File NR G4-31832(A)
WR Doc ID 5002017

State of Washington
Department of Ecology
Office Of Columbia River
Report of Examination for Lake Roosevelt
Incremental Storage Releases Water Permit

PRIORITY DATE
8/23/1993

APPLICATION NUMBER
G4-31832(A)

MAILING ADDRESS
PATEROS CITY
113 LAKESHORE DR
PO BOX 8
PATEROS WA 98846-0008

SITE ADDRESS (IF DIFFERENT)

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
95	GPM	40

Purpose

	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		
PURPOSE	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	PERIOD OF USE (mm/dd)
Municipal	95		GPM	40		01/01 - 12/31

REMARKS

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
OKANOGAN	GROUNDWATER		48-METHOW

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well 1 (East)	3023360182	AGJ116	30N	23E.W.M.	36	NESW	48.05477	-119.89986
Well 2 (West)	3023360182	AGJ117	30N	23E.W.M.	36	NESW	48.05475	-119.8999
							Datum: NAD83	

Place of Use (See Attached Map and Attached)

PARCELS (NOT LISTED FOR SERVICE AREAS)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

The place of use of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

Proposed Works

Two existing 12 inch wells drilled to a depth of 107 feet and 112 feet, fitted with 40 HP pumps and distribution system required to supply water to municipal water supply customers.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	Completed	December 1, 2012

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or cfs)

Provisions

Water Service Contract

Use of water under this permit or certificate is contingent upon the applicant's compliance with a water service contract with Ecology for recovery of costs associated with the Lake Roosevelt Incremental Storage Releases Program. Failure to comply with the terms of the water service contract will result in cancellation of the permit or revocation of the certificate.

Wells, Well Logs and Well Construction Standards

All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.

All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. All water measuring reports submitted to Ecology must reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which 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.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.

Department of Health Requirements
Prior to any new construction or alterations of a public water supply system, the State Board of Health rules require public water supply owners to obtain written approval from the Office of Drinking Water of the Washington State Department of Health. Please contact the Office of Drinking Water prior to beginning (or modifying) your project at DOH/Division of Environmental Health, 16201 E. Indiana Avenue, Suite 1500, Spokane Valley, WA 99216, (509) 329-2100.

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.

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

Signed at Yakima, Washington, this 13th day of December, 2011.

Derek I. Sandison, Director
Office of Columbia River

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.

INVESTIGATOR'S REPORT
Application for Water Right -- Pateros City
Water Right Control Number G4-31832(A)
Trevor Hutton, Department of Ecology

BACKGROUND

Description and Purpose of Proposed Application

On August 23, 1993 the Washington State Department of Ecology (Ecology) accepted Water Right Application Number G4-31832 submitted by the City of Pateros. As a part of the Lake Roosevelt Incremental Storage Releases Program (Program) permitting process, the application was split to allow for phased growth. The A portion is being processed presently, and the B portion is being retained for future growth. Attributes of the A portion of the application are presented below in Table 1. This investigation addresses only the portion currently being considered for processing, unless otherwise noted.

On February 26, 2010, the applicant was notified of the availability of mitigation water for this application, developed by the Office of Columbia River as part of the Program. On March 8, 2010, the applicant indicated his intent to receive water under the Program.

Lands covered by the proposed place of use are owned by multiple private landowners within the service area of the City of Pateros. The land upon which the proposed points of withdrawal are located is owned by the City of Pateros.

The proposed water use is associated with the municipal water supply to the City of Pateros. This system utilizes two existing 12 inch wells drilled to a depth of 107 feet and 112 feet, fitted with 40 HP pumps and the distribution system required to supply water to municipal water supply customers.

Table 1 Application Summary

Name	Pateros City
Priority Date	8/23/1993
Instantaneous Rate	95 gallons per minute
Annual Quantity	40 acre-feet per year
Purpose(s) of Use	Municipal water supply
Period of Use	January 1 – December 31
Place(s) of Use	Service area for the City of Pateros

Table 2 Proposed Sources of Withdrawal or Diversion

Source Name	Parcel	WellTag	Depth	Twn	Rng	Sec	QQ Q	Latitude	Longitude
Well 1 (East)	3023360182	AGJ116	107 ft	30N	23E.W.M.	36	NESW	48.05477	-119.89986
Well 2 (West)	3023360182	AGJ117	112 ft	30N	23E.W.M.	36	NESW	48.05475	-119.8999

Table 3 Existing Municipal System Summary

Department of Health Water System Database	
Water System ID	66450
Residential Population	615
Non-Residential Population	525
Total DOH Approved Connections	445
Distribution Capacity	298,000 gallons

Legal Requirements for Approval of Appropriation of Water

Chapters 90.03 and 90.44 RCW authorize the appropriation of public water for beneficial use and describe the process for obtaining water rights. Laws governing the water right permitting process are contained in RCW 90.03.250 through 90.03.340 and RCW 90.44.050. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for a water right 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

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Quad City Herald during the weeks of October 28 and November 4, 1993.

Consultation under WAC 173-563-020

Under WAC 173-563-020(4), consultation is required before issuance of new Columbia River permits:

> *The instream flows established and implemented by this chapter for instream and out-of-stream uses, and the average weekly flows applied by this chapter to out-of-stream uses do not apply to any application for water from the main stem Columbia River on which a decision is made by the department of ecology on or after July 27, 1997. Any water right application considered for approval or denial after that date will be evaluated for possible impacts on fish and existing water rights. The department will consult with appropriate local, state, and federal agencies and Indian tribes in making this evaluation. Any permit which is then approved for the use of such waters will be, if deemed necessary, subjected to instream flow protection or mitigation conditions determined on a case-by-case basis through the evaluation conducted with the agencies and tribes.*

On December 14, 2009, Ecology contacted local, state, and federal agencies and Indian tribes requesting consultation and comments on issuing new municipal and industrial permits from the Columbia River mitigated by 13,527 acre-feet of water under the Program. On November 5, 2010, Ecology consulted with local, state, and federal agencies and Indian tribes again to update the quantity of water released, to 37,500 acre-feet of water for municipal and industrial uses and associated instream releases.

From these consultations, Ecology received written responses from the WDFW, Bonneville Power Administration, U.S. Fish and Wildlife Service, Confederated Tribes of the Colville Reservation, the Confederated Tribes of the Umatilla Indian Reservation, and the United States Forest Service. Ecology also had several meetings with stakeholders, including the Columbia River Policy Advisory Group (PAG) where it received oral comments.

Copies of the written comments received are available in the file and PAG meeting notes are available on-line at: http://www.ecy.wa.gov/programs/wr/cwp/cr_pag.html. The comments generally identified that the Program was adequate mitigation for up to 25,000 acre-feet of new municipal, domestic and industrial permits.

State Environmental Policy Act (SEPA)

Pursuant to the State Environmental Policy Act (SEPA) (Chapter 43.21C RCW) and the SEPA Rules (Chapter 197-11 WAC), the Program was addressed in the Final Programmatic Environmental Impact Statement (FPEIS) for the Columbia River Management Plan. A Final Supplemental Environmental Impact Statement (FSEIS) was released on August 29, 2008 and an Addendum to the FSEIS was released on December 29, 2009; both documents address the Program in detail. On June 12, 2009, the United States Bureau of Reclamation (Reclamation) issued an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the project under the National Environmental Policy Act (NEPA).

The above described SEPA Documents are available online:

FPEIS - http://www.ecy.wa.gov/programs/wr/cwp/eis.html
FSEIS & FSEIS Addendum - http://www.ecy.wa.gov/programs/wr/cwp/cr_lkroos.html
EA & FONSI - http://www.ecy.wa.gov/programs/wr/cwp/cr_lkroos_envirostudies.html

Project specific SEPA compliance

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:

- It is a surface water right application for more than 1 cubic feet per second (cfs). If the project is for agricultural irrigation, the threshold is increased to 50 cfs, so long as the project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gallons per minute (gpm);
- It is an application combined with other water right applications for the same project, and exceeds the amounts above;
- 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);
- It is part of a series of exempt actions that, considered together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

Water Availability

For water to be available for appropriation, it must be both physically and legally available.

Legal Availability

The Program involves releases of water stored in Lake Roosevelt under the U.S. Bureau of Reclamation's (USBR) 1938 storage right (Reservoir Certificate Number 11793) to provide municipal, domestic and industrial water supply; provide water to replace some ground water in the Odessa Subarea; enhance stream flows in the Columbia River to benefit fish; and provide drought relief for interruptible water right holders.

Surface Water Permit Number S3-30556 was issued on December 1, 2008 to the USBR, authorizing a maximum of 305 cubic feet per second (cfs), 37,500 acre-feet per year for instream purposes in Lake Roosevelt and below Grand Coulee Dam with a priority date of May 16, 1938. Surface Water Permit Number S3-30556 is considered the "secondary" water use permit authorizing use of water stored under Reservoir Certificate Number 11793.

On December 21, 2010, Ecology issued Superseding Certificate of Trust Water Right S3-30556, accepting 305 cfs, 37,500 acre-feet per year to the Washington State Trust Water Right Program (TWRP) for the purpose of instream flow. Under Superseding Certificate of Trust Water Right S3-30556, water is held in the TWRP to mitigate the impacts of 25,000 acre-feet of new state water rights issued under the Program's municipal, domestic, and industrial water right permitting; the remaining 12,500 acre-feet is reserved exclusively for instream flows. In June 2011, Ecology provided notice under RCW 90.42.040(5) that it would modify Superseding Certificate of Trust Water Right S3-30556 to allow for mitigation of domestic uses, as well as municipal and industrial uses. No comments from this notification were received, and Ecology issued a second Superseding Certificate of Trust Water Right S3-30556 on August 17, 2011.

Physical Availability

Municipal, domestic, and industrial water uses associated with the Program will divert or withdraw water from the Columbia River or tributary groundwater on a continuous, year-round basis. In the preferred Alternative 1C, identified in the SEIS, mitigation releases from Lake Roosevelt will occur during time periods that will provide the greatest benefit to fish populations. These releases will occur during the months in which increased flow in the Columbia River will benefit fish the most, generally during April through September. The exact quantities and timing of the mitigation releases will be determined annually by the Fish Flow Releases Advisory Group (FFRAG). The membership of the FFRAG agrees that mitigation releases should be scheduled to help restore normative flows in the Columbia River. Since flows in October through March are higher than normative, mitigation for diversions and withdrawals under the Program are not seen as critical by FFRAG, leaving water available for release during the critical April through September period. This strategy was also supported in the consultations for the project.

The subject application is being investigated under the mitigation framework established under the Program. In order to mitigate the impacts of any new appropriation of water on the Columbia River, hydrologic evidence must indicate that impacts on the Columbia River associated with the proposed water use would be successfully mitigated by the Lake Roosevelt mitigation releases. Additionally, it

must be possible to manage the impacts on the Columbia River of proposed pumping in a manner that avoids carry-over of impacts across mitigation cycles.

A licensed Ecology staff hydrogeologist produced or reviewed and stamped a separate technical memorandum which discusses the hydrogeologic analysis for this application. The hydrogeologic interpretations provided below are extracted from this memorandum.

The applicant proposes to use two existing wells within the NE¼, SW¼ of Section 36, T30N, R23E. The wells are at an estimated elevation of 790 feet above mean sea level (msl) and are approximately 660 feet from the Columbia River just north of the confluence of the Methow River with the Columbia River. Both wells are contained within a single well house and are approximately 20 feet from each other based on field observations. Well 1 is 107 feet deep and Well 2 is 112 feet deep; both wells penetrate silt, sand, gravel, and clay according to the driller's well logs on file with Ecology. At the time of drilling (1964) Well 1 had a static water level of 60 feet below the ground surface (bgs). Well 2, drilled in 1965, also had a static water level of 60 feet bgs. A static water level of 60 feet bgs equates to an approximate groundwater elevation of 730 above mean sea level (msl). At the time of drilling Well 1 was pump tested for 24 hours and had a yield of 1,350 gallons per minute (gpm) with 19 feet of drawdown.

The elevation of Lake Pateros is not directly comparable to the static water levels reported on the well logs since the static water levels in the wells were taken prior to construction of Wells Dam in 1967.

There are no known hydrogeologic barriers between the Columbia River and the existing wells. Recharge of the unconsolidated aquifer occurs from contributions of precipitation and to a larger degree surface water exchange with the Columbia River. Well log data suggests that the water levels in the unconsolidated aquifer correspond with the surface elevation of the Columbia River.

Aquifer characteristics and parameters were derived from well log data, literature estimates, and geologic maps. An evaluation using the Well Pumping Depletion Model (Western Water Consulting, Inc., 2001) and the parameters outlined below suggest that, if pumping ceased after one year, the volume of depletion from the river would approach zero within two weeks or less.

Modeled Parameters:

- Pumping Rate –1,000 gpm
- Annual quantity – 376 acre feet
- Hydraulic Conductivity – 1,500 to 2,000 gpd/ft^2
- Saturated Thickness – 40 to 70 feet
- Aquifer Specific Yield – 0.15
- Distance to recharge boundary – 660 feet
- Distance to no flow (bedrock) boundary – 800 feet
- Well Efficiency – 70%

Since the wells are very close to each other and at similar depths they can be treated as a single well for the purposes of analyzing drawdown of the water table due to pumping. Pumping continuously at a rate of 1,000 gpm from the wells would exhaust the authorized annual quantity in approximately 85 days. An evaluation using the Theis non-equilibrium equation applying estimated aquifer parameters discussed above was performed to assess possible pumping interference with nearby wells as a result of the permitting action. Results indicate

that pumping at a rate of 1,000 gpm would potentially draw the water table down around 7 to 9 feet at a distance of 500 feet. A continuous pumping regime is of course not practical and represents a worst-case scenario. If the well is pumped in cycles or if it is pumped at less than the instantaneous rate of 1,000 gpm, the predicted effect would be reduced. The nearest well associated with a state issued water right is approximately 575 feet from the subject wells. The nearest possible well that might be used under the groundwater permitting exemption is no less than 300 feet from the subject wells based on aerial photo analysis. At 300 feet the estimated drawdown due to pumping at the subject wells is 8 to 11 feet.

Based on the above analysis, the subject wells meet the allocation objectives and requirements of the Columbia River Water Management Program. Any local well interference that might occur is not expected to be significant.

Impairment Considerations

Columbia River Water Rights

An investigation of a water right application includes an analysis of whether the proposed water use will impair other existing water rights. The impairment analysis involves identifying how the proposed water use may impact the current water rights regime.

In considering impacts to existing water right holders and the instream flow rule, an analysis must consider actual river operation, particularly in drought years when water availability issues are most acute. In the context of this application, there are four classes of water uses that must be considered:

- Water right holders with priority dates senior to May 16, 1938.[1]
- Uninterruptible water rights with priority dates junior to May 16, 1938.
- Interruptible water rights with priority dates junior to May 16, 1938.
- The June 24, 1980 Instream Flow Rule (WAC 173-563).

A detailed analysis of the current water rights regime on the Columbia River was issued in the Report of Examination (ROE) for S3-30556.

Under the Program, 37,500 acre-feet per year of mitigation water is held in the TWRP for instream purposes under Superseding Trust Water Certificate S3-30556 with a priority date of May 16, 1938, 25,000 acre-feet of which may be used for mitigation of new out-of-stream uses. Under the State's priority system, the mitigation water is senior to all water rights issued after May 16, 1938. The mitigation water rights are specifically exempted from the Columbia River instream flow rule (WAC 173-563-020(5)). Additionally, the mitigation water is protected under the TWRP from diversion by junior water right holders who may be curtailed during low-flow years. These junior users total approximately 379 interruptibles who are curtailed based on a forecast methodology outlined in WAC 173-563. Although junior to the mitigation that is available for this application, no conflict is expected between the applicant's diversions or withdrawals and interruptible water users because of the mitigation provided by the Program.

[1] Although the priority date of this application is August 23, 1993, based on the date of filing with Ecology, the application is backed by mitigation with a priority date of May 16, 1938, which is how it will be managed if regulation of Columbia River water rights is required.

Water Rights in the Vicinity

There are approximately 13 other water rights in the area, which are comprised of generally small domestic uses including minor irrigation and some small commercial and industrial rights. None of these are directly related to the subject application to supply water to the City of Pateros. The closest point of withdrawal for other state issued water rights is approximately 575 feet northeast of the proposed point of withdrawal. The city currently holds three groundwater rights, as specified below.

Table 4 Other Water Rights Held by the City of Pateros

File Number	Applicant	Document Type	Priority Date	Purpose	Qi	Units	Qa (Ac-ft/yr)
G4-CV2P916	City of Pateros	Certificate	5/9/1951	Municipal	250	gpm	180
G4-CV2P917	City of Pateros	Certificate	12/21/1953	Municipal	250 non-additive	gpm	336 non-additive
G4-CV2P918	City of Pateros	Certificate	5/9/1951	Municipal	250	gpm	156

Beneficial Use

The use of water for Municipal Water Supply purposes is defined in statute as a beneficial use (RCW 90.54.020(1)). Beneficial use encompasses two principal elements of a water right:

1. Beneficial use refers to the purpose for which water may be used.
2. Beneficial use determines the measure of a water right. The owner of a water right is entitled to the amount of water necessary for the purpose to which it has been used.

To determine the amount of water necessary for a beneficial use, courts have developed the principle of "reasonable use". Reasonable use of water is determined by analysis of the factors of water duty and waste.

Currently, the City of Pateros holds a total of 3 water rights. These water rights authorize the use of 500 gallons per minute (gpm), 336 acre-feet per year. Water right G4-CV2P916 issued for 250 gpm, 180 acre-feet per year for municipal supply from the City's "Well number 2." Water right G4-CV2P918 issued for 250 gpm, 156 acre-feet per year for municipal supply from the City's "Well number 1." Water right G4-CV2P917 issued for 250 gpm, 336 acre-feet per year for "supplemental" municipal supply from the City's "Well number 1." Due to its inconsistent application, and the confusion that followed, Ecology no longer uses the term supplemental in describing relationships between water rights. Ecology Water Resources Program Policy 1040 clarifies the relationships between these types of water rights. Water right G4-CV2P917 was granted to provide no additional quantities, but to allow for alternate supply in the event that Well number 2 became inoperable. At the present time, the City is using approximately 85% of their existing water right portfolio, with expectations of growth as new businesses are built and tourism expands. Based on a system study discussed with the City, which proposed growth of roughly one percent per year, this allocation should satisfy their demands through the next twenty years.

The City is currently pumping water at 1000 gpm, which is in excess of their authorized rates. The City is currently authorized to pump up to 500 gpm under their existing water rights. This issue is being dealt with through a contemporaneous application for a new Qi only right. To date, this application has not been received, but City officials have indicated that they are working on submitting the application.

The City of Pateros is party to an agreement with the Douglas County PUD that mandates the PUD assist in securing additional water rights as a part of the Wells Dam FERC relicensing process. The PUD currently operates four of the City's parks. These parks utilize a total of roughly 40 acre-feet per year. Ecology, through other permitting agreements, has expressed an intent to assist the PUD meet its

obligations to the City of Pateros. This authorization would effectively free up an additional 40 acre-feet per year for municipal use by the city, which would offset the amount of water consumed by the PUD's operation of the parks. The yearly cost recovery invoices would then be paid by the PUD through an agreement with the City. This approach allows the city to continue growth as well as fulfilling any obligations of the PUD and Ecology to assist in this matter.

While there is no Water System Plan currently on file for Pateros, the DOH records indicate that they are currently providing water to roughly 373 connections and are approved for 445 connections. Using the 2009 peak use of 285 acre-feet, this equates to 680gal/day/connection. This figure is larger than other estimates in the region due to the system serving several large fruit processing facilities and the irrigation of the City's parks. This artificially inflates the gallons per connection. Pateros has also initiated a conservation program to ensure that the City's water system is efficient and up to date.

Public Interest Considerations

Analysis of whether this application meets the requirements of RCW 90.03.290 that the proposed use of water will not be detrimental to the public welfare involves investigation of how the approval of the proposed use of water will affect the range of values that encompass the public interest.

Several sections of statute list the legislative policies that guide the consideration of the public interest during the allocation of water, including sections of the 1971 Water Resources Act (Chapter 90.54 RCW) and Chapter 90.90 RCW titled "Columbia River Basin Water Supply".

An analysis of the public interest considerations for the Program is contained in the Report of Examination for Application Number S3-30556, the "secondary use" permit for the Lake Roosevelt releases.

The public interests associated with the Program's municipal, domestic, and industrial permitting are specifically cited in several sections of Chapter 90.90 RCW.

- RCW 90.90.005(1) states "The legislature finds that a key priority of water resource management in the Columbia river basin is the development of new water supplies that includes storage and conservation in order to meet the economic and community development needs of people and the instream flow needs of fish".
- RCW 90.90.005(2) directs Ecology to "aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses".
- RCW 90.90.20(3)(b) instructs Ecology to focus on "Sources of water supply for pending water right applications".
- RCW 90.90.20(3)(d) instructs Ecology to focus on "New municipal, domestic, industrial, and irrigation water needs within the Columbia river basin".
- RCW 90.90.060(3) states that Lake Roosevelt releases "will bolster the state economy and will meet the following critical needs" including "new water supplies for municipalities with pending water right applications".

The Program's municipal, domestic, and industrial permitting achieves the statutorily mandated public interest requirements by allowing new state water rights to be issued while mitigating the impacts to fish.

If the subject application is approved, the public welfare may be affected in several ways:

- The provision of additional water supplies for cities, towns, and municipal water suppliers accommodates the projected population growth in the region, allowing for increased economic and social opportunities.
- The use of water for municipal supply purposes is not expected to affect local cultural, recreational, or environmental resources.
- The adaptive management strategy for mitigation releases will ensure releases occur at times that are most beneficial for Endangered Species Act-listed salmon and steelhead species in the Columbia River, thus assuring effective mitigation for this appropriation of water.

Consideration of Protests and Comments

On September 22, 1997, The Center for Environmental Law & Policy (CELP) submitted written comment to Ecology requesting that Ecology "either deny or continue in hold status all applications for new water rights from the Columbia River, its tributaries and from any ground water source in continuity with them." Major concerns cited by CELP include impacts to Endangered Species Act listed fish stocks, water availability, and reduced revenue from hydropower facilities as a result of increased diversions. CELP asserted that issuance of new water rights would violate the four statutory criteria for issuance of a water right because water is not available, and issuance of new rights would lead to impairment of existing rights and would not be in the public interest.

The Office of Columbia River has addressed these concerns in the Final Supplemental Environmental Impact Statement for the Lake Roosevelt Incremental Storage Releases Program[2] (FSEIS) and the Addendum to the FSEIS[3] (Addendum). Under the Program, issuance of new water rights for pending applications is mitigated by existing water rights held by Reclamation for water releases from Grand Coulee Dam. Ecology has placed this water into the TWRP to supply water for out-of-stream and in-stream purposes as outlined in the FSEIS.

This Program will have a beneficial impact on ESA-listed fish by providing additional instream flow water in the quantities of 37,500 acre-feet each year and an additional 17,000 acre-feet during drought years. Water will be released from Lake Roosevelt to maximize fish benefits on a schedule as agreed upon each year by the FFRAG (FSEIS 2.3.2.3 and FSEIS 2.3.3.2.). The timing of the releases would be constrained by the instantaneous flow limit of Reclamation's secondary water use permit as described in FSEIS section 2.3.

Program water will be released from storage in Lake Roosevelt in addition to water that is currently released. The Program is designed so no diminishment of water available to other appropriators throughout the Columbia River system will occur. Program water will only be used to supply water to surface water users or groundwater users who are capable of directly capturing water released from Lake Roosevelt or those groundwater users who can demonstrate that their withdrawals, if pumping ceased, would be fully attenuated within a single mitigation cycle (Addendum section II).

Under the Program, water is allocated to supply industrial and domestic/municipal development. As described in the public interest section, the Program will generate new jobs, revenue and other economic benefits to individuals and communities throughout the Columbia River Basin, while providing mitigation for fisheries.

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[2] http://www.ecy.wa.gov/programs/wr/cwp/images/pdf/finalseis/seis_final.pdf
[3] http://www.ecy.wa.gov/programs/wr/cwp/images/pdf/lkroos_seis_adden.pdf

Conclusions

Beneficial Use
The proposed use of water for Municipal Water Supply is considered to be a beneficial use. Therefore this application meets the first criterion of RCW 90.03.290 that the requested water be put to beneficial use.

Water Availability
The analysis provided above demonstrates that water is physically and legally available for the proposed use of water.

Impairment
The proposed beneficial use of water will not impair any existing water rights.

Public Interest
The proposed use of water would not be detrimental to the public welfare.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved and a permit be issued in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

95 gpm
40 acre-feet per year
Municipal Supply

Point of Withdrawal:
NE¼, SW¼, Section 36, Township 30 North, Range 23 E.W.M.

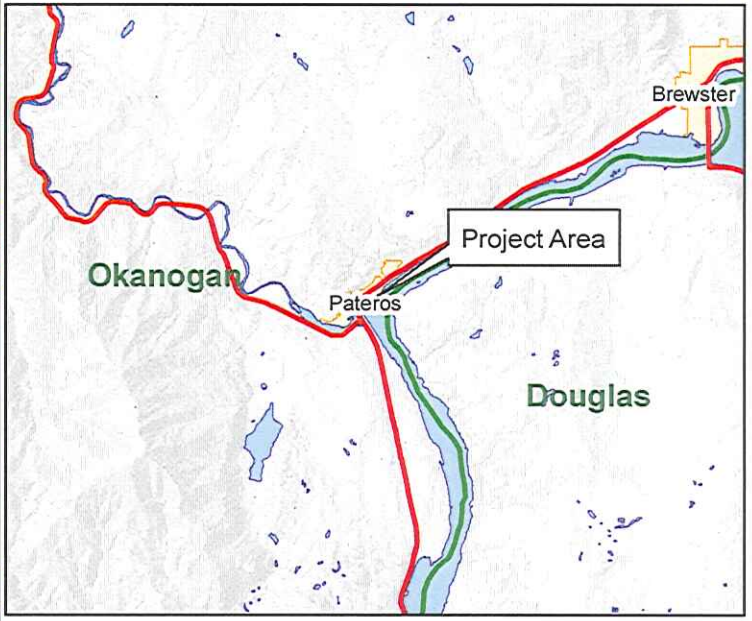
Place of Use
The place of use of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

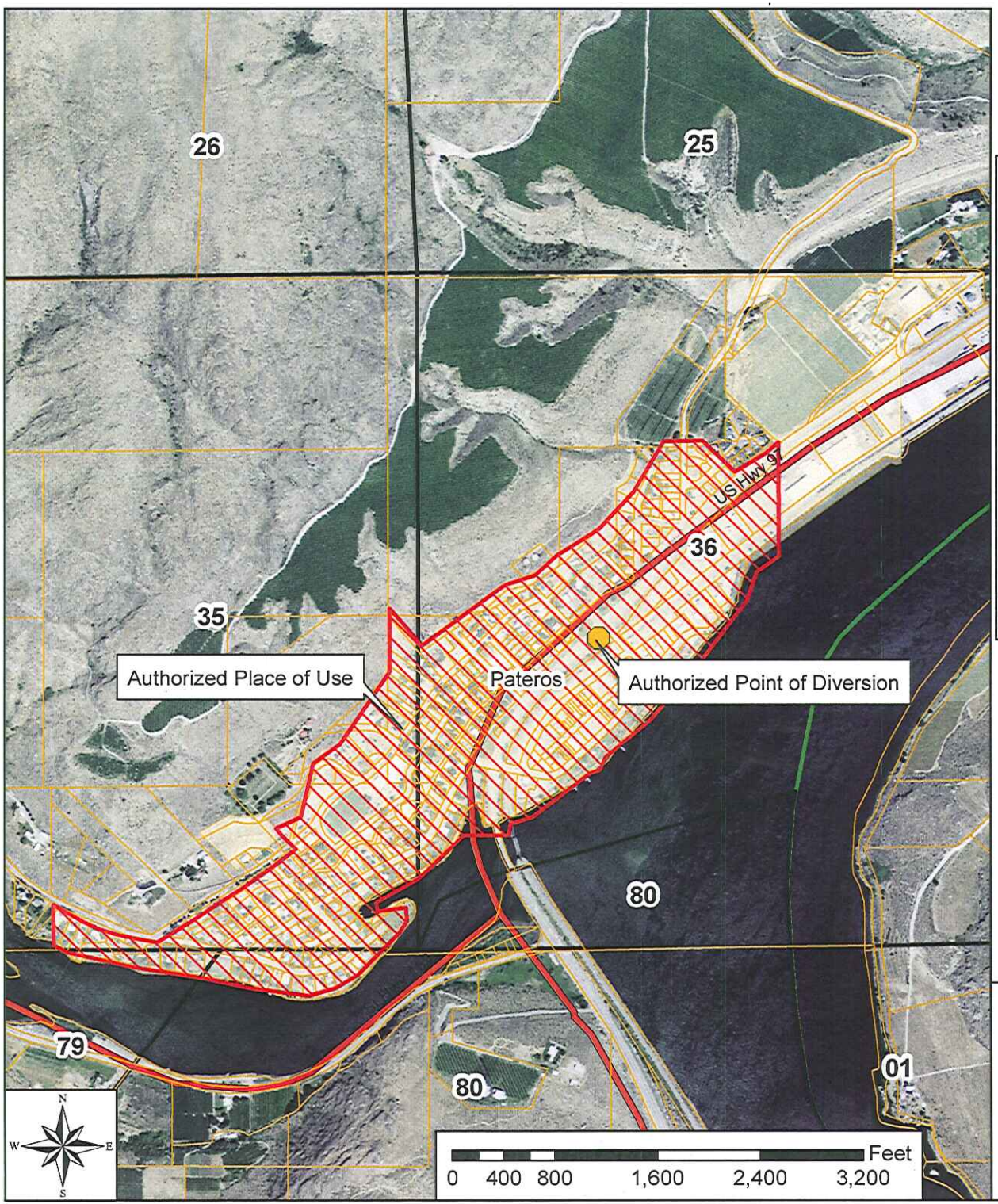
Trevor P. Hutton *Date* 12/13/11

If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

City of Pateros
Application Number G4-31832(A)
Sec. 36, T. 30 N., R. 23 E.W.M.
WRIA 48 - Okanogan County

DEPARTMENT OF ECOLOGY
State of Washington





- Point of Withdrawal
- Place of Use
- Parcels
- Sections
- Roads
- City
- County

Comments:
Map is for reference only. Place of use, points of withdrawal/diversion are as defined on the cover sheet of the Report of Examination.
Image is 2009 NAIP airphoto.