STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

December 18, 2008
CERTIFIED MAIL
[7004 1160 0002 6157 5340]

Icicle Chapter of Trout Unlimited
c/o Dan Davies
12780 Prowell Road
Leavenworth WA 98826

RE: Water Right Application No. S4-35173 – AMENDED Temporary Authorization to divert water for fish acclimation and children's fishing pond

This Temporary Authorization rescinds and replaces the Temporary Authorization issued by the Department of Ecology (Ecology) on October 20, 2008.

On April 7, 2008, the Icicle Chapter of Trout Unlimited (TU) submitted an application seeking authorization to divert one-cubic foot per second (cfs) continuously from March 1 through October 31, for a non-consumptive steelhead acclimation and children's fishing pond. The application has been assigned Control No. S4-35173. This project proposes to divert water from the Wenatchee River within the NW¼ of the SW¼ of Section 12, Township 24 N., Range 17 E.W.M, in Chelan County.

To facilitate the construction of the steelhead acclimation pond prior to the next release of hatchery fish, TU has requested a temporary permit to divert water from the Wenatchee River and pump it into the Blackbird Island steelhead pond located on Tax Parcel No. 241712320000 within the NW¼ of the SW¼ of Section 12, Township 24 N., Range 17 E.W.M. TU is proposing to use this pond to acclimate Wenatchee River steelhead to improve their homing fidelity and increase returns of anadramous fish. The secondary use of the pond will be as a children's fishing pond; TU will plant fish in the pond for this purpose after the steelhead have been released into the Wenatchee River. The proposal includes continuous pumping of water from the river into the pond from March 1 through October 31. Water will return to the Wenatchee River via an outflow structure 600 feet downstream from the proposed diversion.

The City of Leavenworth holds five water rights which places of use include the acclimation pond parcel: SWC08105, S4-35004JC, S4-28122P, GWC00437-A, G4-29958P. These water rights are part of the city's municipal water system portfolio. No water withdrawn or diverted under these rights is used within the proposed place of use for No. S4-35173.

This water right application is being processed prior to competing applications in accordance to WAC 173-152-050(2)(b). This temporary water right is considered nonconsumptive and will enhance or protect the quality of the environment.

FILE COPY

This TEMPORARY AUTHORIZATION has the following parameters and provisions:

1) Violation of any of the terms and/or conditions of this authorization will result in immediate termination, issuance of Administrative Orders to Cease and Desist, and may also subject the violator to civil penalties.

2) A diversion of one cfs may take place from March 1through October 31 each year. This Temporary Authorization will expire when a Report of Examination for Water Right Application No. S4-35173 is issued or sooner revoked by Ecology, but in no case later than October 31, 2010.

3) The temporary place of use under this authorization will be a pond located within the NW¼ of the SW¼ of Section 12, Township 24 N., Range 17 E.W.M.

4) The temporary purpose of use under this authorization will be to provide water for a steelhead acclimation and children's fishing pond within the place of use.

5) The maximum annual volume of water allowed is 485.1 acre-feet per year.

6) The priority date for this water right is April 7, 2008.

7) The diversion of water authorized by this Temporary Authorization is subject to specific instream flows for the bypass reach, authorized in WAC 173-545-060(10). Diversion of water from the Wenatchee River is authorized only when flow conditions will provide enough water to satisfy senior water rights, including the bypass reach specific instream flows. The bypass reach is defined as the 600 foot reach of the Wenatchee River between the authorized point of diversion and the pond outflow structure. All diversion of water under this Temporary Authorization must cease when flows at the "Wenatchee River at Peshastin" control station are equal to or below the following levels:

12-4590.00: Wenatchee River at Peshastin		
Month	Day	Instantaneous cfs
March	1	200
	15	200
April	1	200
	15	200
May	1	200
	15	200
June	1	200
	15	200
July	1	200
	15	200
August	1	200
	15	200
September	1	200
	15	200
October	1	200
	15	200

8) The Department of Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this Temporary Authorization. Applicants for a temporary water right should not construe that a temporary authorization will result in the granting of a permanent water right.

9) The applicant and operator of the system under this Temporary Authorization shall:

- Have a copy of this Temporary Authorization available on-site.
- Be aware of the parameters and provisions and operate accordingly.
- Provide said copy as evidence of this authorization upon request by Department of Ecology staff.

10) An approved measuring device shall be installed and maintained for the source identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC.

11) The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation, and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements".

12) Water use data shall be recorded weekly. The maximum monthly rate of diversion and the monthly total volume shall be submitted to Ecology by January 31 each year. Ecology requires submittal of monthly meter readings to collect seasonal information for water resource planning, management, and compliance.

13) Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

14) At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, monthly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting.

15) Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.

16) The intake shall be screened at all times in accordance with Department of Fish and Wildlife screening criteria. http://wdfw.wa.gov/hab/engineer/habeng.htm.

17) This Temporary Authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.

18) The applicant must obtain Hydraulic Project Approval from the Washington Department of Fish and Wildlife for all construction activities occurring within the high water mark of the Wenatchee River and its tributaries. Please contact the Department of Fish and Wildlife, 3860 Chelan Hwy N., Wenatchee, WA 98801-9625 or by telephoning Bob Steele at (509) 662-0503.

You have a right to appeal this decision. To appeal this you must:

- File your appeal with the Pollution Control Hearing Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board:

Mail appeal to:	OR	Deliver your appeal in person to:
The Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903		The Pollution Control Hearings Board 4224 – 6th Ave SE Rowe Six, Bldg 2 Lacey WA 98503

2. To serve your appeal on the Department of Ecology:

Mail appeal to:	OR	Deliver your appeal in person to:
The Department of Ecology Appeals & Application for Relief Coordinator PO Box 47608 Olympia WA 98504-7608		The Department of Ecology Appeals & Application for Relief Coordinator 300 Desmond Dr SE Lacey WA 98503

3. And send a copy of your appeal packet to:

   Mark C. Schuppe, Acting Section Manager
   Water Resources Program, Dept. of Ecology
   Central Region Office
   15 W Yakima Ave Ste 200
   Yakima WA 98902-3452

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

Sincerely,

Mark Schuppe, WR Acting Section Mgr, by Melissa Downes

Mark C. Schuppe
Acting Section Manager
Water Resources Program

MCS:gg/081222

cc: Lois Trevino, Administrator, Environmental Trust, Colville Confederated Tribes
Philip Rigdon, Director, Natural Resources Division, Yakama Nation

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ICICLE CHAPTER OF TROUT UNLIMITED
C/O DAN DAVIES
12780 PROWELL ROAD
LEAVENWORTH WA 98826

WR/gg Temp Auth S4-351737

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