

COPY

Mr. Gene C. Brown  
2652 LeClerc Road, P.O. Box 458  
Newport, Washington 99156-0458



**STATE OF WASHINGTON  
CERTIFICATE OF WATER RIGHT**

**Document Title:** Certificate of Water Right

**Agency:** Department of Ecology  
Eastern Regional Office  
4601 North Monroe  
Spokane, WA 99205-1295

**Applicant:** Gene C. Brown  
2652 LeClerc Road, P.O. Box 458  
Newport, Washington 99156-0458

**Reference Number:**

PRIORITY DATE June 30, 1998	APPLICATION NUMBER S3-30105	PERMIT NUMBER S3-30105	CERTIFICATE NUMBER S3-30105
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*This is to certify that the herein named applicant has made proof to the satisfaction of the Department of Ecology of a right to the use of the public waters of the State of Washington as herein defined, and under and specifically subject to the provisions contained in the Permit issued by the Department of Ecology, and that said right to the use of said waters has been perfected in accordance with the laws of the State of Washington, and is hereby confirmed by the Department of Ecology and entered of record as shown, but is limited to an amount actually beneficially used.*

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE Unnamed spring		TRIBUTARY OF (IF SURFACE WATERS)	
MAX. CUBIC FEET PER SECOND .02	MAX. GALLONS PER MINUTE	MAX. ACRE-FEET PER YEAR 1.0	

QUANTITY/TYPE OF USE/PERIOD OF USE

.02 cubic foot per second, 1 acre-foot per year, from April 1 to October 1, each year, for the seasonal irrigation of one-half acre non-commercial lawn and garden

**LEGAL DESCRIPTION OF LOCATION OF DIVERSION/WITHDRAWAL**

¼¼ SW¼SE¼	SECTION 35	TOWNSHIP N. 32	RANGE (E. OR W.) W.M. 45 E.	W.R.I.A. 62	COUNTY Pend Oreille
PARCEL # 453235 05 9006					

ADDITIONAL LEGAL IS ON PAGE 2

**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED**

¼¼	SECTION 35	TOWNSHIP N. 32	RANGE (E. OR W.) W.M. 45 E.	W.R.I.A. 62	COUNTY Pend Oreille
PARCEL # 453235 05 9006					

ADDITIONAL LEGAL IS ON PAGE 2

**CONTINUED LEGAL DESCRIPTION FOR LOCATION OF DIVERSION/WITHDRAWAL**

Government Lot 5

**CONTINUED LEGAL DESCRIPTION FOR PROPERTY ON WHICH WATER IS TO BE USED**

Government Lot 5, Sec. 35, T. 32 N., R. 45 E.W.M.

**PROVISIONS**

*All conditions and requirements contained in reports of examination or permits previously issued apply to this certificate unless specifically noted below.*

An approved measuring device shall be installed and maintained in accordance with RCW 90.03.360 and/or WAC 508-64-020 through WAC 508-64-040.

The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required.

This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations.

This certificate shall be issued subject to Washington Department of Fish and Wildlife screening criteria as outlined in a Hydraulic Project Approval. Please contact the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, Attention: Habitat Management Division, Phone (360) 902-2534, to obtain specific requirements for your project.

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

The Washington State Department of Fish and Wildlife (WDFW), has recommended that water rights from the Pend Oreille River be conditioned with instream flows of 7,700 cubic feet per second (cfs) on a year-round basis (as measured at the gage near Newport, Washington).

**Provisions continued on page 3**

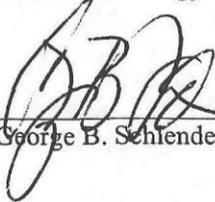
**The right to use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in RCW 90.03.380, 90.03.390, and 90.44.100.**

**This certificate of water right is specifically subject to relinquishment for non-use of water as provided in Chapter 90.14 RCW.**

*Given under my hand and the seal of this office at Spokane, Washington,  
this 9th day of September, 1999.*



Tom Fitzsimmons  
Department of Ecology

By   
George B. Schlander, Section Manager

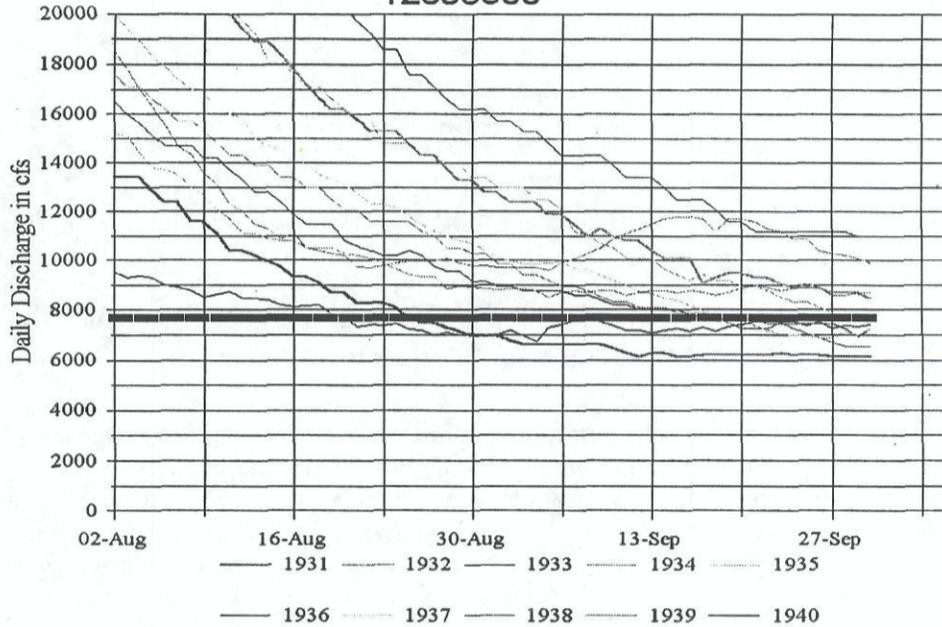
ENGINEERING DATA  
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ECY 040-1-2 (Rev. 8-97)

COBY

Provisions continued.

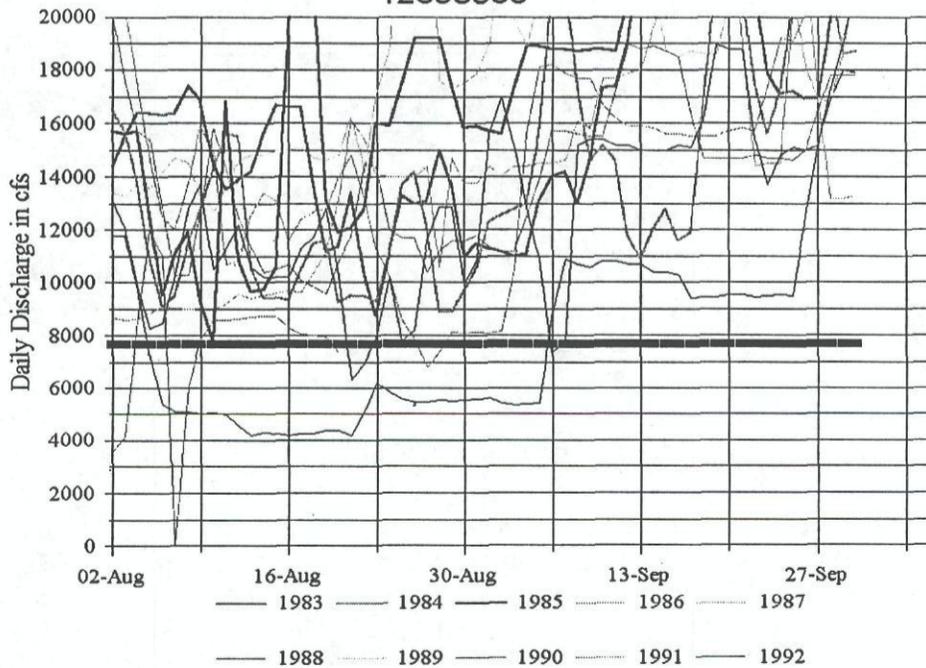
The following hydrographs for the U.S.G.S. Gage on the Pend Oreille River at Newport, Idaho (12395500) demonstrate important hydrologic characteristics of the Pend Oreille River. Before the construction of the Albeni Falls Dam, the river exhibited normal, riverine flow conditions. The first hydrograph shows the typical late summer flow regime for 10 different water years in the 1930s and early 1940s. The solid line at 7700 cfs represents WDFW's recommended instream flow value as it would have applied to the river in the 1930s. When summer flows reached their baseflow, they tended to stay down at that level for the remainder of the water year.

### Pend Oreille R at Newport 12395500



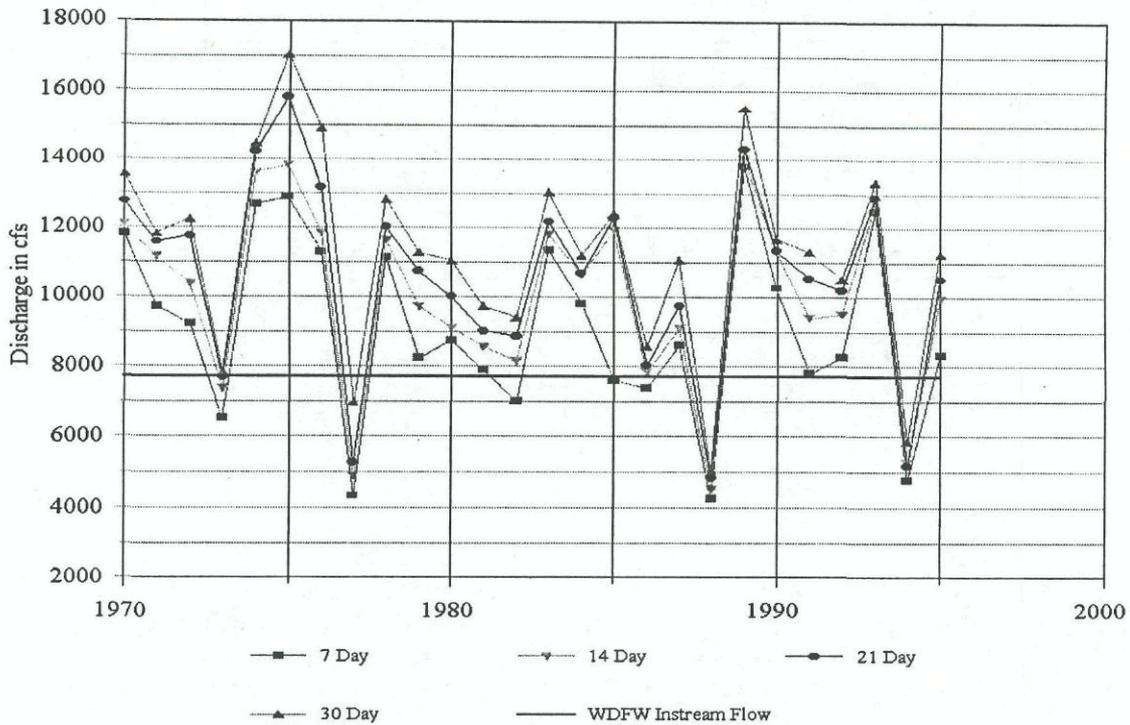
With the construction of the Albeni Falls dam in 1952, the character of the daily discharge changed dramatically from a riverine regime to an impounded, highly regulated, flow regime. The next hydrograph depicts the late summer, daily average discharge for a ten-year period in the 1980s through the early 1990s. The highly variable discharge data reflects the flows that result from the power generation demands that are placed on the river.

### Pend Oreille R at Newport 12395500

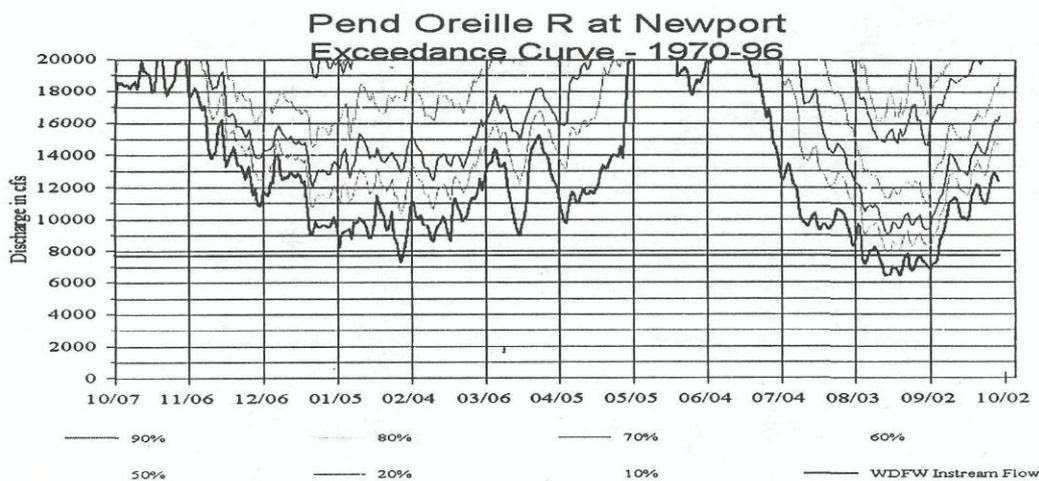


Trying to devise a methodology to implement the WDFW recommended instream flow given the current flow regime of the river requires some careful consideration of the day-to-day variability of the discharge. Given its fluctuations, just simply regulating junior water rights every time the daily average flow drops below 7700 cfs (the recommended instream flow) would be inappropriate and unworkable. Examining the data in the hydrograph indicates that the day-to-day variability is on the order of 5,000 cfs. Looking at a suite of duration frequency low flow analyses (7-day, 14-day, 21-day, and 30-day) for the 1970 through 1996 period allows us to get a better handle on when the flow in the river is truly flowing at a rate that is below the recommended instream flow. By looking at the actual daily flow data, we can see that three water years during the period 1970 - 96 exhibited sustained, low flow periods that were lower than the 7700 cfs threshold (1977, 1988, and 1994). The data from the duration frequency analysis shows that using a 14-day low flow criteria gives us the best opportunity to identify the low flow events.

### Pend Oreille River Low Flow Analysis



Calculating the exceedance probability for the daily average flows for the period 1970 - 96 allows us to see how frequently (on a yearly basis) and for what duration (how many weeks during each year) the flows on the Pend Oreille River can be expected to be below the recommended instream flow. The following graph demonstrates that on average, we can expect the summer low flows in the Pend Oreille River will be above the instream flow 8 to 9 times out of ten years. During that one in ten year event when the flow in the river is below the recommended flow, the low flow will last for approximately one month (typically August).



Therefore, this certificate shall be conditioned that all diversion shall cease when the 14-day average flow in the Pend Oreille River falls below 7700 cfs (as measured at the Pend Oreille River at Newport gage) as recommended by WDFW.