



**Okanogan County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision**

For Ecology Use Only

Received: _____

DEPT. OF ECOLOGY
Approved

Reviewed by: _____ MAY 09 2008

Date Reviewed: _____

CENTRAL REGION OFFICE

Applicant: **Okanogan County Department of Public Works**

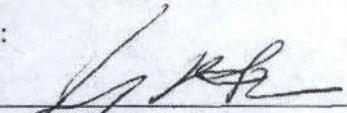
Application Number: **OKAN-07-06**

This record of decision was made by a majority of the board at an open public meeting of the Okanogan County Water Conservancy Board held on May 07, 2008.

Approval: The (board name) Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on May 08, 2008 and submits this record of decision and report of examination to the Department of Ecology for final review.

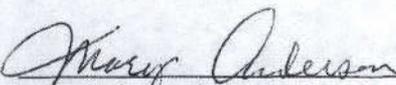
Denial: The (board name) Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on May 08, 2008 and submits this record of decision to the Department of Ecology for final review.

Signed:



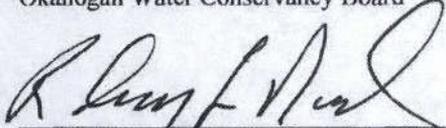
Jeremy D. Titcomb, Chair
Okanogan Water Conservancy Board

Date: 5/7/08 Approve
Deny
Abstain
Recuse
Other



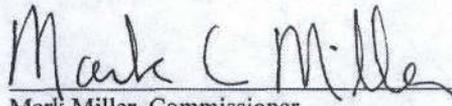
Mary Anderson, Secretary
Okanogan Water Conservancy Board

Date: 5-7-08 Approve
Deny
Abstain
Recuse
Other



Rodney L. Noel, Commissioner
Okanogan Water Conservancy Board

Date: 5-7-08 Approve
Deny
Abstain
Recuse
Other



Mark Miller, Commissioner
Okanogan Water Conservancy Board

Date: 5/7/08 Approve
Deny
Abstain
Recuse
Other

(Name), (Title)
Okanogan Water Conservancy Board

Date: _____ Approve
Deny
Abstain
Recuse
Other

Date Mailed: _____

Board's Decision on the Application

MAXIMUM CUB FT/ SECOND 0.31 cfs	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 12.07 afy	TYPE OF USE, PERIOD OF USE Municipal use for Okanogan County road maintenance and Construction including dust abatement, soil compaction, and occasional roadway landscape irrigation – March 1 to October 31				
SOURCE Similkameen River, Okanogan River, Columbia River			TRIBUTARY OF (IF SURFACE WATER) Okanogan River, Columbia River				
AT A POINT LOCATED:							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY
1. 0990010700	SW	NW	13	40 N	25 E	49	Okanogan
2. 3526250007	NW	SE	25	35 N	26 E	49	Okanogan
3. Okan. Co. ROW	NW	SE	34	31 N	25 E	49	Okanogan
4. 2180010000	SW	NE	36	30 N	23 E	49	Okanogan
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD							
Water will be used throughout Okanogan County Public Works roadway system. Water will be used during road construction and roadway maintenance activities including dust abatement, soil compaction, and roadway landscape irrigation.							
	¼	¼	SECTION	TOWNSHIP N.	RANGE		

DESCRIPTION OF PROPOSED WORKS

The owner intends to establish surficial points of diversion at four (4) locations within a portion of the Okanogan County Public Works Roads service area. The County will use a portable pump to divert water and fill water trucks. Water will be used within the County road system to support road construction and road maintenance including dust abatement, soil and subgrade compaction, and occasional roadway landscape irrigation.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: Within 30 days after Board's ROD issuance	COMPLETE PROJECT BY THIS DATE: 2013	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: 2013
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REPORT

BACKGROUND [See WAC 173-153-130(6)(a)]

The Okanogan County Department of Public Works (OCDPW) intends to acquire water right S4-28099(A)C from Robert Manly and change the use of the water from seasonal irrigation to seasonal public road construction and maintenance. The OCDPW has the sole responsibility to maintain Okanogan County roadways and requires a water supply for the public benefit of public road maintenance. Therefore, the new use will be changed to a municipal water supply purpose following the definition of RCW 90.03.015(4). On October 1, 2007, OCDPW filed an application for change to change the points of diversion, change the purpose of use and change the places of use under water right certificate S4-28099(A)C. The application was accepted at an open public meeting on October 1, 2007, and the board assigned application number OKAN-07-06.

In March 2008, the entire instantaneous and annual quantity of the water right was placed into public trust to benefit instream flow of the Similkameen River from March 6 to October 31, 2008. Ecology acknowledged the acceptance of the donation in a letter dated March 27, 2008. The Trust Water Right was assigned number CS4-28099(A)@1. The trust water right expires on December 31, 2008.

The legal descriptions of the four points of diversion are described above. Figure 1 illustrates the location of the four points of diversion:

Diversion Location 1 – Similkameen River: On the Loomis-Oroville Road at the east end of the bridge crossing the Similkameen River, approximately 1,000 feet downstream of the original point of diversion.

Diversion Location 2 – Okanogan River: At the Riverside Boat Launch in Riverside, Washington.

Diversion Location 3 – Okanogan River: On the Monse River Road at the west end of the Monse Bridge.

Diversion Location 4 – Columbia River: At the east end of Lakeshore Drive on the Columbia River in Pateros, Washington.

Attributes of the water right as currently documented

Name on certificate: Robert Manly

Water right document number: S4-28099(A)C; trust water right S4-28099(A)@1

As modified by certificate of change number: N/A

Priority date, first use: December 15, 1982

Water quantities: Qi: 0.31 cfs Qa: 12.07 acre feet/ year

Source: Similkameen River, tributary of Okanogan River

Point of diversion/withdrawal: 345 feet east and 1,590 feet north from the SW ¼ of Section 13, NW ¼ SW ¼ Sec. 13,

Continued

T 40 N, R 25, EWM

Purpose of use: Irrigation of 7 acres

Period of use: March 1 to October 31

Place of use: Parcels 4025130008, 4025130006, 4025130007, Section 13, NW ¼ SW ¼ Sec. 13, T 40 N, R 25, EWM

Existing provisions:

Chapter 173-549 WAC as adopted in Olympia, Washington, August 14, 1976, and revised effective July 19, 1984, and the general rules of the Washington Department of Ecology as specified under Chapter 173-500 WAC.

Instream flows as established at United States Geological Survey monitoring station 12.4425.00 presented in the table below shall be maintained by regulation of diversions as set forth in said 173-549 WAC.

Instream flow hydrographs as represented in WAC 173-549-900 shall be used for definition of instream flows on those days not specifically identified in WAC 173-549-020(2).

Primary Control Station: Similkameen (Nighthawk)
River Mile: 15.8
Minimum Instream Flows in the Okanogan/Similkameen Rivers
(Instantaneous Rate in Cubic Feet Per Second)

	Lower Okanogan (Malott)	Middle Okanogan (Tonasket)	Upper Okanogan (Oroville)	Similkameen (Nighthawk)
STATION:	12.4472.00 Section 9 T. 32 N. R. 25 E.	12.4450.00 Section 8 T. 36 N. R. 27 E.	12.4395.00 Section 8 T. 36 N. R. 27 E.	12.4425.00 Section 8 T. 36 N. R. 27 E.
RIVER MILE:	(17.0)	(50.8)	(77.3)	(15.8)
Mar 1	880	800	320	425
Mar 15	900	800	320	450
Apr 1	925	910	330	510
Apr 15	1,100	1,070	340	640
May 1	1,750	1,200	350	1,100
May 15	3,800	3,800	500	3,400
Jun 1	3,800	3,800	500	3,400
Jun 15	3,800	3,800	500	3,400
Jul 1	2,100	2,150	420	1,900
Jul 15	1,200	1,200	350	1,070
Aug 1	800	840	320	690
Aug 15	800	600	300	440
Sep 1	620	600	300	400
Sep 15	700	600	300	400
Oct 1	750	730	330	450
Oct 15	960	900	370	500
Nov 1	950	900	370	500

No diversion of water under this authorization shall take place when the stream flow at this station is below the above flows.

Water available under this authorization will not provide a firm supply throughout each irrigation season.

Tentative determination of the water right

The tentative determination is provided on the front page of this report.

History of water use

The Board considered letters by Walter E. Oikari (August 9, 2007) and Okanogan County (August 23, 2007) describing recent historical use of water for irrigation. The Board also considered power records provided by Walter Oikari.

Previous changes

N/A

SEPA

The Board has reviewed the proposed project in its entirety. The Board determined that the project will not have a significant adverse impact on the environment.

Continued

Other

N/A

The information or conclusions in this section were authored and/or developed by Steve Nelson, LHG, on behalf of the OCDPW and OCWCB.

COMMENT AND PROTESTS

Public notice of the application was given in the Okanogan Valley Gazette-Tribune on October 18 and 25, 2007. Protest period ended 30 days after October 30, 2007.

There were no protests received during the 30 day protest period. One written comment was received from Washington Department of Fish and Wildlife (WDFW) in a letter dated October 26, 2007. The WDFW noted that the Similkameen River and/or affected reaches downstream are inhabited by salmonids and other game and non/game species. Consequently, the use of portable pumps to fill water supply trucks requires the OCDPW to obtain a Hydraulics Project Approval (HPA) and to use an intake screen for the diversion. The WDFW generally considers the change as beneficial, as points of diversion will be downstream of the original point of diversion.

The information or conclusions in this section were authored and/or developed by Steve Nelson, LHG, on behalf of the OCDPW and OCWCB.

INVESTIGATION [See WAC 173-153-130(6)(c)]

The following information was obtained from site inspections conducted by Don Motes of OCDPW, the applicant's representative, on October 2007; technical reports; research of department records; and conversations with the applicant and/or other interested parties. (Note: The conservancy Board did not due a site visit, as the Department of Ecology had just finished completing an on site proof exam for the issuing of this certificate.)

- DOE records including correspondence with Robert Manly and water right certificate S4-28099(A)C with a December 15, 1982 priority date.
- Letters by Walter E. Oikari (August 9, 2007) and Okanogan County (August 23, 2007) describing recent historical use of water for irrigation including electrical power records.

Proposed project plans and specifications

OCDPW intends to establish four separate points of diversion to resupply water trucks for County road projects. The points of diversion are accessible by right of way and bridge crossings of the respective water body. The water will be transferred to the water truck by portable pump; no permanent structures will be constructed at the points of diversion.

Other water rights appurtenant to the property (if applicable)

No other water rights are appurtenant to the new points of diversion.

Public Interest (groundwater only)

N/A

Tentative Determination

There is no evidence that any portion of the right has been relinquished or abandoned.

Geologic, Hydrogeologic, or other scientific investigations (if applicable):

The Similkameen and Okanogan Rivers typically attain peak flow during the months of May June and July according to USGS stream gauging records. During low flow years, minimum stream flow may decline below the instream flow setting in the Similkameen and Okanogan Rivers, making the right subject to interruption. The mainstem Columbia River experiences low flow significantly less often (approximately 5 percent of the period of record according to Ecology Water Resources Program staff).

The information or conclusions in this section were authored and/or developed by Steve Nelson, LHG, on behalf of the OCDPW and OCWCB.

CONCLUSIONS [See WAC 173-153-130(6)(d)]

Tentative determination (validity and extent of the right)

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings: The right recently issued by Ecology and the entire certificated right of 12.07 afy at maximum 0.31 cfs for irrigating 7 acres is valid. The historic water use that established the certificated right was 12.07 acre-feet to irrigate 7 acres, or 1.73 acre-feet per acre. This application rate was less than the 2.42 acre-feet per acre irrigation demand for alfalfa near Oroville, indicating a 100% historic consumption of 12.07 acre-feet with no return flow.

RCW 90.03.380(1) states that "a change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right." In this case, the historical annual consumptive quantity is equal to the quantity of water withdrawn all of the water was consumed during irrigation. The entire annual right of 12.07 acre-feet is therefore, available for transfer.

Relinquishment or abandonment concerns

None

Hydraulic analysis

The proposed points of diversion are downstream of the original point of diversion and the change would divert surface water from the same source of water in hydraulic continuity with the Similkameen River. Sufficient water exists to meet all expected demands for road construction. The historic effect of surface water diversion on Similkameen River (and subsequently the Okanogan and Columbia River) flow occurred primarily during the irrigation season (March 1 to October 31) and the change will have less effect on flow in these rivers; the additional points of diversion are downstream of the original point of diversion.

Consideration of comments and protests

N/A

Impairment

No surface water or groundwater right holders would be impacted by this new withdrawal. The maximum rate of diversion (0.31 cfs) at any of the additional points of diversion is too low to impair senior right holders' access to their water right. Diversion at the additional points of diversion will also be subject to interruption during periods of low flow. A higher proportion of water diverted during a low flow year may derive from the Columbia River point of diversion, which less frequently experiences interruptible conditions than would the points of withdrawal at the Similkameen and Okanogan Rivers.

Public Interest

The proposed change would allow a portion of the previously diverted water to remain in the Similkameen, and possibly the Okanogan River down to the additional points of withdrawal. During periods of nonuse, the water would remain in the Similkameen, Okanogan, and Columbia Rivers. The use of the water would benefit public interest through the construction and maintenance of public roads.

Other

N/A

The information or conclusions in this section were authored and/or developed by Steve Nelson, LHG, on behalf of the OCDPW and OCWCB.

DECISION [See WAC 173-153-130(6)(e)]

The historical use of the water right has been established at the maximum allowed in the Certificate, that being 12.07 acre-feet per year (afy) with a maximum withdrawal of 0.31 cubic feet per second (cfs) for the irrigation of 7 acres from March 1 through October 31 and subject to interruption during periods of low instream flow. The proposed use is to divert surface water for use by the OCDPW in road construction projects within Okanogan County. Withdrawal for road construction

Continued

projects during March through October would not exceed the annual maximum withdrawal of 12.07 acre-feet or the maximum instantaneous withdrawal of 0.31 cfs.

The change from irrigation to road construction use is appropriate since it can be done with no detriment to the public interest. The change is subject to interruption during low flow in the river(s).

The proposed additional points of diversion are downstream of the original point of diversion on the Similkameen, Okanogan, and Columbia River, which constitutes the same source of water and thus are not a detriment to the public interest.

The information or conclusions in this section were authored and/or developed by Steve Nelson, LHG, on behalf of the OCDPW and OCWCB.

PROVISIONS [See WAC 173-153-130(6)(f)]

Conditions and limitations

The sum of all diversions shall not exceed 12.07 acre-feet annually. The instantaneous withdrawal rate shall not exceed 0.31 cfs, including when more than one water truck is being filled at the same time.

The volume of water diverted during each event will be recorded for each water truck and the records will be maintained by OCDPW. The OCDPW will track the total withdrawal during the year to prevent exceedance of the annual water right of 12.07 acre-feet. The combined instantaneous intake rate of all water diversions will not exceed 0.31 cfs or 140 gpm.

For Diversions 1, 2 and 3: *This maintenance is subject to the provisions of*
Chapter 173-549 WAC as adopted in Olympia, Washington, August 14, 1976, and revised effective July 19, 1984, and the general rules of the Washington Department of Ecology as specified under Chapter 173-500 WAC.

Instream flows as established at United States Geological Survey monitoring station 12.4425.00 and 12.4472.00 presented in the table above shall be maintained by regulation of three proposed diversions as set forth in said 173-549 WAC.

Instream flow hydrographs as represented in WAC 173-549-900 shall be used for definition of instream flows on those days not specifically identified in WAC 173-549-020(2).

For Diversion 4:

Chapter 173-563 WAC as adopted in Olympia, Washington, June 24, 1980, and revised effective March 30, 1998, and the general rules of the Washington Department of Ecology as specified under Chapter 173-500 WAC.

Instream flows as established at Wells Dam presented in the table below shall be maintained by regulation of one proposed diversion as set forth in said 173-563 WAC.

(2) Minimum instantaneous flows at the locations listed in WAC 173-563-040(1) are established for instream uses as follows:

MINIMUM INSTANTANEOUS FLOWS - COLUMBIA RIVER PROJECTS

(1,000 cubic feet/second)

	Wells &				
	Chief*	Rock Island & Joseph Wanapum*	Priest Rapids	McNary & John Day	The Dalles
Jan	10	10	50	20	20
Feb	10	10	50	20	20
Mar	10	10	50	50	50
Apr 1-15	20	20	50	50	70
16-25	20	30	50	70	70
26-30	20	50	50	70	70
May	20	50	50	70	70
June 1-15	20	50	50	70	70
16-30	10	20	50	50	50
Jul 1-15	10	20	50	50	50
16-31	10	50	50	50	50
Aug	10	50	50	50	50
Sep	10	20	36	50	50
Oct 1-15	10	20	36	50	50
16-31	10	20	50	50	50

River mile

Continued

Nov	10	10	50	50	50
Dec	10	10	50	20	20

* As provided in WAC 173-563-050(1), the minimum instantaneous flows set forth in this subsection are subject to a reduction of up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs. For the reach from Grand Coulee through Wanapum, minimum instantaneous flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff adjustment) at Priest Rapids, whichever is higher.

Construction Schedule

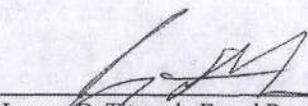
The OCDWP is preparing an annual HPA for general maintenance activities which will include water diversions to supply road construction projects. Water diversions will begin in March 2009.

Other

The information or conclusions in this section were authored and/or developed by Steve Nelson, LHG, on behalf of the OCDPW and OCWCB.

The undersigned board commissioner certifies that he/she understands the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Okanogan, Washington
This 07 day of May, 2008



Jeremy D. Fitcomb, Board Representative
Okanogan County Water Conservancy Board

ATTACHMENTS:

Name OKAW Public Works
Application # CS4-28099 (A) e

Board OKAW

Water Conservancy Board Checklist Ecology Review of Board ROD's and ROE's

The purpose of this checklist is to provide consistent Ecology review of Board decisions and document for the file that the Board has completed the statutory tests required to process the requested transfer.

- Completed. The requested change cannot ^{Enlarge the} increase the instantaneous or annual quantity authorized in the right (check previous changes to right, is $Q_i \geq Q_a$).
- Completed. The water right must be eligible to be changed, and cannot have been abandoned or relinquished for non-use. The applicant must provide evidence of non-abandonment, and of continuous beneficial use, with no period of complete or partial non-use of the right for any period of five successive years after July 1, 1967, without a qualifying exemption for such non-use under RCW 90.14.140. Municipal water suppliers are exempt from relinquishment.
- OK. The requested change/transfer cannot ~~enlarge the right, nor can it~~ increase the consumptive use of water authorized in the right for spreading/addition of uses/impairment. Proposed quantities must be reasonable for the proposed uses. Surface to ground transfers, or transfers where the source availability may increase have enlargement potential.
- OK N/A. The requested change/transfer cannot be contrary to the public interest (groundwater only).
- Completed. The requested change/transfer cannot impair existing water rights, including pending changes. For groundwater transfers, impairment shall be determined as set forth in WAC 173-150. For surface water transfers, an evaluation of the effect of the requested change/transfer on existing surface/groundwater rights and in-stream flows must be completed.
- Yes N/A. If the requested change/transfer is for a groundwater right and a change in point of withdrawal is requested, are the existing and proposed points of withdrawal in the same body of public groundwater?
- Yes No. Is the requested change/transfer for a permit? If so, the permit must have a current development schedule. If it doesn't, an extension request must be filed with Ecology prior to Board consideration.
- Yes N/A. If the requested change/transfer is for a claim, has evidence been submitted identifying use prior to 1917 (if surface water, unless inchoate or riparian) or 1945 (if groundwater)?
- Yes No. Is the requested project exempt from SEPA according to RCW 43.21C.030(c) and WAC 197-11-800(4)? (Appropriations of 50 cfs or less of surface water without subsidy, and appropriations of 1 cfs or less of surface water or 2,250 gpm of groundwater for any purpose). If the requested change/transfer is not exempt, a SEPA checklist and an evaluation of environmental impact must be completed.
- Yes N/A. If the requested change/transfer modifies the duration over which the right has previously been exercised (i.e. change from seasonal irrigation to continuous domestic), have off-season impacts, including in-stream flows been included in the impairment analysis?
- Completed. Check existing legal description in ROE and change application for consistency with original permit/claim/certificate? Check ownership issues.
- Yes N/A. Check proposed legal in ROE and change application for consistency with public notice?
- Completed. Check public notice for statutory compliance and accuracy?
- Completed. Review Board response to protests? N/A
- Completed. Verify proposed provisions, including metering? SCREENS? OK HPA Process
- Verified. Changes in purpose of use of an inchoate groundwater right are not allowed. Changes in an inchoate portion of a surface water right are limited to RCW 90.03.395/397 and 570. Changes in an inchoate portion of a groundwater right are allowed provided the provisions of Merrill (1999) are met.
- Completed. Review conflict of interest issues?
- Completed. Verify proposed development schedule? Altered to include months

JK
Ecology Reviewer
Recommended for Approval Modification Reversal

Date _____
Last Revision on 03-29-2006