

State of Washington
 Department of Ecology
TEMPORARY CHANGE
AUTHORIZATION CG3-21081C(A)
For 2014 Season Only

File NR: CG3-21081C(A)
 WR Doc ID: 6047450

Added Points of Withdrawal

PRIORITY DATE May 3, 1973	WATER RIGHT NUMBER G3-21081C(A)
MAILING ADDRESS OKANOGAN COUNTY PUBLIC WORKS DEPT 1234-A 2ND AVE S OKANOGAN WA 98840-9723	SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal or Diversion		
DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.17	CFS	22.5

Purpose			
PURPOSE	DIVERSION RATE (CFS)	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (mm/dd)
Municipal use for the purpose of roadway maintenance activities.	0.17	22.5	01/01 - 12/31

22.5 acre feet per year in the monthly quantities stated below.

Month	Acre-feet/Month
April	1.5
May	1.5
June	3.0
July	5.0
August	5.5
September	4.0
October	2.0
Total	22.5

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Source Location

SOURCE NAME	TWP	RNG	SEC	QQ Q	COUNTY	WATER RESOURCE INVENTORY AREA
1) OKANOGAN RIVER	32N	25E	20	W½NW¼	OKANOGAN	49 - OKANOGAN
2) OKANOGAN RIVER	32N	25E	31	E½NE¼	OKANOGAN	49 - OKANOGAN
3) OKANOGAN RIVER	31N	25E	34	NW¼SE¼	OKANOGAN	49 - OKANOGAN
4) COLUMBIA RIVER	30N	23E	36	SW¼NE¼	OKANOGAN	48 - METHOW

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- 1) **Parcel No. 2325200005**
Okanogan River.
- 2) **Parcel No. 3225310016**
Okanogan River.
- 3) **County Right of Way**
Okanogan River: on the Monse River Road at the west end of the Monse Bridge.
- 4) **Parcel No. 2180010000**
Columbia River: at the east end of Lakeshore Drive in Pateros, Washington.

AND multiple points of diversion between the point of diversion authorized within the W½NW¼ of Section 20, T. 32 N., R. 25 E.W.M., and the point authorized within the SW¼NE¼ of Section 36, T. 30 N., R. 23 E.W.M., accessible by 4,000 gallon county owned water trucks with approved portable fish screens installed.

Place of Use (See Attached Map)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

County roads and constructions sights within Okanogan County.

Proposed Works

Water will be withdrawn from the Okanogan River and Wells Pool of the Columbia River and transported in water trucks throughout Okanogan County to be used for dust control and soil compaction during county road construction, maintenance projects, and other county road related activities. To avoid exceeding the 76 gallons per minute pumping limit, the trucks may need to fill from above ground storage tanks.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	END OF TEMPORARY USE
N/A	N/A	October 1, 2014

Measurement of Water Use

How often must water use be measured?	Monthly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or cfs)

Provisions

General

The four points of diversion listed above (**SOURCE LOCATION**) represent permanent points of diversions authorized under CG3-21081C(A), any other point of diversion under this authorization shall be temporary and accessed only by the Okanogan County Public Work's water trucks or existing diversions authorized under an existing water right with the explicit permission of the water right owner.

Okanogan County Public Works shall maintain a daily log of the number of trucks filled under this authorization. An annual report that summarizes daily water use shall be submitted and to Ecology by January 31st of each calendar year. If Okanogan County Public Works acquires permission, from an existing water user, to use an existing point of diversion, then the log shall note:

- The name of the water user.
- The Water Right Number authorizing the existing point of diversion.
- The number of trucks filled from the existing point of diversion.

Okanogan County Public Works will notify the Water Master 24 hours prior to diverting from a new location with the water trucks.

Easement and Right-of-Way

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a temporary water right change authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.

Department of Fish and Wildlife Requirement(s)

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). If you have questions about screening criteria, contact the Department of Fish and Wildlife at:

Department of Fish and Wildlife
Attention: Habitat Program
600 Capitol Way N
Olympia, WA 98501-1091

Phone: (360) 902-2534
Email: habitatprogram@dfw.wa.gov
Website:
<http://wdfw.wa.gov/conservation/habitat/planning/screening/>

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. CG3-21081C(A), subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by chapter 43.21B RCW and chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in chapter 43.21B RCW and chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Pollution Control Hearings Board
1111 Israel RD SW Ste 301
Tumwater, WA 98501

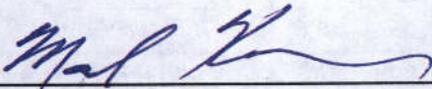
Mailing Addresses

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leq.wa.gov/CodeReviser>

Signed at Yakima, Washington, this 12 day of JUNE, 2014.



Mark Kemner, LHG, Section Manager
Water Resources Program/CRO

If you need this document in a format for the visually impaired, call the Water Resources Program at 509-575-2490. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

INVESTIGATOR'S REPORT

Scott Turner, Department of Ecology

Water Right Control Number CG3-21081C(A)

Application submitted by Okanogan County Public Works

BACKGROUND

This report serves as the written findings of fact concerning Water Right Change Application No. CG3-21081C(A), requesting a temporary change to add multiple points of diversion only for the 2014 season.

EXISTING Water Right Attributes Under Change Authorization CS4-21081C(A)

Water Right Owner:	Okanogan County Public Works
Priority Date:	May 3, 1973
Place of Use	County roads and construction sites within Okanogan County

County	Waterbody	Tributary To	WRIA
Okanogan	Columbia & Okanogan	Pacific Ocean	49-OKANOGAN/48-METHOW

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Municipal Supply	0.17	cfs	22.5	April 1	October 1

Source Name	Twp	Rng	Sec	QQ Q	County	Water Resource Inventory Area
OKANOGAN RIVER	32N	25E	20	W½NW¼	OKANOGAN	49 - OKANOGAN
OKANOGAN RIVER	32N	25E	31	E½NE¼	OKANOGAN	49 - OKANOGAN
OKANOGAN RIVER	31N	25E	34	NW¼SE¼	OKANOGAN	49 - OKANOGAN
COLUMBIA RIVER	30N	23E	36	SW¼NE¼	OKANOGAN	48 - METHOW

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section.

REQUESTED Water Right Attributes

Applicant Name:	Okanogan County Public Works
Date of Application:	December 16, 2013
Place of Use	County roads and construction sites within Okanogan County

County	Waterbody	Tributary To	WRIA
Okanogan	Columbia & Okanogan	Pacific Ocean	49-OKANOGAN/48-METHOW

Purpose	Rate	Unit	Acre-feet/yr	Begin Season	End Season
Irrigation of 140 acres	3.2	CFS	685.3	April 1	October 31

Source Name	Twp	Rng	Sec	QQ Q	County	Water Resource Inventory Area
OKANOGAN RIVER	32N	25E	20	W½NW¼	OKANOGAN	49 - OKANOGAN
OKANOGAN RIVER	32N	25E	31	E½NE¼	OKANOGAN	49 - OKANOGAN
OKANOGAN RIVER	31N	25E	34	NW¼SE¼	OKANOGAN	49 - OKANOGAN
COLUMBIA RIVER	30N	23E	36	SW¼NE¼	OKANOGAN	48 - METHOW

AND multiple points of diversion between the point of diversion authorized within the W½NW¼ of Section 20, T. 32 N., R. 25 E.W.M., and the point authorized within the SW¼NE¼ of Section 36, T. 30 N., R. 23 E.W.M., accessible by 4,000 gallon county owned water trucks with approved portable fish screens installed.

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section.

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the proposed temporary change in Place of Use.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Omak-Okanogan Chronicle on April 2, 2014 and April 9, 2014.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e. an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met:

- (a) It is a surface water right application for more than 1 cubic foot per second (cfs), unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cfs, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute (gpm);
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g. the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights. RCW 90.03.390 states "RCW 90.03.380 shall not be construed to prevent water users from making a seasonal or temporary change of point of diversion or place of use of water when such change can be made without detriment to existing rights, but in no case shall such change be made without the permission of the water master of the district in which such proposed change is located, or of the department."

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB and Okanogan Wilderness League v. Town of Twisp*.

INVESTIGATION

This temporary change application, submitted on December 16, 2013, was assigned the tracking number CG3-21081C(A). The applicant proposes to add multiple points of diversion, within the authorized POU, for the 2014 season only.

History of Water Use

On May 5, 2010, The Department of Ecology (Ecology) issued change authorization CG3-21081C@2 which split the original Ground Water Right held by Bryan and Christy Boesel (the Boesel's) and transferred a portion to Okanogan County of Public Works (Okanogan PW). The Boesel's retained their portion of the right for the irrigation of 10 acres from a well and Okanogan PW changed the portion they purchased from irrigation to municipal supply for the road construction throughout the county and added four (4) point of diversion from the Okanogan and Columbia Rivers. At these points they would fill up 4,000 gallon water trucks for various road projects throughout the county. Okanogan PW portion of the water right is 0.17 cfs and 22.5 acre-feet per year (consumptive).

Over the past few years it has become increasingly difficult and cost prohibitive to use only four points of diversion for projects scattered throughout the county. County truck operators must drive long distances when road projects are many miles from an authorized point of diversion. The cost of fuel has become an impediment for these projects when access to the authorized surface water body may be close by. Okanogan PW has request would enable them to divert water from the main stem Okanogan and Columbia River from any point located between the currently authorized points of diversion, provided they:

- Have permission and access to the point on the river.
- Notify Ecology when they are going to use points of diversion other than the four currently authorized under CG3-21081C@2.

Proposed Use

The proposed temporary change is intended for use from the time it is approved to October 1, 2014, and only and proposes a add point of diversion.

Other Rights Appurtenant to the Place of Use

There are many authorized water rights within Okanogan County. This water right is restricted to municipal use for road construction by County Operators.

Impairment Considerations

The proposed additional points of diversion only for the 2014 would take place within the currently authorized place of use. No change in season of use, instantaneous rate or annual quantity is proposed.

Consideration of Protests and Comments

No protests were filed against this application.

CONCLUSIONS

This proposed temporary change in POU for the 2014 irrigation season only meets all legal requirements:

- The application was properly noticed to the public.
- Is exempt from SEPA analysis.
- Involves water applied to beneficial use.
- Would continue to be applied to a beneficial use.
- Is not expected to cause detriment or injury to existing rights.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

For the year 2014 only:

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

0.17 cfs

22.5 acre feet per year in the monthly quantities stated below.

Month	Acre-feet/Month
April	1.5
May	1.5
June	3.0
July	5.0
August	5.5
September	4.0
October	2.0
Total	22.5

Municipal supply for the construction of roads from April 1 to October 31

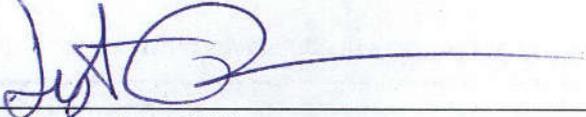
Points of Diversion

Source Name	Twp	Rng	Sec	QQ Q	County	Water Resource Inventory Area
OKANOGAN RIVER	32N	25E	20	W½NW¼	OKANOGAN	49 - OKANOGAN
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Place of Use

County roads and constructions sights within Okanogan County.



 Scott Turner, Report Writer

6-12-14

 Date

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