STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

December 10, 2013

Mr. Quentin Schwenke
3422 Power Line Road
Walla Walla, Washington 99362

COPY

Dear Mr. Schwenke:

Re: TEMPORARY PERMIT under Surface Water Application No. S3-30680
(WRIA 32– Walla Walla County)

This letter constitutes your TEMPORARY PERMIT under application Number S3-30680. This Temporary Permit authorizes the diversion of water in conjunction with previously issued Preliminary Permit S3-30674, subject to the following provisions.

The project proposed under Surface Water Application No. S3-30680 is to recharge the shallow alluvial aquifer with water diverted from Mill Creek in the winter and spring months. The intent of this project is to have the recharge water return to the Walla Walla River down gradient of the pond during the summer months to create an environmental enhancement.

Washington Administrative Code (WAC) 173-532-055 provides for surface water withdrawals for Environment Enhancement Projects (EEPs), specifically within the Walla Walla Basin. There are ten requirements which are as follows:

1. Sponsorship
2. Consensus recommendation
3. Measure and evaluate the projects effectiveness
4. Initial short term authorization
5. Not exempt from other appropriate permits
6. Subject to existing rights
7. Managed consistent with salmonid migration needs
8. Monitoring and Sampling
9. Ecology will maintain records
10. Not to exceed maximum allocation of the WAC

This project has been properly sponsored and has response letters from the required review groups. The review groups have made recommendations to go forward with the proposed project provided additional monitoring is conducted. The project will be authorized as a short term project by way of this Temporary Permit (S3-30680) and the existing Preliminary Permit (S3-30680). Together they authorize the construction of the facilities, a diversion of water to operate them and monitoring of the project. Since this project is reliant on the data collected these permits are subject to all monitoring requirement and procedures set forth in the "Walla Walla Basin Aquifer Recharge Water Quality and Water Level Monitoring Quantity Assurance Project Plan" dated May 2013. The information collected from operating the project will provide data for hydrogeologic uncertainties and lack of site specific information required to make a permanent decision. This project is required to obtain all applicable permits and is subject to the Washington Water Code.

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

(a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
(b) It is a groundwater right application for more than 2,250 gallons per minute;
(c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
(d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
(e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application would entail the withdrawal of more than 1 cfs, it is subject to SEPA. A final Determination of Non-Significance was issued by the Department of Ecology on December 10, 2013, stating that no environmental impact statement is required.

Revised Code of Washington (RCW) 90.03 authorizes the appropriation of public water for beneficial use and describes the process for obtaining water rights. Laws governing the surface water right permitting process are contained in RCW 90.03.250 through 90.03.340, with temporary permits being authorized under RCW 90.03.250. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for water rights to be approved:

- Water must be available
- There must be no impairment of existing rights
- The water use must be beneficial
- The water use must not be detrimental to the public interest

Water is generally available from Mill Creek from December 1 to May 31. This water availability is provided for in WAC 173-532 which allows the diversion of water for specific uses, except during low flow periods. This water right application is for an Environmental Enhancement Project which is one of the specific uses listed. The request for water diversion in November is not allowed under WAC 173-532 and is not approved under this authorization.

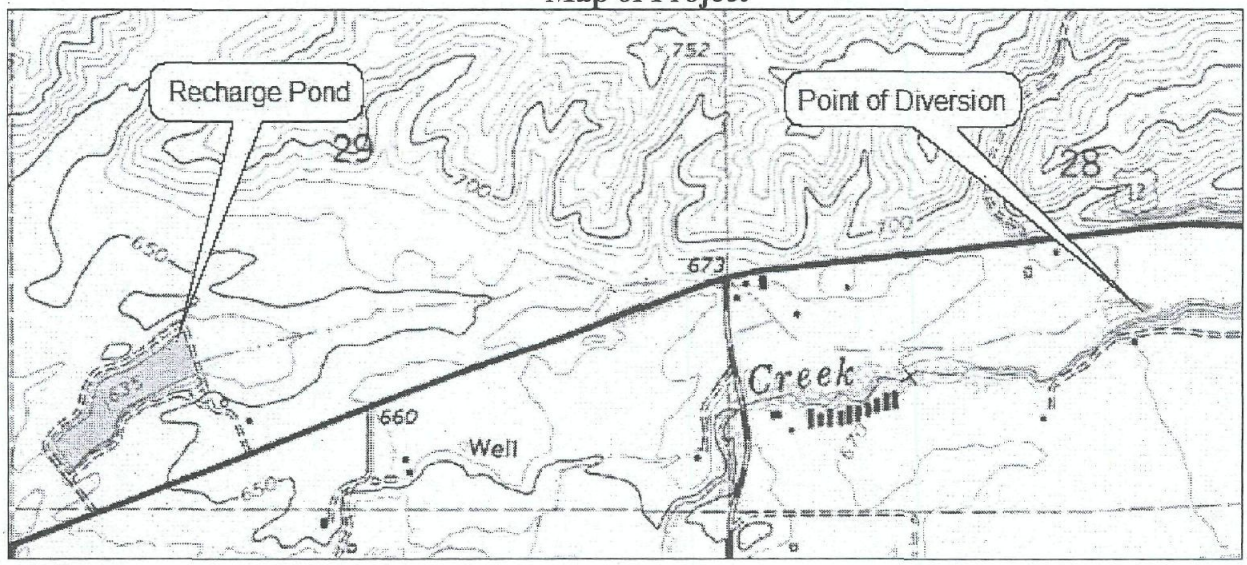
No impairment of existing water rights is anticipated provided the low flow described in WAC 173-532 is followed. Monitoring will be conducted in part to ensure impairment does not occur. Water diversions shall cease if sufficient water is not available for existing rights and shall not resume until surplus water is available.

The proposed use of water is defined in RCW 90.54.020(1) as a beneficial use. There are hydrogeologic uncertainties and a lack of site specific information available regarding this project. Specifically, the characteristics of the pond in which water is to be diverted and the alluvial aquifer in the stored waters are proposed to be redistributed. This information must be obtained so that the Department can make an affirmative permitting decision under this application. In order to further the decision process this temporary permit, in conjunction with the existing preliminary permit are authorized to operate and monitor the aquifer recharge project. This monitoring period will be used to determine if the proposed system with the physical attributes of the aquifer will indeed provide the expected beneficial use of water.

A notice of application was duly published under in accordance with RCW 90.03.280 in The Waitsburg Times on September 13 and 20, 2012. This public notice had a ministerial error and was republished. An amended notice was duly published in The Waitsburg Times on October 25 and November 1, 2012. During the field exam it was discovered that the proposed point of division was in a different location than advertised. An amended notice was duly published in The Waitsburg Times on January 31 and a ministerial error was discovered. An amended notice was duly published in The Waitsburg Times on February 7 and 14, 2013, which was correct. None of the public notices received protests. There has been significant public support for this project. Many of the supporters have indicated that additional monitoring should occur prior to issuance of a permanent water right. In addition, there is some concern as to the effectiveness of the project as it pertains to providing more water for fish at critical times. It is not anticipated that the Temporary Permit would cause any detrimental impact to the public welfare, since the project will be monitored and curtailed if necessary to satisfy other uses. The letters of support for the proposed project are from the following parties: Columbia County Board of Commissioners, City of Walla Walla, Gardena Farms Irrigation District No. 13, County of Walla Walla, Confederated Tribes of the Umatilla Indian Reservation, Snake River Salmon Recovery Board, Walla Walla Watershed Management Partnership, and Washington Department of Fish and Wildlife.

The Department must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. A letter of recommendation dated June 1 2012 indicates the proposed project is beneficial. This project shall be subject to the hydraulic code (Chapter 77.55) and fish screen statutes (RCW 77.57). Water use under this project shall be managed consisted with salmonid migration needs as required by Washington Department of Fish and Wildlife.

Map of Project



Also, known as the Stiller Ditch/Pond recharge project

TEMPORARY PERMIT under APPLICATION NUMBER NO: S3-30680
PRIORITY DATE: 12/21/2012

Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
4.5	CFS	991

Purpose

PURPOSE	DIVERSION RATE ADDITIVE	DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Aquifer Recharge	4.5		CFS	991		12/01 – 5/31

REMARKS

This Temporary Permit in conjunction with the existing Preliminary Permit authorizes the diversion of water into a pond with the intention of monitoring how it recharges the shallow alluvial aquifer. This project is proposed as an Environmental Enhancement Project as described under WAC 173-532.

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Walla Walla	Mill Creek	Walla Walla River	32-Walla Walla

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Mill Creek Diversion	350728310005	7N	35E	28	NW¼SE¼	46.05217	-118.44126

Datum: NAD83/WGS84

Place of Use

PARCELS (NOT LISTED FOR SERVICE AREAS)

350729210004

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Stiller Pond Located within the SW¼SW¼ of Section 29, Township 7 North, Range 35 East W.M., located south of Highway 12 and north of old Highway 12.

Proposed Works

Monitoring sites and pipe diversion from Mill Creek in an unlined pond for aquifer recharge

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT
Began	October 1, 2016

Additional Actions and Due Dates

ACTION	DATE DUE
Monitoring Status Report Due	October 1, 2014
Monitoring Status Report Due	October 1, 2015
Monitoring Status Report Due	October 1, 2016

Measurement of Water Use and Monitoring

Mill Creek Monitoring -Wallula Ave bridge site @ NE¼SE¼ of Section 28, T 7 N., R. 35 E.W.M.

How often must water use be measured?	Monthly
How often must water use data be reported to Ecology?	Annually (Oct1)
What volume should be reported?	Flow of Mill Creek

Mill Creek Monitoring – Sweagle Road bridge site @ W½W½ of Section 32, T 7 N., R. 35 E.W.M.

How often must water use be measured?	Monthly
How often must water use data be reported to Ecology?	Annually (Oct 1)
What volume should be reported?	Flow of Mill Creek

Monitoring Wells (separate data for each well):
MWSP1- SW¼SW¼ of Section 29, T 7 N., R. 35 E.W.M.
MWSP2- NW¼NW¼ of Section 29, T 7 N., R. 35 E.W.M.
MWSP3- SW¼SW¼ of Section 29, T 7 N., R. 35 E.W.M.
MWSP4- NE¼SW¼ of Section 29, T 7 N., R. 35 E.W.M.

How often must water use be measured?	Daily
How often must water use data be reported to Ecology?	Annually (Oct 1)
What volume should be reported?	Static Water Level

Mill Creek Diversion @ SE¼SW¼ of Section 28, T 7 N., R. 35 E.W.M.

How often must water use be measured?	Daily*
How often must water use data be reported to Ecology?	Annually (Oct 1)
What volume should be reported?	Total Annual Volume & Daily Volume
What rate should be reported?	Annual Peak Rate of Diversion, daily Peak Rate of Diversion

*This diversion is proposed to be used under this project to provide water for aquifer recharge in the winter and spring and to provide irrigation water for several existing rights during the spring, summer and fall. Meters shall be installed so that the recharge water and irrigation water are metered separately.

Provisions

Temporary Permit Requirements

This TEMPORARY PERMIT will remain in effect until October 1, 2016, unless sooner revoked by the Department of Ecology. Water use under this authorization shall cease May 31, 2016, but this permit shall remain in effect until October 1, 2016. This is so that it will match the existing preliminary permit schedule and be active if an extension is required once the data is collected.

The permittee may request, prior to the expiration date of October 1, 2016, an extension of the Temporary Permit. Two years is the maximum request for extension allowed since its use is tied to Preliminary Permit S3-30674. The Temporary Permit will require a request for extension equivalent to the preliminary permit.

TEMPORARY PERMIT S3-30680 shall be cancelled if PRELIMINARY PERMIT S3-30674 is cancelled.

If the applicant fails to comply with the terms of this Temporary Permit, the water-right application S3-30674 will be rejected and the associated preliminary permit canceled. The granting of this Temporary Permit shall not be construed, by inference or otherwise, that application S3-30674 will ultimately be approved.

If at any time the facilities authorized for construction are used to enhance (beyond what is authorized) the existing irrigation water rights that are proposed to utilize this diversion during the irrigation season, water right Application S3-30262 will be rejected and this Temporary Permit and the existing Preliminary Permit canceled. In addition, fines of up to $5000 per day, per violation, maybe assessed.

Measurements, Monitoring, Metering and Reporting

Temporary Permit S3-30680 is subject to all monitoring requirement and procedures set forth in the "Walla Walla Basin Aquifer Recharge Water Quality and Water Level Monitoring Quantity Assurance Project Plan" dated May 2013 and sited as Version 1.2. This includes the monitoring requirements set forth by Ecology's Water Resources Program and Water Quality Program.

Pump Station on Mill Creek Metering Requirements:

- An approved measuring device shall be installed and maintained for the Mill Creek diversion (located within the NW¼SE¼ of Section 28, T. 7 N., R. 35 E.W.M.) in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.
- WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements. Meters shall be installed so that the recharge water authorized under Temporary Permit S3-30680 and irrigation water authorized under other existing rights are metered and reported separately.
- Recharge water use data shall be recorded daily and maintained by the property owner for a minimum of five years. The daily rate, the maximum rate of diversion and the annual total volume shall be submitted to the Department of Ecology by October 1st of each calendar year. Recorded water use data shall be submitted to the Eastern Regional Office, with the yearly status report.
- Irrigation water use data collected between December 1 and May 31, shall be recorded daily and maintained by the property owner for a minimum of five years. The daily rate, the maximum rate of diversion and the total volume shall be submitted to the Department of Ecology by October 1st of each calendar year. Recorded water use data shall be submitted to the Eastern Regional Office, with the yearly status report. This metering schedule is only required during the duration of Temporary Permit S3-30680 and is in addition to any other previous metering requirements.

Mill Creek Monitoring Requirements:

- Mill Creek at Wallula Avenue Bridge, within the NE¼SE¼ of Section 28, T 7 N., R. 35 E.W.M. shall be measured for total flow monthly and reported by October 1 of each year.
- Mill Creek at Sweagle Road Bridge, within the W½W½ of Section 32, T 7 N., R. 35 E.W.M. shall be measured for total flow monthly and reported by October 1 of each year.

Both points of Diversion shall be measured as close in time as possible and shall be measured within the same 24 hour period. Both points shall be measured in a consistent manner, indicating, who made measurement, site, time, date and method. Monitoring shall begin prior to the diversion of water authorized under this permit. Recorded data shall be submitted to the Eastern Regional Office, with the yearly status report.

Well Monitoring Requirements:

- MWSP1 located within the SW¼SW¼ of Section 29, T 7 N., R. 35 E.W.M., shall be measured for static water level daily and reported by October 1 of each year.
- MWSP2 located within the NW¼NW¼ of Section 29, T 7 N., R. 35 E.W.M., shall be measured for static water level daily and reported by October 1 of each year.
- MWSP3 located within the SW¼SW¼ of Section 29, T 7 N., R. 35 E.W.M., shall be measured for static water level daily and reported by October 1 of each year.
- MWSP4 located within the NE¼SW¼ of Section 29, T 7 N., R. 35 E.W.M., shall be measured for static water level daily and reported by October 1 of each year.

All points shall be measured in a consistent manner, indicating who made measurement, site, time, date and method. Monitoring shall begin prior to the diversion of water authorized under this permit. Recorded data shall be submitted to the Eastern Regional Office, with the yearly status report. Note: the monitoring well locations defined in Preliminary Permit S3-30674 have been refined to those listed above. Both Temporary Permit S3-30680 and Preliminary Permit S3-30674 shall be required to monitor the well locations defined in this authorization.

Data from the monitoring station at Detour Road, Gage No. 32A100 at River Mile 32.8, Section 31, Township 7 N, Range 35 E.W.M. (N 46.0431°, W 118.4908°) shall be included, with your yearly status report due October 1st of each year.

Failure to provide data in a timely manner will result in water right application S3-30674 being rejected and this Temporary Permit and existing Preliminary Permit canceled.

Recorded water use data shall be submitted to Ecology, Eastern Regional Office, in accordance with the schedule outlined above in "Measurement of Water Use and Monitoring", on Ecology metering forms when applicable.

Department of Fish and Wildlife Requirement(s)

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. http://wdfw.wa.gov/about/contact/

The project shall be managed consistent with salmonid migration needs as required by Washington Department of Fish and Wildlife.

Instream Flow Limitations

This authorization is subject to the following minimum flows as specified in WAC 173-532-030(5). Instream flows as established at monitoring station Detour Road Gage No. 32A100 at River Mile 32.8, Section 31, Township 7 N, Range 35 E.W.M. (N 46.0431°, W 118.4908°). No diversion of water under this authorization shall take place when the stream flow at this station is below the minimum flows.

This authorization is subject to all downstream control stations and instream flow requirements that may also become controlling and critical to the use of water.

Instream Flows in the Walla Walla River Basin
(cubic feet per second)
Stream Management Unit

Month	Mill Creek MP 1 (Mill Creek at Kooskooskie), USGS Gage No. 14013000	Walla Walla River MP 5a (Walla Walla River at Detour Road), Department Gage No.32A100	North Fork Touchet River, MP 6a (North Fork Touchet above Dayton), Department Gage No. 32E050	Touchet River MP 11 (Touchet River at Bolles), Department Gage No. 32B100
January	110	250	95	150
February	125	250	95	150
March	150	350	125	200
April	150	350	125	200
May	125	250	125 Closure	200 Closure
June	100 Closure	Closure	95 Closure	125 Closure
July	53 Closure	Closure	65 Closure	74 Closure
August	41 Closure	Closure	53 Closure	48 Closure
September	41 Closure	Closure	51 Closure	56 Closure
October	48 Closure	Closure	63 Closure	82 Closure
November	100 Closure	Closure	95 Closure	150 Closure
December	110	250	95	150

Easement and Right-of-Way
The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right 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.

Water Use Efficiency
The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Schedule and Inspections
Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

General Provisions
The Department assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this Temporary Permit authorization. All expenses, risks, and liabilities incurred during this process shall be borne by the applicant.

The applicant accepts that even after construction of the subject project and expenses incurred that the resulting decision may be a denial of the underlying application.

Upon completion of operation and data collection, Ecology shall in a reasonable time frame make a permanent decision on Application No. S3-30674. This decision shall in part be based on the data you have provided in addition it will take into account applicable laws, rules, procedures and policies. No long term use is anticipated under Temporary Permit S3-30680, since its only purpose is to supply water to Preliminary Permit S3-30674 for testing purposes.

Nothing in the preliminary permit authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances or regulations. It is the applicant's responsibility to obtain all applicable permits necessary for this project.

Violation of any of the terms and/or conditions of the preliminary authorization will result in both authorizations being immediately terminated, issuance of administrative orders to Cease and Desist, and may also subject the violator to civil penalties.

Therefore, I ORDER approval of Temporary Permit under Application No. S3-30680, subject to existing rights and the provisions specified above.

Your Right To Appeal

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

File your appeal and a copy of this Order 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 Order 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.

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 RD 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://www1.leg.wa.gov/CodeReviser .

If you have any questions, please contact Dan Tolleson at 509-329-3526.

Sincerely,

Keith L. Stoffel
Section Manager
Water Resources Program
Eastern Regional Office

KLS/DT:md

Enclosure

By Certified Mail: 7012 3050 0000 1094 6541

7012 3050 0000 1094 6541

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Sent To
MR QUENTIN SCHWENKE
3422 POWER LINE ROAD
WALLA WALLA WA 99362

Street, Apt. N or PO Box N

City, State, ZIP+4

PS Form 3800, August 2006 — See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR QUENTIN SCHWENKE
3422 POWER LINE ROAD
WALLA WALLA WA 99362

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery 12/4

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7012 3050 0000 1094 6541

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540