



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

August 23, 2013

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

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

RE: Water Right Change Application No. CG4-34904P@1 (OKAN-12-01)

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 Chelan 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 (CFS)	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE			
	100 gpm	12.6	100 gpm, 12.6 acre-ft/yr, for continuous mining and industrial use (Years 0 – 7). 100 gpm, 3.34 acre-ft/yr, for streamflow augmentation from July 1 – Sept. 30 (Years 8 – 16).			
SOURCE					TRIBUTARY OF (IF SURFACE WATER)	
Wells and underground sumps						
AT A POINT LOCATED:	¼, ¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
Well D-1	SE, NW					
Well D-2	SE, NW					
Well D-3	NE, SW					
Well D-4	NE, SW	24	40 N	30 EWM	48	Okanogan
Well D-5	NW, SW					
Well SDW12	NE, SW					
Sump	SE, NW					
Sump	NE, SW					
Sump	NW, SW					
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD						
Sections 2, 3, 4, & 5 all in T. 39 N., R. 31 E.W.M; Sections 23, 24, 25 & 36 all in T. 40 N., R. 30 E.W.M; Sections 31 & 32 all in T. 40 N., R. 31 E.W.M.						
DEVELOPMENT SCHEDULE						
BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:		WATER TO PUT TO FULL USE BY THIS DATE:			
Begun	Complete		Term permit expires on December 31, 2023.			

should be WRIA 60. md 8-28-13

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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. Any information, data, statements etc. within the Board's ROE which vary with the information in the table above shall be disregarded.
- 2.) The following is ADDED to the Board's ROE: Crown Resources Corporation has a Fugitive Dust Control Plan in place. While the entirety of sections located within the proposed place of use are consistent with the current dust abatement requirements for the mine, this water right change approval only grants the addition of the following sections that were evaluated for dust control in the SEIS;
 - Sections 2, 3, 4, & 5 all in T. 39 N., R. 31 E.W.M;
 - Sections 23, 24, 25 & 36 all in T. 40 N., R. 30 E.W.M;
 - Sections 31 & 32 all in T. 40 N., R. 31 E.W.M.
- 3.) The following is ADDED to the Board's ROE: In February 2013, Crown Resources Corporation provided Ecology a showing of compliance form to add well SDW12 (well tag no. BHP-697) to Water Right No. G4-34904P. Ecology concurred in July 2013 that well SDW12 met the showing of compliance criteria in RCW 90.44.100(3) and therefore is an authorized point of withdrawal under Water Right No. G4-34904P.
- 4.) Any reference to or expected approval language for five (5) dewatering wells (D6, D8, D9, MW2R and MW14) under Water Right Change Application No. CG4-34904 is DELETED. These five (5) dewatering wells are subject to a separate Change Application No. CG4-34904, and are not evaluated or associated with the subject Change Application No. CG4-34904P@1. The applicant did NOT request to add additional points of withdrawal as part of the subject Change Application No. CG4-34904P@1.
- 5.) Under the Investigation section on page 22 of the ROE, the reference to Aspect Consulting being under contract with Ecology to process this change application is DELETED.
- 6.) Under the Comment and Protest Section on page 18 of the ROE, the number of protests received during the protest period is MODIFIED to read: Two (2) protests were received during the protest period (Okanogan Highlands Alliance and the Center for Environmental Law and Policy). Additionally, two (2) comment letters were received during the 30-day web posting of the Board's ROD and ROE (Okanogan Highlands Alliance and the Confederated Tribes of the Colville Reservation).
- 7.) Under the Comment and Protest Section of the ROE, on pages 19 thru the top of page 22, specifically the detailed discussion of the concerns raised in the protests and comment letters is MODIFIED as follows:
 - a. *Well locations in Section 23 are outside the original scope and analysis; environmental review of the current application note adequate; and groundwater modeling does not support requested withdrawal locations.*

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This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

- b. Wells in Section 23, above the headwaters of South Fork of Bolster Creek, may adversely affect stream flows, seeps and springs, and existing water rights and were not considered in the ARMP.*

This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

- c. Well location D-6 is outside the mine footprint and is outside the purpose of dewatering the mine.*

This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

- d. New wells will draw contaminants outside the mine capture zone, spreading groundwater contaminants beyond the mine footprint. The ARMP must be amended to address impacts of these wells.*

This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

- e. Pumping on the west side of Buckhorn Mountain and discharging to the east side will transfer water from one basin to another and adversely impact senior water rights in the Myers Creek Basin.*

This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

- f. Expanding points of withdrawal into the Myers Creek Basin would affect senior water rights and spread mine contaminants.*

This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

- g. Contaminants associated with mining are detrimental to fish. In the past the groundwater capture zone has failed to contain impacted water. Additional wells are likely to draw contaminated groundwater outside the mine footprint. Mine discharges resulted in a landslide in the Gold Bowl Creek basin.*

This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

- h. Impacts to aquatic resources, including seeps, springs, wetlands, and flows in Bolster Creek must be fully considered.*

This comment is not applicable to the subject change application and is addressed in Change Application No. CG4-34904P.

i. Defective application and public notice, lack of clarity, mine expansion.

The proposal under this change is simply to add place of use to accommodate dust abatement activities, which is sufficiently described in the application. The public notice or the subject change application meets the requirement of RCW 90.03.280, RCW 90.03.380(1), WAC 173-153-080(1) and Ecology Procedure PRO-1000. Additionally, the Board provided notice to the Confederated Tribes of the Colville Nation as required in WAC 173-153-070 and -140. No expansion of the mine or mine life is requested under this change application, and use of water for mining activities would not increase.

Mining and industrial use incorporates ancillary uses (i.e. dust suppression, extraction, drilling and transporting rock) therefore by expanding the place of use for Permits No. G4-34904P and S4-34999P to accommodate dust control, a change in purpose of use is not required.

j. Ecology has not enforced all of the requirements of Permits G4-34904 & S4-34999 and the change raises the potential for water use in excess of the right.

Ecology and Kinross are working to ensure monitoring and reporting requirements are carried out in accordance with relevant permits and monitoring and mitigation plans. While Ecology has enforcement as a tool for non-compliance under water right permits, the potential for water code violations and enforcement are not criteria evaluated in a change application under RCW 90.03.380 or RCW 90.44.100. Enforcement related to alleged illegal water use and not associated with the subject water right change applications is a separate and distinct matter that may be addressed if necessary.

k. Lack of water available for appropriation. Water use for mining is consumptive.

The subject change application does not request to increase the total or consumptive use under Permit No. G4-34904P. The maximum annual use of 12.6 acre-ft (ac-ft) was conservatively considered to be 100% consumptive, therefore any additional activity expressed under the mining or industrial purpose of use will also be considered 100% consumptive, which is protective of the environment. Mitigation measures were incorporated in the approval of Permit No. G4-34904P to address the impacts of 12.6 ac-ft being 100% consumptive in nature. There will be no increased use of water, including consumptive use, beyond what is authorized under Permit No. G4-34904; was use shall not exceed 12.6 ac-ft as a result of this change authorization.

l. Water not put to beneficial use and is being wasted. Water that is being withdrawn and discharged will be degraded in quality.

The water right permitting process only covers water that is withdrawn or diverted for beneficial use, and the quantities specified in Permit No. G4-34904P are limited to the portion of water required for mining and industrial uses. Groundwater removal required to dewater the mine and maintain a capture zone around the mine workings in excess of beneficial use requirements is not subject to the water right permitting process. These activities, including treatment standards to address the potential for degradation of water quality, do require compliance with the NPDES Permit, and the accepted suite of mitigation.

- m. The ARMP does not adequately describe aquatic resources in the affected area and mitigation does not offset impacts in conjunction with the impacts of the mine.*

Aquatic resources in the project area and potential impacts associated with project were thoroughly investigated and described in the SEIS, results of which were used to develop the ARMP. The effects of the entire project, including groundwater removal near the headwater of Bolster Creek, were evaluated in the SEIS, and adequate mitigation, monitoring, and adaptive management were developed to address impacts and account for uncertainties.

- n. Ecology is required to protect surface waters in order to preserve the natural environment, in particular, 'base flows' necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values and navigational values.*

Potential impacts of the project were evaluated fully in the SEIS, including impacts to surface waters and associated fish and wildlife habitat. Mitigation, monitoring, and adaptive management requirements to protect surface waters were developed based on potential impacts identified in the SEIS. The requested additional wells are not outside the scope of the project evaluated in the SEIS and the combination of existing mitigation, monitoring, and adaptive management is sufficient to protect potentially affected surface waters.

- o. The project already has other water rights for dust suppression; providing another water right for this activity is wasteful.*

Water Right Change No. CG4-CCV1-4P200, approved by Ecology in 2006, authorizes year-round dust control and seasonal instream flow mitigation from two groundwater wells. By approving the requested place of use change under the subject Change Application No. CG4-34904P@1, Ecology is not granting additional quantities of water to be applied for dust control. By allowing a portion the annual quantity of water authorized under Permits No. CG4-34904P@1 and CS4-34999P for dust control activities allows for source redundancy and flexibility of where the dust control water originates and even reduces water truck travel distances. Applying water beyond what is needed to suppress dust on roads is considered wasteful; however, if dust control water is utilized under the subject change application then the equivalent amount of water will not be utilized under an existing water right(s) for dust control. In essence dust control is non-additive across any permit authorized for this activity. Additionally, if water is used for dust control under the subject change application, then less water is available for other mining activities under this Water Right No. G4-34904P.

- p. Expanding the place of use will be detrimental to the public interest.*

While the entirety of sections located within the proposed place of use are consistent with the current dust abatement requirements for the mine, this water right change approval only grants the addition of the following sections that were evaluated for dust control in the SEIS;

- Sections 2, 3, 4, & 5 all in T. 39 N., R. 31 E.W.M;
- Sections 23, 24, 25 & 36 all in T. 40 N., R. 30 E.W.M;
- Sections 31 & 32 all in T. 40 N., R. 31 E.W.M.

Potential impacts of the project, including dust control activities, were evaluated fully in the SEIS. Mitigation, monitoring, and adaptive management requirements to protect surface waters were developed based on potential impacts identified in the SEIS.

Water right changes are permissive actions and do not grant other needed authorizations beyond the water code. If additional permission is needed for the applicant to apply reverse osmosis (RO) treated water for suppressing dust on roads, then the applicant is responsible for acquiring such permits and/or permissions prior to applying RO treated water to roads. Only RO treated water will be applied to roads to suppress dust. There are no pollutants/contaminants in the RO treated water, since contaminated mine water will not be applied to roads, this activity will not spread mine contaminants or degrade state waters in these areas.

q. Changes in the water rights may affect other water users.

As discussed above, the subject change authorization will not increase the consumptive use under Water Right No. G4-34904P. The consumptive use impacts on groundwater, surface water, seeps, springs, and wetlands will not increase. Mitigation measures were incorporated in the approval of Water Right No. G4-34904P to address these impacts. The required mitigation measures will not change or diminish as a result of the subject change authorization.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing 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:

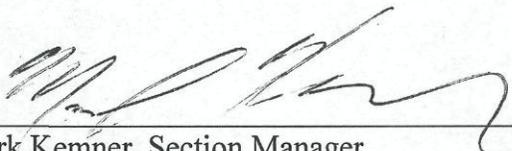
- File your appeal and a copy of this decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

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>



Mark Kemner, Section Manager
Water Resources Program
Central Region Office

MK:md:ba 130812

Enclosures: *Your Right to Be Heard*

By Certified Mail: 7009 2250 0004 4950 2971

- cc: Okanogan County Water Conservancy Board
Lois Trevino and Todd Thorn, Confederated Tribes of the Colville Reservation
David Kliegman, Okanogan Highlands Alliance
Suzanne Skinner, Center for Environmental Law and Policy
United States Forest Service, Portland Office
United States Bureau of Land Management, Spokane Office
Washington Dept of Natural Resources, HQ
Charlie McKinney, Ecology Water Quality (via email)