996	1.53	4.34	8.54	11.02	9.58	4.65	2.00	41.66
1997	1.14	4.27	7.22	9.16	7.30	3.48	2.00	34.57
1998	1.49	3.66	7.81	9.52	8.29	4.75	2.00	37.52
1999	1.60	4.57	8.03	9.31	7.26	4.00	2.00	36.77
2000	1.65	4.38	8.02	9.85	8.56	3.66	2.00	38.12
2001	1.39	4.98	7.06	10.23	7.65	4.35	2.00	37.66
2002	1.49	4.12	7.69	9.83	7.82	3.81	2.00	36.76
<b>MO. AVG. SINCE 1972</b>	1.68	4.58	7.52	9.55	7.77	4.17	2.00	37.27 ac-in

1. Data have already been adjusted using pan evaporation & KC value to approximate orchard tree water use.
  2. The October value of 2 acre-inches was estimated based on miscellaneous October measurements provided by the WSU Tree Fruit Research Center, and conversations with Tim Smith, WSU Cooperative Extension. April through September values are based on data collected by T. Smith.
- \* Note: Actual irrigation rates must be 10 to 40% higher than tree use, depending on irrigation efficiency

(This table is from the watershed plan, based on the *State of Washington Irrigation Guide* and supplemented by Washington State Tree Fruit Research data collected in Wenatchee WA.)

**Table 4-15. Average monthly tree and pasture/turf irrigation water use (ac-in) estimates.**

Description of Value	Apr	May	Jun	Jul	Aug	Sep	Oct	Season (ac-in)
Average tree fruit water use by month, based on 1972-2002 WSU data.	1.68	4.58	7.52	9.55	7.77	4.17	2.00	37.27
Average tree water use by month, with 65% application efficiency.	2.58	7.05	11.57	14.69	11.95	6.42	3.08	57.34
Average Pasture/Turf water use by month (85% of WSU tree fruit water use avg. value).	1.43	3.89	6.39	8.12	6.60	3.54	1.70	31.68
Average Pasture/Turf water use by month, with 65% efficiency.	2.20	5.99	9.83	12.49	10.16	5.45	2.62	48.74

(This table is from the watershed plan, based on the *State of Washington Irrigation Guide* and supplemented by Washington State Tree Fruit Research data collected in Wenatchee WA.)

(d) Commercial and light industrial: The consumptive amount shall be the amount needed for the specific purpose, as determined by the department and/or the Chelan-Douglas health district.

(9) Since all uses from the reserve will have the same priority date, the following will guide water supply decisions in times of water shortage:

(a) Among the three use categories: Domestic and stock-watering uses will be met first, followed by commercial agriculture and finally commercial/light industrial.

(b) Within each use category, the date of first beneficial use will be used. The use with the earliest date will be satisfied first.

(10) The reservation is created in the context of the year 2025 planning horizon of the watershed plan. Future water supplies may also be available concurrently, using alternative water sources such as storage, reuse and conservation (WAC 173-546-100).

(11) The reservation will be evaluated by the department and the Entiat planning unit no less than every five years: 2010, 2015, and 2020. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be implemented by rule, if needed.

(12) The department shall notify both Chelan County and the planning unit or its successor, in writing, when it determines that fifty percent, seventy-five percent, and one hundred percent, respectively, of the reservation is allocated. The department shall also issue a public notice in a newspaper of general circulation for the region at the same three junctures.

(13) The department shall require metering and reporting for permitted surface and ground water allocations from the reservation. If more accurate water use data is needed the department may, after consulting with the EWPU (or its successor) and Chelan County, require metering and reporting for ground water withdrawals otherwise exempted from permit requirements under RCW 90.44.050. Public water system providers will be required to meter.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-070, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-080 Maximum future allocation.** (1)(a) The department determines that there are certain times when there are surface waters above the instream flows, referred to as "high flows." These high flows provide critical ecological functions such as channel and riparian zone maintenance, flushing of sediments, and fish migration. In order to protect the frequency and duration of these higher flows, the department hereby establishes maximum amounts of water/flow that can be withdrawn from specific streams at specific times above the instream flow

levels.

(b) A maximum allocation shall be used to review future applications for beneficial uses from the mainstem Entiat and Mad rivers for the periods and in the amounts specified below:

(i) The maximum allocation from May 1 - June 30 is 100 cfs. Of that 100 cfs, 25 cfs may be allocated from the Mad River.

(ii) For the period of July 1-15, the maximum allocation is 67 cfs from the mainstem Entiat only.

(iii) For the period of April 16-30, the maximum allocation is 25 cfs from the Mad River only.

(iv) For the periods during which it is clear that no water is likely to be available above the instream flows, no maximum allocation amount is indicated.

**Maximum Future Allocation, Entiat River Basin**

<b>Month</b>	<b>Days</b>	<b>Total Maximum Allocation, Mainstem Entiat (in cfs). Measured at USGS Gauge #12452990, Entiat River nr. Entiat, RM 1.4</b>	<b>Portion of Maximum Allocation Available From Mad River (in cfs). Measured at USGS Gauge #12452890, Mad River at Ardenvoir, RM 0.35</b>
January	1-31		
February	1-29		
March	1-31		
April	1-15		
	16-30		25
May	1-15	100	25
	16-31	100	25
June	1-15	100	25
	16-30	100	25
July	1-15	67	
	16-31		
August	1-31		
September	1-30		
October	1-31		
November	1-30		
December	1-31		

(2) The designation of a maximum allocation does not constitute a determination that water is available, as defined in RCW 90.03.290. A determination of water availability requires the application of four tests: Water is available; the use will not impair senior rights; water will be put to beneficial use; and the use is not detrimental to the public interest.

Establishment of a water right from the allocation occurs after proper authorization from the department and after the water is first put to beneficial use. The water rights are subject to the instream flows established in WAC 173-546-050, and other provisions established in statutory, administrative and case law.

(3) The department shall require the metering and reporting of all permitted surface and ground water withdrawals from the maximum allocation.

(4) The department will maintain a record of the amount of water allocated from the Entiat and Mad Rivers. If the maximum

amounts are fully appropriated, the department shall notify Chelan County and the planning unit or its successor, in writing. The department shall also issue a public notice in a newspaper of general circulation for the region.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-080, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-090 Future permitting actions.** (1) Surface and ground water permits not subject to the instream flows established in WAC 173-546-050 may be issued if:

(a) The proposed use is nonconsumptive, and compatible with the intent of this chapter.

(b) The water use qualifies for the reservation established in WAC 173-546-070.

(2)(a) Future applications for surface waters that are not part of the reserve established in WAC 173-546-070 may be approved subject to the instream flows established in WAC 173-546-050 and the maximum water allocation limits established in WAC 173-546-080.

(b) Future applications for ground waters that are not part of the reservation established in WAC 173-546-070 may be approved subject to the instream flows established in WAC 173-546-050 and the maximum water allocation limits established in WAC 173-546-080. Based upon the findings in the watershed plan, the department determines that there is hydraulic continuity between surface water and ground water sources within both the Lower and Upper Entiat River management units established in WAC 173-546-040. Therefore, water rights shall be issued for ground water only if the department determines that the withdrawal of ground water with proposed mitigation in place would not interfere with or impair the instream flows or the maximum water allocation.

(3) No right to withdraw or store the public surface or ground waters of the Entiat River basin that conflict with the provisions of this chapter will hereafter be granted, except in cases where such rights will clearly serve overriding considerations of the public interest, as stated in RCW 90.54.020 (3)(a).

(4) All future surface and ground water permit holders shall be required to install and maintain measuring devices and report the data to the department in accordance with permit requirements. In addition, the department may require the permit holder to monitor stream flows and ground water levels.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-090, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-100 Alternative sources of water.** (1) The legislature, in enacting chapter 90.82 RCW, required that strategies for increasing water supplies must be developed as

part of the watershed plans. Such strategies may also be implemented through the watershed planning process. WAC 173-546-070 provides a limited reservation of water for specific new uses in the Entiat River basin. However, the ongoing need for reliable sources of new water continues. This need dictates the continued development and use of alternative sources of water, such as:

- Multipurpose water storage facilities;
- Conservation and efficiency measures applied to existing uses and the transfer of saved water; and
- Acquisition, leasing, establishment of a trust water rights program (including water banking).

(2) Alternative sources of water of equal or better quality than the proposed source can be used to improve stream flows for fish, offset impacts of withdrawals on stream flows and provide sources of water for future out-of-stream uses.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-100, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-110 Future changes and transfers.** No changes to, or transfers of, existing surface and ground water rights in the Entiat River basin shall hereafter be granted if they conflict with the purpose of this chapter. Any change or transfer proposal can be approved only if there is a finding that existing rights, including the instream flows established in WAC 173-546-050, will not be impaired.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-110, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-120 Compliance and enforcement.** (1) To obtain compliance with this chapter the department, with assistance from Chelan County, the planning unit or its successor and partners, shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter to the public. This is intended to assist the public in complying with the requirements of their water rights and applicable water laws.

(2) When the department determines that a violation has occurred, it shall first attempt to achieve voluntary compliance. An approach to achieving this is to offer information and technical assistance to the person, in writing, identifying one or more means to accomplish the person's purposes within the framework of the law.

(3) To obtain compliance and enforce this chapter, the department may impose such sanctions as appropriate under authorities vested in it, including, but not limited to, issuing regulatory orders under RCW 43.27A.190; and imposing civil penalties under RCW 43.83B.336, 90.03.400, 90.03.410, 90.03.600,

90.44.120 and 90.44.130.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-120, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-130 Appeals.** All final written decisions of the department pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter can be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

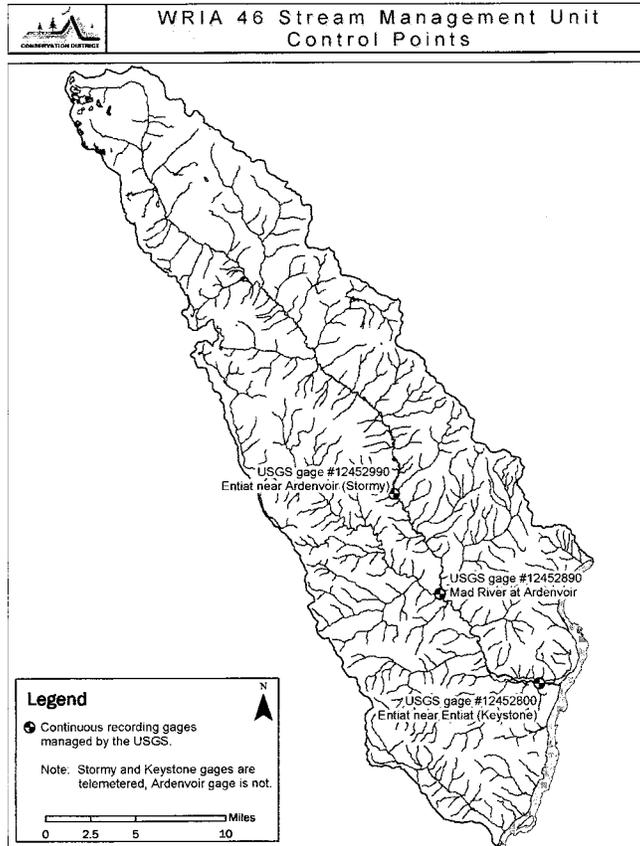
[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-130, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-140 Regulation review.** Review of this chapter may be initiated by the department whenever significant new information is available, a significant change in conditions occurs, statutory changes are enacted that are determined by the department to require review of the chapter, or if modifications are necessary based on the review described in WAC 173-546-070. Chelan County, the planning unit, or other interested citizens with standing may request that the department initiate a review at any time. If the department initiates a review, it will consult with Chelan County and the planning unit or its successor. If necessary, the department will modify the appropriate provisions of this chapter by rule.

The reservation will be evaluated by the department and the Entiat planning unit no less than every five years: 2010, 2015, and 2020. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be implemented by rule, if needed.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-140, filed 8/3/05, effective 9/3/05.]

**WAC 173-546-150 Map.** For the purposes of administering this chapter, the boundaries of the Entiat River basin identified in the figure below are presumed to accurately reflect the basin hydrology.



[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-150, filed 8/3/05, effective 9/3/05.]