



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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February 20, 2015

Crown Resources Corporation
Attn: Gary Johnson
363 Fish Hatchery Road
Republic, WA 99166-8711

RE: Water Right Change Application No. CG4-CV1-4P200@4 (OKAN-14-01)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections, and other relevant information submitted by the Okanogan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has **modified** the decision of the Board and the proposed change/transfer of water right is **approved** under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	
	300	125.4	
TYPE OF USE, PERIOD OF USE			
<p>Phase 1 – Dust control, instream flow - During 7-year mining period and post-mining 3-year reclamation period (Years 0 through 10)*</p> <ul style="list-style-type: none"> Dust Control and/or instream flow: 43 acre-feet (ac-ft), year-round Instream Flow mitigation: 82.4 ac-ft for stream flow mitigation in Toroda Creek for Buckhorn Mountain Mine water rights, April 1 to October 31. This water will not be withdrawn from the shallow aquifer system and will be allowed to naturally discharge into Toroda Creek. 			
<p>Phase 2 – Instream flow and irrigation – Following 3-year mine reclamation period until 20 years after mine closure (Years 11 through 27)†</p> <ul style="list-style-type: none"> Instream flow and/or seasonal irrigation up to 40 acres: 100.3 ac-ft, year-round for instream flow and April 1 – October 31 for irrigation. Instream Flow mitigation: 25.1 ac-ft for streamflow mitigation in Toroda Creek during mine water level recovery, April 1 to October 31. This water will not be withdrawn from the shallow aquifer system and will be allowed to naturally discharge into Toroda Creek. 			
<p>Phase 3 – Instream flow and irrigation – After 21 years of mine closure (Year 28 onward)</p> <ul style="list-style-type: none"> Instream flow and/or seasonal irrigation up to 50 acres: 125.4 ac-ft, year-round for instream flow and April 1 – October 31 for irrigation. 			
<p>*As it relates to the Buckhorn Mine project, Year 0 begins in December 2007, with year 10 (or the 3-year reclamation period) ending December 2018.</p> <p>† As it relates to the Buckhorn Mine project, Year 27 ends in December 2035.</p>			



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SOURCE					TRIBUTARY OF (IF SURFACE WATER)	
Two wells						
¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
(1) SW	SE	27	39	31 EWM	60	Okanogan
(2) SE	NW	34				
AT A POINT LOCATED: PARCEL NO. (1) 3931270012 (2) 3931340001						
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD						
<p>During mining and reclamation of Phase 1 water may be used for dust control on lands within Sections 2, 3, 4, and 5, T. 39 N., R. 31 E.W.M. and Sections 31 and 32, T. 40 N., R. 31 E.W.M., and Sections 13, 14, 24, 25, and 36, T. 40 N., R. 30 E.W.M., Okanogan County.</p> <p>Irrigation uses during Phases 2 and 3 will revert to the original location within that portion of the N½SE¼, SW¼SE¼ and SE¼SW¼ Section 27; and NW¼NE¼, NE¼NW¼, and SE¼NW¼ Section 34; BOTH in T. 39 N., R. 31 E.W.M., that lies northwesterly of the easterly branch of Toroda Creek and southeasterly of the county road.</p> <p>Instream flow during Phases 1, 2 and 3; this water will not be withdrawn from the shallow aquifer system and will be allowed to naturally discharge into Toroda Creek, beginning approximately at the SE¼ NW¼ of Section 34, T. 39 N., R. 31 E.W.M.</p>						
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,	
DEVELOPMENT SCHEDULE						
BEGIN PROJECT BY THIS DATE:			COMPLETE PROJECT BY THIS DATE:		WATER TO PUT TO FULL USE BY THIS DATE:	
N/A			N/A		End of Phase 2 December 31, 2035	

Ecology has **MODIFIED** the decision of the Board as follows:

- 1.) The Board's Decision and ROE have been modified as noted in the table above based on following reason: The applicant's voluntary request to remove proposed purposes of use from Phases 2 and 3, and restrict the proposed place of use to adjoining sections to the existing Buckhorn Mine Project. Any information, data, statements, etc. within the Board's ROE, which vary with the information in the table above, shall be replaced with the information contained within the table above.
- 2.) Under the DECISION Section of the ROE, the purposes and quantities of use are modified as follows:
 - Phase 1 – Dust control, instream flow**
 - Dust control and/or instream flow: 43 ac-ft, year-round
 - Instream flow mitigation: 82.4 ac-ft for stream flow mitigation in Toroda Creek for Buckhorn Mountain Mine water rights, April 1 to October 31. This water will not be withdrawn from the shallow aquifer system and will be allowed to naturally discharge into Toroda Creek.

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Phase 2 – Instream flow and irrigation

- Instream flow and/or seasonal irrigation up to 40 acres: 100.3 ac-ft, year-round for instream flow and April 1 – October 31 for irrigation.
- Instream flow mitigation: 25.1 ac-ft for stream flow mitigation in Toroda Creek during mine water level recovery, April 1 to October 31. This water will not be withdrawn from the shallow aquifer system and will be allowed to naturally discharge into Toroda Creek.

Phase 3 – Instream flow and irrigation

- Instream flow and/or seasonal irrigation up to 50 acres: 125.4 ac-ft, year-round for instream flow and April 1 – October 31 for irrigation.

- 3.) Under the DECISION Section of the ROE, the purposes and quantities of use are modified as follows:

During mining and reclamation of Phase 1 water may be used for dust control on lands within Sections 2, 3, 4, and 5, T. 39 N., R. 31 E.W.M. and Sections 31 and 32, T. 40 N., R. 31 E.W.M., and Sections 13, 14, 24, 25, and 36, T. 40 N., R. 30 E.W.M., Okanogan County.

Irrigation uses during Phases 2 and 3 will revert to the original location within that portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 27; and NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34; BOTH in T. 39 N., R. 31 E.W.M., that lies northwesterly of the easterly branch of Toroda Creek and southeasterly of the county road.

Instream flow during Phases 1, 2 and 3; this water will not be withdrawn from the shallow aquifer system and will be allowed to naturally discharge into Toroda Creek, beginning approximately at the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, T. 39 N., R. 31 E.W.M.

- 4.) The SEPA Section of the ROE is DELETED and REPLACED with:

The change is not exempt because it is a component of both exempt and nonexempt proposals. WAC 197-11-305(1)(b)(ii) therefore requires an analysis under WAC 197-11-070. Ecology determines the purpose of dust control, instream flow, and reverting to irrigation, as previously planned, will not have an adverse environmental impact or limit the choice of reasonable alternatives. WAC 197-11-070(1). These proposed changes, as modified, do not increase consumptive use over existing authorizations and do not authorize any change in source. The proposed new use remains within the scope of the actions contemplated in the 2006 Final Supplemental Environmental Impact Statement (FSEIS) for Buckhorn Mine, and Ecology adopts those documents as provided for under WAC 197-11-600(3)(b). Based on this, Ecology concludes that SEPA compliance is satisfied.

- 5.) Under the *Proposed project plans and specifications* section of the ROE, all references in the first paragraph to mining, industrial, drilling, exploration, and mineral exploration are DELETED from the ROE.

- 6.) The following is ADDED to the *Proposed project plans and specifications* section of the ROE:
“Another intent of the requested change is to provide the possibility of creating a water bank.”
- 7.) Under the *Relinquishment and Defacto changes* section of the ROE, the following is ADDED:
Ecology disagrees that one can have a defacto change in purpose of use to instream flows. The intent of instream flow must be clearly stated prior to the beneficial use occurring; therefore defacto changes in purpose of use to instream flow are not permissible under Ecology’s Policy 1280.
- 8.) Provision 3 is MODIFIED as follows:
Kinross shall provide notice to Ecology’s Water Resources Program annually by October 1st a water management plan for the subsequent year (January 1 to December 31) that identifies the quantities and a monthly schedule of the of water for each purpose of use herein authorized. The notification shall include:
- The quantities of water (instantaneous and annual quantities) for each purpose of use.
 - The number of acres that will be irrigated. The number of acres irrigated shall not exceed 40 acres under Phase 2 and 50 acres under phase 3.
 - The monthly schedule of instream flow benefit.
- 9.) The following provision is ADDED:
The annual water management plan may be replaced in the future by a trust water right agreement addressing management of the water right for instream flow purposes and for the necessary dust control and other purposes associated with Crown Resources’ environmental mitigation needs.
- 10.) The following provision is ADDED:
The water source, water transmission facilities and/or place where water can be used 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.
- 11.) Issuance of this Modification Order supersedes the previous change authorization, CG4-CCV1-4P200, issued on September 26, 2006, which will become inactive at the conclusion of the appeal period and/or resolution of an appeal.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this decision. 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).

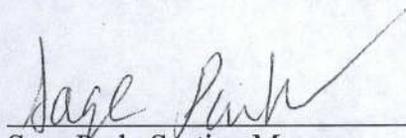
To appeal you must do the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision 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 decision 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	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Ste 301 Tumwater WA 98501	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://www.leg.wa.gov/CodeReviser>



Sage Park, Section Manager
Water Resources Program
Central Regional Office

SP:MD:JR
150209/WRTS ID: 6090171

Enclosures: Your Right to Be Heard

By Certified Mail: Crown Resources Corporation, No. 7010 0290 0000 7126 7637
Okanogan Highlands Alliance, No. 7010 0290 0000 7126 7613
Gardinier Family, No. 7010 0290 0000 7126 7620

cc: Melissa Downes, Department of Ecology, Central Region Office (email pdf)
Okanogan County Water Conservancy Board
Donnie Newman
Lois Trevino, Water Administrator, Colville Confederated Tribes