

State of Washington  
Department of Ecology  
Yakima Washington

IN THE MATTER OF APPLICATIONS FOR CHANGE BY )  
THE DEPARTMENT OF ECOLOGY REQUESTING )  
A CHANGE IN THE PURPOSE OF WATER AND ) Emergency Drought  
PURPOSE OF USE UNDER COURT CLAIM NOS. ) Change Authorization  
02136, 02133, AND 00497, CAUSE NO. 77-2-01484-5 )

In accordance with the provisions of RCW 43.83B.405, on March 14, 2001, it was ordered and determined by the Director of the Department of Ecology that the State of Washington is under drought conditions. In accordance with the provisions of WAC 176-166-060, the Department of Ecology is under the terms of this Order, issuing an EMERGENCY DROUGHT CHANGE AUTHORIZATION. The intent of this authorization is to alleviate hardships and reduce the burdens on water users arising from the drought conditions.

**Background**

Governor Locke authorized the director of the Department of Ecology to declare a statewide drought emergency on March 14, 2001. The Yakima Valley is experiencing severe drought impacts in this 2001 water year. The US Bureau of Reclamation's (Reclamation) April 1 forecast of Total Water Supply Available (TWSA) predicts that the Yakima Project's pro-ratable water right holders are likely to receive only 28% of their full water supply amount this irrigation season.

Ecology has undertaken a water acquisition program with the objective of obtaining water through leasing, purchase, or other arrangements, to provide for enhanced instream flows, flushing flows, and other instream uses for fish and wildlife in the Yakima River and its tributaries under the Yakima Basin Trust Water Right Program, RCW 90.38. Ecology has entered into voluntary lease contracts with the water right holders for their water rights described below. The water right holders agree to forego irrigation for the 2001 irrigation season. Ecology intends to apply the leased water rights to instream flows in the Yakima River, below the authorized points of diversion in conformance with RCW 90.38.

The Department of Ecology is requesting to change two irrigation and stockwater rights held by Mike Kelly Moeur, Sr. and Jr., and one irrigation water right held by Robert and Shirley Stewart for use as instream flow enhancement water in the Yakima River during the 2001 irrigation season pursuant to RCW 90.38. These three water rights authorize the diversion of a total of 6.69 cfs, 1901.6 acre-feet of water from the Yakima River for irrigation of 220 acres and stock water supply from April 1 to October 15 each year. These rights were exercised in the 2000 irrigation season. Ecology has leased these water rights and the lands will be fallowed for the entire 2001 irrigation season. The water rights are located within Subbasin No. 9 (Wilson-Naneum) and are recommended for confirmation in the June 29, 2000 Report of Referee for Subbasin No. 9. The following table describes the water rights proposed for change to instream flow purposes.

Name	Court Claim	CFS	Acre-foot	Acres	Consumptive use (Ac-Ft)
Moeur	02136	3	843.6	117	339.5
Moeur	02133	0.69	167	23	66.7
Stewart	00497	3	891	80	232.1

These water rights have been recommended for confirmation by the June 29, 2000 Report of Referee for Subbasin No. 9 (Wilson-Naneum), pending further Order of the Court.

The consumptive portion of these rights has been calculated to be 638.3 acre-feet, and it is proposed that this amount be retained in Yakima Project reservoirs until it is needed to be released for instream flow enhancement for the lower Yakima River.

Placement of water into trust in accordance with Ecology's Trust Water Guidelines requires, among other parameters of the trust water right, determinations of the total and consumptive water use and the "primary" and "secondary" reaches affected. An emergency decision does not provide the time necessary to evaluate all aspects of the guidelines. Therefore, the analysis leading to the trust water recommendations in this report is simplified and conservative and there will be no primary reach defined.

The secondary reach is defined as the original point of diversions to the confluence of the Yakima River with the Columbia River.

The Bureau of Reclamation has reviewed this proposal and concluded that reservoir and project operations would not be negatively impacted by the proposed transfer. This proposal has also been reviewed and approved by the Conservation Advisory Group.

**Conclusions and Decision**

The proposed change of place of use and purpose of use will not impair existing water rights and is not contrary to the public interest.

This **DROUGHT EMERGENCY CHANGE DECISION** authorizes the transfer of 638.3 ac-ft to the State of Washington as a Trust Water Right in accordance with Chapter 90.38 RCW.

The secondary reach is the Yakima River downstream from the points of diversions located in Sections 11 and 24, T. 17 N., R. 18 E.W.M. to the confluence of the Yakima River with the Columbia River.

The authorized diversions are located as follows:

Moeur	Court Claim 02136	SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, T. 17 N., R. 18 E.W.M.
Moeur	Court Claim 02133	NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, T. 17 N., R. 18 E.W.M.
Stewart	Court Claim 00497	E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24, T. 17 N., R. 18 E.W.M.

The consumptive use portion of these rights shall be protected against diversion and use by junior water users as described in the Order Pendente Lite entered into Superior Court on June 7, 2001.

This drought emergency authorization expires on September 30, 2001.

APPROVED BY: \_\_\_\_\_

Robert F. Barwin, Section Manager

DATE: \_\_\_\_\_

4/11/2001