



State of Washington
**REPORT OF EXAMINATION
 FOR WATER RIGHT APPLICATION**

S4-35267
 WR Doc ID: 4664971

PRIORITY DATE January 22, 2010	WATER RIGHT NUMBER S4-35267
--	---------------------------------------

MAILING ADDRESS Public Utility District No. 2 of Grant County PO Box 878 Ephrata Washington 98823-0878	SITE ADDRESS (IF DIFFERENT) White River Acclimation Facility 23721 Little Wenatchee Road Leavenworth Washington 98826
--	---

Quantity Authorized for Withdrawal or Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
7.49	CFS	3,600

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (ac-ft/yr)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Fish Acclimation (nonconsumptive use)	7.49		CFS	3,600		Continuously

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Chelan	White River	Wenatchee River	45-Wenatchee

SOURCE FACILITY/DEVICE	PARCEL	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
White River Point of Diversion	271610340030	27N	16E	10	SESW	47°50'49.00"N	120°50'14.30"W
Datum: NAD83/WGS84							

Place of Use (See Map: Attachment 1)

PARCEL
271610340030

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lot 4, Mike McComas Short Plat No. 3449, according to the plat thereof recorded July 8, 1997 in Book SP-14 of Short Plats, Pages 96 and 97, Chelan County, Washington, within the SE¼SW¼ of Section 10, T. 27 N., R. 16 E.W.M.

Proposed Works

The White River Acclimation Facility is supported by one point of diversion located immediately below the Little Wenatchee Road bridge on the White River. The point of diversion will consist of up to four 20 horsepower (hp) electric submersible pumps placed in a diversion structure constructed in the White River, capable of a total flow rate of 7.5 cubic feet per second (cfs). Water will be conveyed a short distance through a 24-inch buried pipe, circulated through four circular rearing tanks and/or two natural rearing ponds, and then returned back to the White River via an artificially constructed slough which discharges less than 300 feet downstream from the original point of diversion.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
May 1, 2013	September 1, 2015	September 1, 2020

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 (cfs)

Provisions

Measurements, Monitoring, Metering and Reporting

An approved measuring device shall 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 Region Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Region Office for forms to submit your water use data.

Instream Flow Limitations

Use of surface water under this authorization is considered nonconsumptive. However, fill or charging of the facility's rearing tanks or ponds is subject to the instream flows specified in WAC 173-545-060(7) for control point 12-4570.00, located at Wenatchee River mile 46.2. Instream flow hydrographs presented in WAC 173-545-170 shall be used for identification of instream flows on days not specifically identified in the citation above.

Department of Fish and Wildlife Requirement(s)

The intake(s) shall 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/regions/>
A permit from the Department of Fish and Wildlife may be needed to raise fish in any state waters: <http://wdfw.wa.gov/about/regions/>.

No dam or weir shall be constructed in connection with this diversion.

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

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

Proof of Appropriation

The water right holder shall 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 limitations of the permit. 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, 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.

DRAFT

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. S4-35267, 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 111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Yakima, Washington, this _____ day of _____ 2011.

Mark Kemner, Section Manger
Water Resources Program/CRO

INVESTIGATOR'S REPORT

BACKGROUND

Project Description

On January 22, 2010, Public Utility District No. 2 of Grant County (Grant PUD) filed Application No. S4-35267, requesting appropriation of public surface water to supply a fish acclimation facility. The applicant proposes to divert 7.49 cubic feet per second (cfs) and a cumulative annual diversion volume (Qa) of 3,600 acre-feet per year (ac-ft/yr). The purpose of use is for fish acclimation year round, as needed.

The proposed White River Acclimation Facility is located on the bank of the White River in the Wenatchee River Basin Water Resource Inventory Area (WRIA 45), approximately 1.1 miles upstream of Lake Wenatchee. The large-scale facility will over-winter, rear, and acclimate up to 165,000 Endangered Species Act (ESA)-listed spring Chinook salmon.

The facility will replace the short-term acclimation tanks currently used to acclimate up to 30,000 spring Chinook salmon.

Table 1
Summary of Application No. S4-35267

<i>Attributes</i>	<i>Proposed</i>
Applicant	Public Utility District No. 2 of Grant County
Application Received	January 22, 2010
Instantaneous Quantity	7.49 cubic feet per second
Source	White River
Point of Diversion	SE¼, SW¼, Section 10, T. 27 N., R. 16 E.W.M.
Purpose of Use	Fish Acclimation
Period of Use	Year round
Place of Use	White River Acclimation Facility within the SE¼, SW¼, Section 10, T. 27 N., R. 16 E.W.M.

Legal Requirements for Application Processing

The following requirements must be met prior to processing a water right application:

- **Public Notice**
Notice of the proposed appropriation was published in the *Wenatchee World* of Wenatchee, Washington and the *Leavenworth Echo* of Leavenworth, Washington on April 12 and 19, 2010. No protests were received by Ecology.
- **State Environmental Policy Act (SEPA)**
A SEPA review of the proposed diversion was completed by Grant PUD and concluded with a Determination of Nonsignificance issued on December 1, 2010. No comments were received.
- **Water Resources Statutes and Case Law**
Chapter 90.03 RCW authorizes the appropriation of surface water for beneficial use and describes the process for obtaining a water right. Laws governing the water right permitting process are contained in RCW 90.03.250 through 90.03.340. Based on the provisions of RCW 43.21A.690 and RCW 90.03.265, this application has been processed by Aspect Consulting, LLC (Aspect Consulting) under Ecology Cost-Reimbursement Agreement No. ASP009 (master contract No. C1000185).

Priority Processing

The Grant PUD requested that Application No. S4-35267 be processed under WAC 173-152-050(2)(b), commonly known as the Hillis Rule. This rule allows Ecology to prioritize the processing of new water right applications that are nonconsumptive, and include qualifying measures that substantially enhance or protect environmental quality in a watershed.

Guidance regarding classification of water uses as nonconsumptive for surface water is given by Ecology's Water Resources Program, Policy 1020 (Ecology 1991). The policy defines water use as nonconsumptive when "...there is no diversion from the water source or diminishment of the source." Specifically, nonconsumptive use at a fish hatchery is defined when water is returned to the same source, in the same quantity as diverted, and water quality standards are met. Likewise, WAC 173-545-030(12) defines nonconsumptive use when "...there is no diminishment in the overall amount or quality of water in the water source".

Ecology recognizes that certain projects may have a small component of water consumption – such as, through an increase in bank storage or evaporation rate. However, as a matter of policy, Ecology classifies these types of projects as nonconsumptive. The consumptive use of water to initially fill or charge the system is also allowed, but subject to instream flows and existing rights (Ecology 1991).

The second criterion for priority processing is that the new use will provide for significant environmental benefit. Grant PUD is committed to mitigate for unavoidable loss from operation of the Priest Rapids Hydroelectric Project. The White River spring Chinook salmon is one of the few, if not the only, groups of spring Chinook that migrates over 500 miles and through a lake to spawn in a glacially fed river. Application No. S4-35267 will directly support this population of spring Chinook salmon. Based on this information, Ecology has concluded that the subject applications also meet the environmental enhancement/protection criterion for priority processing under WAC 173-152-050(2)(b).

INVESTIGATION

Aspect Consulting reviewed available documents pertaining to the application's site conditions, projected water usage and demand, and the potential effect on existing water right holders and instream flows. This included the information submitted by the applicant and pertinent Ecology records. Most notably, it included review of the Grant PUD's Hatchery and Genetic Management Plan (HGMP) summarizing the recommendations of the Priest Rapids Coordination Committee (PRCC), Hatchery Subcommittee. Grant PUD must meet the terms and conditions of the 2008 Biological Opinion (BiOp) issued by the National Oceanic Atmospheric Administration (NOAA) for the Priest Rapids Hydroelectric Project and the Priest Rapids Project Salmon and Steelhead Settlement Agreement. These requirements are incorporated into the new Federal Energy Regulatory Commission (FERC) License, issued April 17, 2008, for continued operation of the Priest Rapids and Wanapum hydroelectric dams located on the Columbia River.

A site visit was performed on November 5, 2010. Tyson Carlson of Aspect Consulting and Kelsey Collins representing Ecology met with Ross Hendrick of the Grant PUD. The site visit included inspection of the proposed point of diversion and place of use, and an interview with the applicant.

Project Description

The PRCC Hatchery Subcommittee oversees the development, implementation, and monitoring of species-specific hatchery programs designed to supplement naturally producing populations, including spring, summer, and fall Chinook, Steelhead, Sockeye, and Coho salmon. The HGMP (Grant PUD 2009) presents the supplementation program specifically designed for spring Chinook salmon in the White River. The purpose of the program is to mitigate for unavoidable mortality of spring Chinook salmon at the Priest Rapids and Wanapum Dams as well as to conserve, and ultimately restore the naturally spawning White River spring Chinook salmon. The ultimate goal of the supplementation program is the annual release of up to 165,000 spring Chinook smolts to the White River.

Since 1997, the White River spring Chinook supplementation program has been in a juvenile-based captive brood phase. After rearing in captivity to adulthood, the adults are spawned and their progeny are grown to smolt size for release back into the White River. However, the program is transitioning into an adult-based supplementation phase, where White River origin adults are trapped and spawned, grown to smolt size, then released. Adult holding, spawning, incubation, and early rearing activities will occur outside of the White River Basin at the Little White Salmon National Fish Hatchery, but final acclimation will be required at the White River Acclimation Facility (and several short-term sites) located within the basin. Fish will be transported from the Little White Salmon National Fish Hatchery to the facility in October, acclimated over the winter, and then released in May to the White River via the proposed slough.

Site Description

The proposed Bridge Site acclimation facility is located on a 17-acre plot approximately 1.1 river miles above Lake Wenatchee on the north side of the White River in the southeast quarter of the southwest quarter of Section 10, in Township 27 North, Range 16 East Willamette Meridian. Grant PUD owns the property. The point of diversion will be located on the left bank of the White River, immediately downstream from the Little Wenatchee Road Bridge. The point of diversion will consist of up to four 20-horsepower (hp) electric submersible pumps placed in a diversion structure constructed in the White River, capable of a total flow rate of 7.5 cfs. Water will be conveyed a short distance through a 24-inch buried pipe, circulated through four circular rearing tanks and/or two natural rearing ponds, and then returned back to the White River via an artificially constructed slough which discharges less than 300 feet downstream from the original point of diversion.

Flow in the White River is locally controlled by a weir structure located approximately 1,700 feet downstream from the proposed point of diversion. The top elevation of the weir structure is above the thalweg of the entire reach adjacent to the proposed acclimation facility. Based on hydraulic modeling completed during facility design (GeoEngineers 2011), the weir structure effectively impounds water, creating a backwater condition across the Bridge Site. The model results further indicate that under current and proposed conditions, the river stage at the point of diversion and point of discharge will not differ more than 0.02 feet for critical low flows, including the lowest recorded mean daily flow (66 cfs recorded on November 29, 1979) and the 95 percent exceedance flow (310 cfs) used in facility design (Grant PUD 2011).

Agency Consultation Process

Ecology has sought consultation with the U.S. Bureau of Reclamation (Reclamation) who controls all unappropriated waters of the Columbia River above Priest Rapids Dam – including all tributaries and groundwater that are in continuity. Reclamation subsequently granted a release of water for the subject application via email received on July 27, 2011.

During the early stages of the application process, the Grant PUD solicited support from numerous entities, including those participating on the PRCC Hatchery Subcommittee. A Statement of Agreement (SOA) supporting the subject water right application was approved by NOAA Fisheries, Washington Department of Fish and Wildlife (WDFW), the United States Fish and Wildlife Service, and local Native American tribes, including the Tribes and Bands of the Yakama Nation and the Confederated Colville Tribes on September 16, 2010.

Ecology conducted additional consultation to fulfill the requirements of WAC 173-545-060(10) to address flows in the 300-foot bypass reach between the proposed point of diversion and the discharge point for the acclimation facility. WDFW was asked to review native habitat and the hydraulics of the White River near the acclimation facility. The consultation concluded that the proposed bypass reach of the White River meets the definition of a pool as defined by POL-1020 (Ecology 1991) under both extreme and design low-flow conditions. WDFW recommend approval for the project in an e-mail dated November 4, 2011.

Water Quality

Ecology has established a total maximum daily load (TMDL) for the Wenatchee River and tributaries, which are known to exceed the water quality criteria for temperature, July through September, and Dissolved Oxygen (DO) and pH, which includes phosphorus. In response to the TMDLs, Ecology prepared a Water Quality Improvement Report for each TMDL (Ecology 2007a and 2009) providing targets for reducing loading to the Wenatchee River and its tributaries, along with implementation action items and associated timeframes. The Water Quality Improvement Report for DO and pH included the recommendation of no increase in nutrient loading for the upper Wenatchee River.

WAC 173-221A-100(1)(b) conditionally exempts certain smaller upland hatcheries from the requirement to obtain a wastewater discharge permit, such as the Upland Fin-Fish Hatching and Rearing General NPDES Permit issued by Ecology's Water Quality Program. The site will not produce more than 20,000 pounds of fish in a calendar year. However, as a condition of the exemption, the site must comply with WAC 173-221A-100(2) through (6). The Grant PUD plans to use low phosphorus feed and, during the period of use, conduct routine water quality monitoring above the point(s) of diversion and below the point(s) of return to verify no negative impacts to DO, pH, and total phosphorus.

Four Statutory Tests

This Report of Examination (ROE) evaluates the application based on the information presented above and in referenced FERC relicensing documents. To approve the application, Ecology must issue written findings of fact and determine that each of the following four requirements of RCW 90.03.290 has been satisfied:

1. The proposed appropriation is a beneficial use;
2. Water is available for appropriation;
3. The proposed appropriation would not impair existing water rights; and
4. The proposed appropriation would not be detrimental to the public welfare.

Beneficial Use

In accordance with RCW 90.54.020(1), the proposed appropriation for fish acclimation is a beneficial use of water. As detailed on the Application for Permit, the point of diversion will be supported by the necessary infrastructure to deliver the full appropriation of water to the long-term facility. The rate at which the water will be diverted is needed to sustain up to 165,000 spring Chinook salmon during the over-winter acclimation period.

Availability

Inspection of the 2009 Water Year data indicate that the White River just upstream of the Bridge Site (Ecology gage ID 45K090), had an annual mean discharge rate of 700 cfs, with a daily mean ranging from 117 to 4,270 cfs. Low flows are typically associated with the late summer (August to October), while high flows are the result of peak winter storm cycles and spring runoff. Flows during the requested period of use are approximately 200 cfs (March) and steady increase to over 3,000 cfs by the end of May. Based on the period of record available (2002 to present), the 2009 Water Year was average.

Based on this data, the quantity of water requested for use in this application is physically available for appropriation. Water will be returned to the White River in the same quantity as is diverted, at a point downstream in close proximity to the point of diversion. The site is also conditionally exempt from the requirement to obtain a wastewater discharge permit on the condition it comply with WAC 173-221A-100(2) through (6). Water quality monitoring will be conducted to verify no negative impacts to water quality, including listed TMDLs.

Potential for Impairment

RCW 90.03.290 and RCW 90.44.060 require a determination that a new appropriation will not impair existing rights. There are numerous water right certificates, permits, and claims for the White River and wells in continuity with the river. However, there are no surface water diversions or wells located in or near the 300-foot bypass reach on the White River.

There is also an instream flow rule for the Wenatchee River Basin established as part of an Instream Resources Protection Program (IRPP), Chapter 173-545 WAC to protect water quality, wildlife, fish, and other environmental values, as well as aesthetics, recreation and navigation, and to meet certain future out-of-stream water needs. The IRPP defines minimum instantaneous flows in reaches defined by nine control stations throughout the Basin. The program effectively limits, and in some cases prohibits, the further issuance of consumptive water rights that could interfere with the instream flows established for these specified stream management units.

As defined by the WAC, the control point (stream gage station) that defines the stream management unit most applicable to the application under consideration is 12-4570.00 (Wenatchee River at Plain), extending from the headwaters of the Wenatchee River – including the Little Wenatchee and White Rivers – downstream to the Beaver Valley Highway Bridge in the town of Plain. Minimum instream flows in WAC 173-545-060(7) for this stream management unit are specified year round and fluctuate seasonally from a low of 520 cfs to a high of 2,500 cfs.

Filling or charging of the rearing tanks and ponds with approximately 232,000 gallons (or 0.7 acre-feet) of water will be provisioned to occur only if minimum instream flows are met (see Provision *Instream Flow Limitations*)

Therefore, because the proposed appropriation will not diminish the overall quantity or quality of water in the White River between the point of diversion and discharge, there are no other users in the bypass reach, and charging of the facility shall not take place during low flows, no impairment of surface water or groundwater rights is expected to occur.

Public Welfare

No protests to the application were received. The proposed appropriation will support the Grant PUD’s obligation to mitigate for the Priest Rapids Hydroelectric Project. An approved SOA was submitted from the PRCC Hatchery Subcommittee, which includes NOAA Fisheries, WDFW, the United States Fish and Wildlife Service, and local Native American tribes, including the Bands of the Yakima Nation and the Confederated Colville Tribes.

CONCLUSIONS

The conclusions based on the above investigation are as follow:

- 1. The proposed appropriation for fish acclimation at the White River Acclimation Facility is a beneficial use of water;
- 2. The quantity of water requested for nonconsumptive use in this application is available for appropriation;
- 3. The proposed nonconsumptive appropriation will not impair senior water rights; and
- 4. The proposed appropriation will not be detrimental to the public interest.

RECOMMENDATION

Based on the information presented above, the author recommends that the request to appropriate surface water from the White River for fish acclimation be approved in the amounts described, limited, and provisioned on page 1 through 3 of this report.

Report by: _____
Tyson D. Carlson, LHG, Aspect Consulting, LLC Date

Reviewed by: _____
Kelsey S. Collins, Water Resources Program 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.

CITATIONS

Ecology 1991. Water Resources Program Policy POL 1020, Consumptive and Nonconsumptive Water Use. October 31, 1991.

Ecology 2004. Water Resources Program Policy POL 1021, Priority Processing – Water Budget Neutral Projects. January 21, 2004.

Ecology 2007. Wenatchee River Watershed Temperature Total Maximum Daily Load, Water Quality Improvement Report. Publication No. 07-10-045. July 2007.

Ecology 2009. Wenatchee River Watershed Dissolved Oxygen and pH Total Maximum Daily Load, Water Quality Improvement Report. Publication No. 08-10-062. August 2009.

Federal Energy Regulatory Commission 2008. Order Issuing New License. Public Utility District No. 2 of Grant County, Washington. Project No. 2114-116. April 17, 2008.

GeoEngineers 2011. White River Acclimation Facility Design Assistance, Flood Hazard Analysis. Draft. July 28, 2011.

Grant PUD 2011. White River Acclimation Facility, Additional information related to surface water right application. October 13, 2011.

Grant PUD 2009. Hatchery and Genetic Management Plan (HGMP), Upper Columbia River Spring-run Chinook Salmon – White River Supplementation Program. September 15, 2009.

Grant PUD 2006. Priest Rapids Salmon and Steelhead Settlement Agreement. Priest Rapids Salmon and Steelhead Settlement Agreement. February 9, 2006.

NOAA Fisheries. 2008. Biological Opinion and Magnuson-Steven Fishery Conservation and Management Act. New License for the Priest Rapids Hydroelectric Project. NMFS Log Number 2006/01457. February 1, 2008.

Washington Administrative Code, Chapter 170-545 2008. Instream Resources Protection Program for the Wenatchee River Basin, Water Resource Inventory Area (WRIA) 45. April 10, 2008.

Attachment 1



Comments: Place of use and point of diversion are defined on the cover sheet under the heading "LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED."

-  Authorized Point of Diversion
-  Authorized Place of Use
-  Sections (TRS)
-  Tax Parcel



	JULY, 2011 <small>DATE OF REVISION</small> 0903180	<small>PROJECT NO.</small> TDC / RW	<small>ATTACHMENT NO.</small> 1
	No. S4-35267 (Public Utility District No. 2 of Grant County) T27N R16E, Sec 10 WRIA 45, Chelan County, Washington		

