STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

December 1, 2011

Town of Pe Ell
PO Box 215
Pe Ell WA 98572-9999

Re: Water Right Change Application No. CS2-SWC1060@2

Dear Sir or Madam:

Enclosed is a copy of the Department of Ecology's *Report of Examination.* This report contains our decision regarding your application.

Your application has been approved.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this decision. 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 all of the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision 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 decision 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.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 **Pollution Control Hearings Board** 1111 Israel RD SW STE 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **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 call (360) 407-6300.

Sincerely,

Michael J. Gallagher
Section Manager
Water Resources Program

Enclosures: Report of Examination
Your Right To Be Heard

By Certified Mail: 7010 1670 0002 4158 2156

File NR CS2-SWC1060@2
WR Doc ID 2223121

DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Added or Changed Point of Withdrawal/Diversion

PRIORITY DATE
November 22, 1934

WATER RIGHT NUMBER
CS2-SWC1060

MAILING ADDRESS
PE ELL TOWN
P.O. BOX 215
PE ELL 98572-9999

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
2	CFS	250

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE ADDITIVE	WITHDRAWAL OR DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Municipal, Lester Creek	2		CFS	150.27		01/01 - 12/31
Municipal, Chehalis River		0.78	CFS		150.27	01/01 - 12/31

IRRIGATED ACRES ADDITIVE	IRRIGATED ACRES NON-ADDITIVE	PUBLIC WATER SYSTEM INFORMATION WATER SYSTEM ID	PUBLIC WATER SYSTEM INFORMATION CONNECTIONS
		66750	

REMARKS:
The combined instantaneous diversion rate from both sources must not exceed 2 cfs. The combined annual withdrawal rate from both sources must not exceed 150.27 ac-ft.

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Lewis	Chehalis River	Grays Harbor	23-UPPER CHEHALIS

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Lester Creek	016504000000	12N	05W	09	NWSE	46.5336	-123.3139
Chehalis River	016436003000	12N	05W	04	SWSW	46.5462	-123.301

Datum: NAD83/WGS84

Place of Use (See Attached Map)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

The place of use (POU) 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

Lester Creek diversion: a concrete dam impounds water. The intake is located in a vault, immediately upstream of the dam. Excess water flows over a weir. Water is gravity fed to the water treatment plant.

Chehalis River diversion: two submersible turbine pumps installed in a wet well structure are supplied water from an intake screen and pipe installed in the river. Each pump has a capacity rated at 200 gpm

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	Completed	2031

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

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 at Southwest Drinking Water Operations, 243 Israel Road S.E., PO Box 47823, Tumwater, WA 98504-7823, (360) 236-3030.

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/

Proof of Appropriation

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limits of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, will 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.

Measurements, Monitoring, Metering and Reporting
An approved measuring device must be installed and maintained for each sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use". 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.

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

Findings of Facts
Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. CS2-SWC1060@2, subject to existing rights and the provisions specified above.

Signed at Olympia, Washington, this 1st day of December 2011.

Michael J. Gallagher

Michael J. Gallagher, Section Manager

Your Right To Appeal
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INVESTIGATOR'S REPORT
Tammy Hall, Department of Ecology
Water Right Control Number CS2-SWC1060@2

BACKGROUND

Description and Purpose of Proposed Change

On January 19, 2001, Dan Cox, representing the Town of Pe Ell, filed an *Application for Change of Water Right* to add the Chehalis River as a second point of diversion under Surface water Certificate S2-1060.

Surface Water Certificate (SWC) 1060, issued September 20, 1974, authorizes diversion of 2 cubic feet per second (cfs) from Lester Creek for municipal supply purposes. The annual quantity is unspecified.

See Attachment #1

Attributes of the Existing Water Right and Proposed Change

Table 1. Attributes of SWC S2-1060 and proposed change.

	Existing	***Proposed***
Name	Pe Ell Town	Pe Ell Town
Priority Date	11/22/1934	
Change Application Date		01/19/2001
Instantaneous Rate	2 cfs	Same
Source(s)	Lester Creek	Lester Creek (2 cfs, additive) Chehalis River (0.78 cfs, non-additive)
Annual Quantity	Not specified	250.27 af/yr
Purpose(s) of Use	Domestic supply	Municipal supply purposes
Period of Use	Continuous	Same
Place(s) of Use	Section 34, T. 13 N., R. 3 W.W.M., Town of Pe Ell	The place of use (POU) 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

Table 2. Proposed Points of Diversion

Source Name	*Parcel*	*Twp*	*Rng*	*Sec*	*QQ Q*	*Latitude*	*Longitude*
Lester Creek	016504000000	12N	05W	09	NW SE	46.5336	-123.3139
Chehalis River	016436003000	12N	05W	04	SW SW	46.5462	-123.301

Table 3. Existing Point of Diversion

Source Name	*Parcel*	*Twp*	*Rng*	*Sec*	*QQ Q*	*Latitude*	*Longitude*
Lester Creek	016504000000	12N	05W	09	NW SE	46.5336	-123.3139

Legal Requirements for Proposed Change

The following is a list of requirements that must be met prior to authorizing the proposed change in SWC 1060.

Public Notice

The applicant published public notice for this project proposal in *The Chronicle* of Lewis County once a week for two consecutive weeks beginning March 21 and ending March 28 2001. The Department of Ecology received no protests or letters of concern in response to this notice.

State Environmental Policy Act (SEPA)

A SEPA determination evaluates if a proposed withdrawal will cause significant adverse environmental impacts. A SEPA threshold determination is required for:

1) Surface water applications for more than 1 cubic feet per second (cfs). For agricultural irrigation, the threshold increases to 50 cfs, if the project isn't receiving public subsidies.
2) Groundwater applications requesting more than 2,250 gpm.
3) Projects with several water right applications where the combined withdrawals meet the conditions listed above.
4) Projects subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA).
5) Applications that are part of several exempt actions that collectively trigger SEPA under WAC 197-11-305.

This application does not meet any of these conditions and is categorically exempt from SEPA.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states a water right put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed, as long as it would not harm or injure other water rights.

RCW 90.03.397 states that for a water right, not yet put to full beneficial use, the point of diversion can be changed to an intake structure downstream, so long as the ownership, place and purpose of use, and the season of use remain unchanged. In addition, the intake structure must have received approval and have the capacity to transport the additional diversion.

INVESTIGATION

The material reviewed in support of this application included the following:

- The State Surface Water Codes, administrative rules, and policies.
- Department of Ecology's Water Right Tracking System (WRTS) database.
- Topographic and local area maps.
- Telephone interviews and e-mail correspondence from Michael Johnson, of Gray and Osborne, Inc, representing the Town of Pe Ell.
- The Town of Pe Ell's Water System Comprehensive Plan Update, Gray and Osborne, May 2005.
- Notes from a site visit on August 22, 2011.
- The WRIA 23 Watershed Plan.

Project Location and Site Description

The Town of Pe Ell is situated is west-central Lewis County along State Highway 6 about 20 miles west of Chehalis. The 2010 census reported a population of around 675 people (Municipal Research and Services Center of Washington, 2011).

Pe Ell's primary source of water is a surface water diversion on Lester Creek. Lester Creek is a second order tributary to the Chehalis River. The creek is about five miles long and originates on the northern slopes of Huckleberry Ridge. Lester Creek empties into Crim Creek, about one mile south of where Crim Creek empties into the Chehalis River.

See Attachment #1

Intent of Proposed Change

The Town of Pe Ell would like to add the Chehalis River as an additional point of withdrawal under SWC 1060. This will allow system redundancy when the Lester Creek diversion is undergoing maintenance or repairs.

Lester Creek is the primary source of water for the Town of Pe Ell. Lester Creek is a high quality source of drinking water with lower turbidity and lower potential for public health related contaminants. On the other hand, the Chehalis River source is less protected and is vulnerable to contamination. It can also be prone to high turbidity at certain times of the year, especially following high precipitation events. However, the town still needs it as a secondary source of supply.

History of Water Use

The Town of Pe Ell has used Lester Creek since the turn of the century. Transmission lines were replaced in the late 1940's at the same time the current diversion was built.

The Lester Creek diversion currently in use is a concrete structure built in 1947. The dam spans the entire width of the bedrock canyon and flow over the dam is controlled by a weir. The pump intake is in concrete box on the north side of Lester Creek, upstream of the weir. The elevation of the intake is about 640 feet above mean sea level (msl).

Following are dates of the most recent major water system of improvements:

- Lester Creek intake and Transmission main repair: 2008 and 2009.
- Chehalis River pump station replacement: 2008.

- Water treatment plant construction: 2003
- Water distribution main replacement project: 2003
- Lester Creek raw water transmission main replacement 1999 and 2000.

The intake at each diversion is not metered. However, metering systems record the amount of water arriving at the treatment plant, before being treated (raw water). Water production is recorded daily at the water treatment plant. Customer water use (consumption) is recorded every two months.

Proposed Use

The purpose of use will remain "municipal supply.".

Water Demand

Washington Department of Health's water system database, SADIE, identifies the Town of Pe Ell's water system as System ID 66750 approved for 510 connections.

Currently, the town's water system serves around 371 residential and non-residential customers in their service area. The Town of Pe Ell's water treatment plant has the capacity to treat around 0.78 cfs or 350 gpm. SWC 1060 listed no annual quantity.

Future demand for the Town of Pe Ell is estimated using an estimated growth rate of about 1.08% per year for the next 20 years, consistent with water system planning. This is based on service to around 520 residential and non-residential customers and a population of around 860 people in 2031. Using an average demand for 350 gallons of water a day per connection, for 520 connections annual demand for service is about 205 ac-ft.

The town uses a slow sand filtration system at the water treatment plant. This type of a system requires water to circulate through the filter to keep it ripe, requiring about 20% more water than what the town needs to serve customers. Therefore, the total demand including needs for the filter is about 250 ac-ft per year. This is the amount tentatively determined to be eligible for change under this water right.

The water that keeps the filter ripe is directed to a drainage course and eventually makes it back to the Chehalis River.

Other Rights Appurtenant to the Place of Use

The Town of Pe Ell also hold two other water rights for diversion of water from Crim Creek (S2-00818C) and Mahaffey Creek (S2-0836C),each for 0.67 cubic feet per second (cfs) and 206 ac-ft per year. However, the diversions and conveyance systems have been removed and the water isn't being used. The town has no immediate plans to use those diversions again.

Hydrologic/Hydrogeologic Evaluation

Lester Creek

The terrain in the Lester Creek drainage is relatively steep, averaging about 15 to 20 percent slopes with little flat area. Property in the drainage has historically been used for timber harvest. The Lester Creek watershed drains about 2,100 acres (3.2 mi^2) above the intake, with elevations ranging from 640 feet at

the intake to 2,300 feet along Huckleberry Ridge. Lester Creek flows into Crim Creek, which drains into the Chehalis River at Chehalis River Mile (RM) 108.2.

The Lester Creek intake is located about two miles southwest of the Town of Pe Ell, in a remote mountainous area. The Lester Creek diversion is gravity fed to the water treatment plant.

Chehalis River

The Chehalis River intake is located at RM 108, about one mile due south of the Town of Pe Ell. The drainage area above the intake is about 130 mi^2. Elevations in this portion of the Chehalis River watershed range from 400 feet at the intake to 3,100 feet near Boisfort Peak.

The terrain in the Chehalis River watershed is less steep than Lester Creek with an average slope of about 15 percent. Most of the land in this portion of the watershed has also been historically used for timber harvest.

The original Chehalis River intake was constructed in 1989, but was destroyed by major floods in 2008. The current concrete block pump house sits on the bank of the river. The Chehalis River intake has two submersible turbine pumps installed in a wet well structure that is supplied water from an intake screen and pipe installed in the river. Each pump is capable of producing 200 gpm. The intake is situated in a pool of water in the channel formed from a series of large boulders placed in the riverbed. At the time of the field visit on August 22, 2011, the water level in the pool was below the intake. The town will likely rebuild the stilling pond after applying for and receiving the appropriate permits.

Impairment Considerations

Impairment of Minimum Instream Flow Water Rights

This change is not expected to impair streamflow in the Chehalis River since water use will not increase. The change will allow the Town of Pe Ell to use the Chehalis River as a second source of water as backup supply. Adding the Chehalis River as an additional point of diversion, downstream of Lester Creek will benefit the environment by having less impact on instream flows by keeping water in-stream between the Lester Creek and Chehalis River diversions, especially during low flow periods. Use from the Chehalis River diversion is limited to times when the water quality is adequate that it won't cause problems at the water treatment plant.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

In accordance with Chapters 90.03 and 90.44 RCW, I find that:

- SWC 1060 is in good standing and available for change.
- Municipal supply is a beneficial use.
- The proposed change of point of diversion will not impair existing rights.
- Approval of the requested changes will not enlarge the original right conveyed by S2-SWC1060, subject to the provisions specified above.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to SWC 1060 be approved, subject to the provisions beginning on Page 2.

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:

- Lester Creek: 2 cfs, additive
- Chehalis River: 0.78 cfs, non-additive
- 250 ac-ft per year
- Municipal supply purposes

Point of Diversion
Lester Creek:

- NW¼, SE¼, Section 9, Township 12 North, Range 5 W.W.M.

Chehalis River:

- SW¼, SW¼, Section 4, Township 12 North, Range 5 W.W.M

Place of Use:

- Described on Page 1 of this Report of Examination.

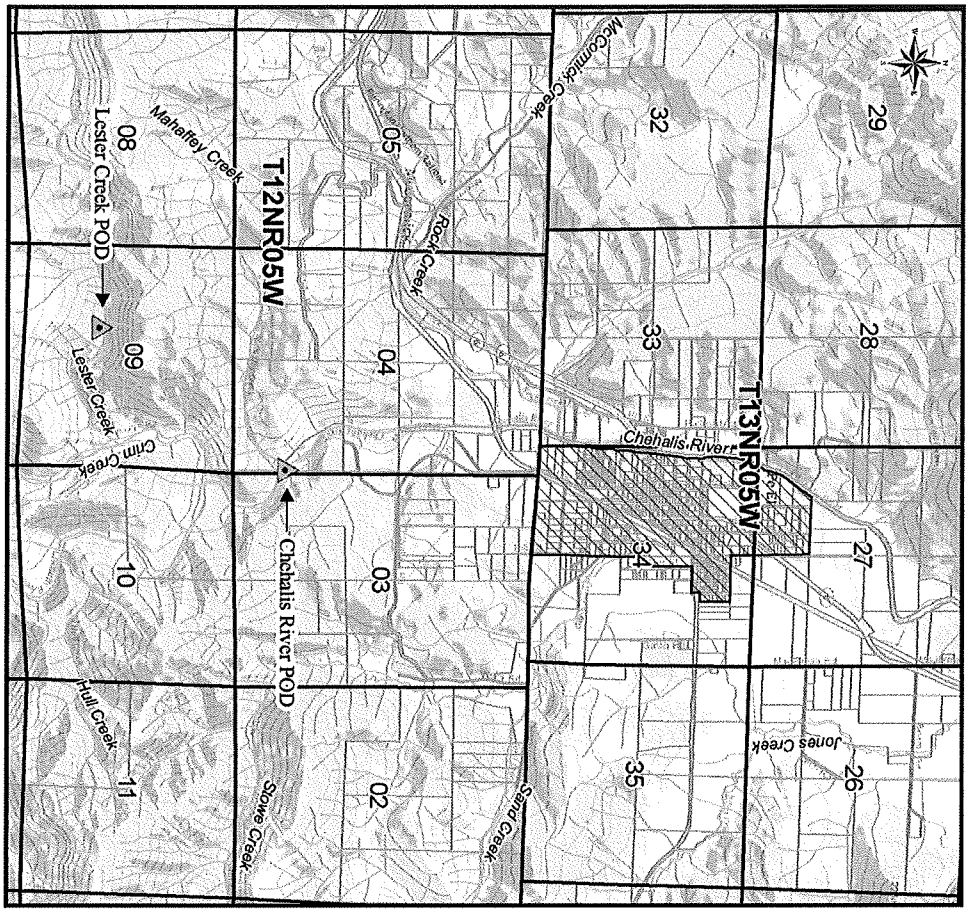
Tammy Hall — 12/1/2011
Tammy Hall — *Date*

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.

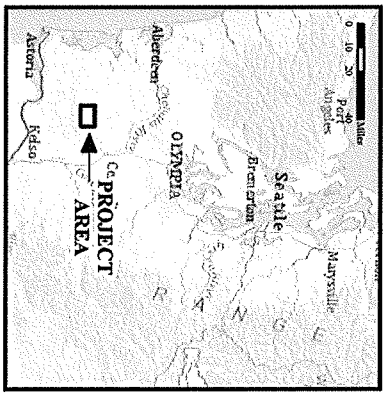
References:

Gray and Osborne, 2005, Town of Pe Ell, Lewis County, Washington, Water System Comprehensive Plan Update, May 2005.

Municipal Research and Services Center of Washington, 2011, http://www.mrsc.org/cityprofiles/cityprofile.aspx?id=176



Application CS2-SWC1060@2
Sec.27, 33, 34 T. 13 N. R. 05 W W.M.
Sec. 4, 9 T. 12 N. R. 05 W W.M.
WRIA 23 - Lewis County



Legend

- POINT OF DIVERSION (POD)
- CS2-SWC1060@2 PLACE OF USE (POU)
- PARCELS
- SECTION LINES

Comments:

Place of use, points of withdrawal/diversion are as defined on the cover sheet under the heading, "LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED."

Map Created 10/10/2007