

State of Washington
 Department of Ecology
TEMPORARY CHANGE
AUTHORIZATION CS4-28099(A)C@3
For 2014 Season Only

File NR: CS4-28099(A)C@3
 WR Doc ID: 6047599

Added or Changed Point of Withdrawal/Diversion

PRIORITY DATE December 15, 1982	WATER RIGHT NUMBER S4-28099(A)C
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MAILING ADDRESS OKANOGAN COUNTY PUBLIC WORKS DEPT 1234-A 2ND AVE S OKANOGAN WA 98840-9723	SITE ADDRESS (IF DIFFERENT)
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Total Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.31	CFS	12.07

Total withdrawals or diversions from all sources must not exceed the total quantity authorized for withdrawal or diversion listed above.

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Municipal use for Okanogan County road maintenance and construction including dust abatement, soil compaction, and occasional roadway landscape irrigation	0.31		CFS	12.07		01/01 - 12/31

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS

Source Location

SOURCE NAME	TWP	RNG	SEC	QQ Q	COUNTY	WATER RESOURCE INVENTORY AREA
1) SIMILKAMEEN RIVER	40N	25E	13	SW¼NW¼	OKANOGAN	49 - OKANOGAN
2) OKANOGAN RIVER	35N	26E	25	NW¼SE¼	OKANOGAN	49 - OKANOGAN
3) OKANOGAN RIVER	31N	25E	34	NW¼SE¼	OKANOGAN	49 - OKANOGAN
4) COMUMBIA RIVER	30N	23E	36	SW¼NE¼	OKANOGAN	48 - METHOW

FILE COPY

- 1) **Parcel No. 0990010700**
Similkameen River: on the Loomis-Oroville Road at the east end of the bridge and approximately 1000 feet downstream from original point of diversion.
- 2) **Parcel No. 3526250007**
Okanogan River: at the Riverside Boat Launch in Riverside, Washington.
- 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

WATER WILL BE USED THROUGHOUT OKANOGAN COUNTY PUBLIC WORKS ROADWAY SYSTEM. WATER WILL BE USED DURING ROAD CONSTRUCTIONS AND ROADWAY MAINTENANCE ACTIVITIES INCLUDING DUST ABATEMENT, SOIL COMPACTION, AND OCCASIONAL ROADWAY LANDSCAPE IRRIGATION.

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 (gpm) pumping limit, the trucks may need to fill from above ground storage tanks.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
May 31, 2014	May 31, 2014	October 31, 2014

Measurement of Water Use

How often must water use be measured?	Weekly
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

This temporary authorization is for the **2014 season ONLY**.

The four points of diversion listed above (**SOURCE LOCATION**) represent permanent points of diversions authorized under CG3-28099(A)C@3, 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.

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.

Instream Flow Limitations

For Diversions 1, 2, 3 and any new points used between points 1 and 3:

This authorization is subject to the following minimum flows taken from chapter 173-549 WAC adopted in Olympia, Washington, August 14, 1976, and revised effective July 19, 1984.

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 chapter 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.W.M.	12.4450.00 Section 8, T. 36 N., R. 27 E.W.M.	12.4395.00 Section 27, T. 40 N., R. 27 E.W.M.	12.4425.00 Section 7, T. 40 N., R. 26 E.W.M.
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	1100	1070	340	640
May 1	1750	1200	350	1100
May 15	3800	3800	500	3400
Jun 1	3800	3800	500	3400
Jun 15	3800	3800	500	3400
Jul 1	2100	2150	420	1900
Jul 15	1200	1200	350	1070
Aug 1	800	840	320	690
Aug 15	600	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.

For Diversion 4:

This authorization is subject to the following minimum flows as specified in WAC 173-563-040 and WAC 173-563-050 and the following table. It is subject to regulation by the Department of Ecology for protection of instream resources whenever the March 1 forecast of April-September runoff at The Dalles is 60 MAF or less, and when gaged flows are predicted by the BPA 30-Day Power Operation Plan to violate the following minimum flow provisions at:

Primary Control Station(s): Priest Rapids Dam
River Mile(s): 397.1 – 745.0

Minimum Average Weekly Flows
Columbia River Projects
(1,000 cubic feet/second)

PRIMARY CONTROL STATION:	Chief Joseph*	Wells/ Rocky Reach*	Rock Island & Wanapum*	Priest Rapids	McNary	John Day	The Dalles
RIVER MILE:	(545.1)	(515.6) (473.7)	(453.4) (415.8)	(397.1)	(292.0)	(215.6)	(191.5)
Mar	30	30	30	70	60	60	60
Apr 1-15	50	50	60	70	100	100	120
Apr 16-25	60	60	60	70	150	150	160
Apr 26-30	90	100	110	110	200	200	200
May	100	115	130	130	220	220	220
Jun 1-15	80	110	110	110	200	200	200
Jun 16-30	60	80	80	80	120	120	120
Jul 1-15	60	80	80	80	120	120	120
Jul 16-31	90	100	110	110	140	140	140
Aug	85	90	95	95	120	120	120
Sep	40	40	40	40	60	85	90
Oct 1-15	30	35	40	40	60	85	90
Oct 16-31	30	35	40	70	60	85	90

* For the reach from Grand Coulee through Wanapum, minimum average weekly flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff and adjustment) at Priest Rapids, whichever is higher. As provided in WAC 173-563-050(1), the minimum average weekly flows set forth in this subsection are subject to a reduction of up to 25 percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs.

Use of water under this authorization shall be contingent upon the water right holder's use of up-to-date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities.

Use of water under this authorization can be expected to be curtailed at least once in every 20 years.

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

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	Phone: (360) 902-2534
Attention: Habitat Program	Email: habitatprogram@dfw.wa.gov
600 Capitol Way N	Website:
Olympia, WA 98501-1091	http://wdfw.wa.gov/conservation/habitat/planning/screening/

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 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.

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 there will be no impairment of existing rights and that the purpose(s) of use are beneficial.

Therefore, I ORDER approval of Application No. S4-28099(A)C@3, 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 INFORMATION LOCATION

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

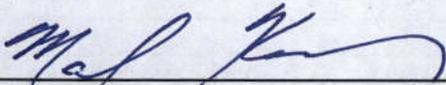
Mailing Addresses

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.leg.wa.gov/CodeReviser>

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



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

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INVESTIGATOR'S REPORT
 Scott Turner, Department of Ecology
 Water Right Control Number CS4-28099(A)C@3
 Application submitted by Okanogan County Public Works

BACKGROUND

This report serves as the written findings of fact concerning Water Right Change Application No. CS4-28099(A)C@3, requesting a temporary change to add multiple points of diversion only for the 2014 season.

EXISTING Water Right Attributes Under Change Authorization CS4-28099(A)C@3

Water Right Owner:	Okanogan County Public Works
Priority Date:	December 15, 1982
Place of Use	Municipal use for Okanogan County road maintenance and construction including dust abatement, soil compaction, and occasional roadway landscape irrigation from March 1 to October 31

County	Waterbody	Tributary To	WRIA
Okanogan	Similkameen, Okanogan & Columbia Rivers	Pacific Ocean	49 - Okanogan/48 - Methow

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Municipal Supply	0.31	CFS	12.07	March 1	October 31

Source Name	Twp	Rng	Sec	QQ Q	County	Water Resource Inventory Area
Similkameen River	40	25	13	SW¼NW¼	Okanogan	49
Okanogan River	35	26	25	NW¼SE¼	Okanogan	49
Okanogan River	31	25	34	NW¼SE¼	Okanogan	49
Columbia River	30	23	36	SW¼NE¼	Okanogan	48

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	Similkameen, Okanogan & Columbia Rivers	Pacific Ocean	49 - Okanogan/48 - Methow

Purpose	Rate	Unit	Acre-feet/yr	Begin Season	End Season
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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 CS4-28099(A)C@3. The applicant proposes to add multiple points of diversion, within the authorized POU, for the 2014 season only.

History of Water Use

On July 7, 2008, The Department of Ecology (Ecology) issued modification order of the Report of Examination Okanogan County Conservancy Board submitted on May 9, 2008. That modification order authorized the following changes:

- Change the purpose of use from 7 acres of irrigation to municipal supply purposes for road maintenance in Okanogan County.
- Change the Place of use from the irrigated lands to roads throughout Okanogan County.
- Changed from the original point of diversion on the Similkameen River to 4 points of diversion on the Similkameen, Okanogan and Columbia Rivers.

At these new points of diversion the County is filling up 4,000 gallon water trucks for various road projects throughout the county. The current authorization is for 0.31 cfs and 12.07 acre-feet per year.

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 CS4-28099(A)C.

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 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:

0.31 cfs

12.07 acre-feet per year

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

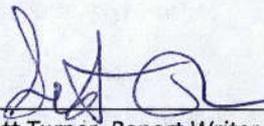
Points of Diversion

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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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