



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

REPORT OF EXAMINATION
To Appropriate Public Waters of the State of Washington

APPLICATION DATE	APPLICATION NO.
June 14, 2010	S4-35365

NAME		
Green Canyon, LLC		
ADDRESS/STREET	CITY/STATE	ZIP CODE
206 West First Street	Cle Elum, WA	98922

PUBLIC WATERS TO BE APPROPRIATED

SOURCE		
Yakima River		
TRIBUTARY OF (IF SURFACE WATERS)		
Columbia River		
MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR
1.0		49.97 ^a

QUANTITY, TYPE OF USE, PERIOD OF USE

1.0 cubic feet per second, 49.97 acre-feet per year from May 1 through July 29 for storage for recreation and mitigation of instream flows.

^aThis amount is limited to the amount of water held in the trust water right program for mitigation of flow impacts for the period from August 1 to April 30 each year.

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION—WITHDRAWAL					
750 feet south and 1,150 feet east from the north quarter corner of Section 35, T. 20 N., R. 15 E.W.M.					
LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY
SE1/4NW1/4NE1/4	35	20 N.	15 E.W.M.	39	Kittitas
PARCEL NUMBER	LATITUDE	LONGITUDE	DATUM		

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

[Attachment 1 shows location of the authorized place of use and point(s) of diversion or withdrawal.]

That portion of Lot 1 boundary line adjustment, recorded in Volume 31, at Page 111, more particularly described as: Beginning at the northwest corner of said Lot 1; thence south 00° 22' 57" east, 1,051.54 feet along west line of said Lot 1; thence south 85° 25' 44" east, 32.70 feet; thence south 78° 08' 28" east, 807.15 feet; thence south 72° 08' 05" east, 176.26 feet; thence south 63° 06' 57" east 14.72 feet; thence south 58° 06' 24" east, 366.87 feet; thence north 89° 35' 37" east, 517.19 feet; thence north 89° 51' 33" east, 125.06 feet; thence north 00° 25' 35" east, 675.63 feet to the northeast corner of said Lot 1; thence north 86° 41' 33" west, 125.30 feet; thence north 80° 27' 43" west, 276.02 feet; thence north 65° 39' 48" west, 345.18 feet; thence north 61° 00' 19" west, 410.49 feet; thence north 48° 31' 11" west, 334.71 feet; thence north 66° 21' 38" west, 336.47 feet; thence north 82° 35' 03" west 342.20 to the point of beginning, all within the SW¼ of Section 30, T. 20 N., R. 16 E.W.M., Kittitas County, Washington.

DESCRIPTION OF PROPOSED WORKS

Water will be diverted from the Yakima River and conveyed to the place of use using the existing Younger ditch surface water diversion and ditch system. Water will then be diverted from a branch of Younger ditch running along the south side of the place of use to a proposed reservoir. Sizing and design of pumps and piping from the ditch to the reservoir have not been completed at this time. Authorization to construct the reservoir and store water for beneficial use is being processed under application R4-35364.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
July 1, 2011	July 1, 2012	December 31, 2022

PROVISIONS

Metering and Reporting

- An approved measuring device shall be installed and maintained for the source (Yakima River) authorized by this permit and outtake(s) from Younger Ditch in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.
<http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
- Water use data shall be recorded weekly and maintained by the property owner for a minimum of five years. The recording period shall be November 1 to October 31. The maximum weekly rate of diversion/withdrawal and the weekly total volume shall be submitted to the Department of Ecology (Ecology) by December 1st of each calendar year. Water use data shall be submitted using Microsoft Excel or other compatible digital software.
- Water use data shall also be reported in an annual Monitoring Report (see below).

Department of Fish and Wildlife

- 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://www.wdfw.wa.gov/regregions.htrn>.

General

- 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.
- The water right holder shall file the notice of Proof of Appropriation of water (under which the permit 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. A certificate will reflect the extent of the project perfected within the limitations 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.
- This authorization shall in no way excuse the permit holder from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.
- 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.
- 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.

Additional Provisions

- Diversion of water under this authorization into the Flatwater Reservoir/Henshaw Lake is limited by the amount of water held by Ecology in the Trust Water Right Program designated within the Trust Water Right Agreement to serve as mitigation for this proposed diversion. The amount of water to be designated to offset this permit each year must be identified and reported by Sapphire Skies in accordance with the Reservoir Management Plan (RMP).

- Prior to the construction and filling of the reservoir, a Reservoir Management Plan (RMP) shall be completed and approved by Ecology. It shall incorporate the engineering design details for construction of the reservoir and the infiltration system, operations and maintenance (O&M) plans, and monitoring plans – including planned metering of reservoir inflows and outflows and monitoring of reservoir stage. The RMP shall include a hydrogeologic analysis that describes: (1) the predicted timing of impacts of groundwater pumping associated with the Groundwater Permits (which rely on mitigation from the reservoir) on the Yakima River, (2) the predicted timing of impacts on the Yakima River from the infiltration and/or release of water from the reservoir, (3) the predicted effect of released/infiltrated water on the temperature of receiving water, and (4) an analysis of how the effects of pumping groundwater associated with the Groundwater Permits (which rely on mitigation from the reservoir) and the effects of infiltrating and/or releasing stored water offset one another to create no net impact on the Yakima River. As the projects are developed, the RMP will include the monthly schedule of mitigation releases to demonstrate that the project is water budget neutral with respect to flows in the Yakima River. The monthly schedule of mitigation releases will be updated on an annual basis (see Annual Monitoring Report) to reflect the level of project buildout and allocation of the available reservoir mitigation quantity.
- A Monitoring Report (MR) shall be submitted to Ecology by December 30 of every year. The MR shall describe the mitigation actions and results for the previous year (November 1 to October 31) performed under the RMP. Additionally, an annual meeting shall be coordinated to present the summary of the previous year’s monitoring results, discuss whether adaptive management is required, and if any modification to the RMP are necessary. The meeting shall be held prior to January 31 each year.

FINDINGS OF FACT AND ORDER

Upon reviewing the investigator’s report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I find water is physically and legally available, the water use will be beneficial, and the appropriation of water as recommended will not be detrimental to existing rights or to the public interest.

Therefore, I ORDER the approval of Application No. S4-35365 subject to existing rights and the provisions specified above.

This Decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this Decision is issued, if he or she wishes to file an appeal, must file the notice of appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this Decision**. Appeals must be filed with the Superior Court Clerk’s Office, Yakima County Superior Court, 128 North 2nd Street, Yakima WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III (“Appeals Procedures”). The content of the notice of appeal must conform to RCW 34.05.546. Specifically, the notice of appeal must include:

- The name and mailing address of the appellant;
- Name and address of the appellant’s attorney, if any;
- The name and address of the Department of Ecology;
- The specific application number of the decision being appealed;
- A copy of the decision;
- A brief explanation of Ecology’s decision;
- Identification of persons who were parties in any adjudicative proceedings that led to Ecology’s decision;
- Facts that demonstrate the appellant is entitled to obtain judicial review;
- The appellant’s reasons for believing that relief should be granted; and
- A request for relief, specifying the type and extent of relief requested.

The “parties of record” who must be served with copies of the notice of appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

All others receiving notice of this Decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within **thirty (30) days of the date the Order was mailed.** The appeal must be filed in the same manner as described above.

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

Robert F. Barwin, Acting Section Manager
Water Resources Program/CRO

DRAFT

BACKGROUND

Project Description

Surface Water Diversion Application

On June 14, 2010, Green Canyon, LLC (a Sapphire Skies, LLC Company) of Cle Elum, Washington filed three applications with Washington State Department of Ecology (Ecology) for a reservoir storage project referred to as Henshaw Lake. The applications request to divert (S4-35365), store (R4-35364), and release (S4-35366) surface waters of the state. The subject of this report is the application to divert surface water for storage (S4-35365). The applicant requested authorization for an instantaneous diversion (Qi) of 1.0 cubic feet per second (cfs) and an annual diversionary volume (Qa) of 42.4 acre-feet per year (ac-ft/yr) for storage for the beneficial uses of recreation and mitigation (augmentation) of Yakima River instream flows. In an email to Ecology dated July 14, 2010 the applicant requested that the Qa be increased to 50.4 ac-ft/yr. Diversion of water into the reservoir is proposed to be offset by instream flow rights surplus to that needed to make the applicant's groundwater appropriations (described below) water budget neutral. Green Canyon's instream flow rights will be transferred to the Trust Water Right Program (TWRP) and managed under a trust water agreement between Ecology and Sapphire Skies, LLC. The applicant proposes to release water from the reservoir from August 1 to April 30 each year to make their groundwater appropriations water budget neutral during that time period. Attributes of the requested water right authorization, as published in the public notice, are summarized in Table 1.

Table 1 Summary of Application No. S4-35365

<i>Attributes</i>	<i>Proposed (as published in the Public Notice)</i>
Applicant	Green Canyon LLC
Date of Application	June 25, 2010
Instantaneous Quantity	1.0 cfs
Annual Quantity	50.4 ac-ft/yr
Source	Yakima River
Point of Withdrawal	NW1/4NE1/4 of Section 35, T. 20 N., R. 15 E.W.M.
Purpose of Use	Storage for recreation and mitigation of instream flows
Period of Use	May 1 through July 30
Place of Use	As described on page 1 of this Report of Examination

New Groundwater Permits

In 2010, the applicant received new groundwater permits for several planned developments in the Cle Elum area (see Table 2 for list of projects potentially relying on mitigation through releases from Henshaw Lake). The conclusions of water availability and no-impairment were determined on the basis that the new appropriations would be consumptively month-to-month water budget neutral for the irrigation season (April 1 - September 30) and non-irrigation season (October 1 – March 31). The applicant proposed to mitigate for consumptive use (CU) impacts under these appropriations through the creation and use of a water bank, referred to as the Sapphire Skies Water Exchange (SSWE).

Table 2
New Groundwater Permits That May Rely on Mitigation Releases from the Henshaw Reservoir Lake²

Permit No.	Project Name	Land Owner	Lots
G4-35247	Flatwater	Green Canyon LLC	26
G4-35248	Forest Ridge	Iron Snowshoe LLC	190
G4-35273	City Heights ¹	Green Canyon LLC, Cooper Pass LLC, Highmark Resources LLC, and Northland Inc.	767
G4-35273	Meadow Ridge	Green Canyon LLC, Cooper Pass LLC, Highmark Resources LLC, and Northland Inc.	14
G4-35273	Ponderosa Pines	Green Canyon LLC, Cooper Pass LLC, Highmark Resources LLC, and Northland Inc.	12
Total			1,009

Note: ¹ Under the City of Cle Elum’s water service ordinances, the City is considering year-round water service for the City Heights project from the City of Cle Elum’s existing available water supply, and in consideration of that service under the ordinance the City will exercise G4-35273 within the irrigation season. Should this agreement be reached with the City of Cle Elum, the entire City Heights right under G4-35273 will be exercised and fully mitigated month-to-month in the irrigation season by the assignment to trust of available and surplus instream flow rights that would otherwise have been stored in Henshaw Lake Reservoir. City Heights would therefore not rely on Henshaw Lake reservoir for mitigation of consumptive use. Water right authorizations for Meadow Ridge and Ponderosa Pines under G4-35273 would still rely on Henshaw Lake reservoir for mitigation of consumptive use.

² In addition to the groundwater permits listed above, the SSWE is proposed for mitigation of consumptive use associated with groundwater permits G4-35246 (Fircrest, 4 lots), G4-35250 (Woods and Steele, 65 lots), and G4-35251 (Meadow Springs, 85 lots) and permit-exempt water budget neutral determinations for 16 lots. These projects will rely on other options for storage and release of mitigation water rather than Henshaw Lake reservoir.

Legal Requirements for Application Processing

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

- **Public Notice**
Green Canyon LLC (a subsidiary of Sapphire Skies, LLC) of Cle Elum, Washington submitted an application for a Surface Water Permit on June 14, 2010. The application was accepted on June 25, 2010 and assigned the identifier No. S4-35365. Public Notice on this application published in the Kittitas County Daily Record on July 16, 2010, and July 23, 2010. The Department of Ecology's Central Regional Office received no protests during the 30-day period.
- **State Environmental Policy Act (SEPA)**
The proposed surface water diversion of 1 cfs is categorically exempt under SEPA WAC 197-11-305 and WAC 197-11-800(4). Although the requested surface water diversion is exempt under SEPA, the overall reservoir storage project is not. On November 19, 2009, Kittitas County (SEPA lead agency) issued a Mitigated Determination of Non-Significance for the Henshaw Lake 26- Lot Performance Based Cluster Plat (P-07-44). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. Kittitas County determined that certain mitigation measures or conditions were necessary in order to issue a Determination of Non-Significance. Those conditions related to: water and septic, land use and recreation, cultural resources and historic preservation, air, transportation, noise, lights and aesthetics, plants and wildlife, and utilities and services. No appeals were filed.
- **Water Resources Statutes and Case Law**
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 specifically governing the water right permitting process are primarily RCW 90.03.250 through 90.03.340 and RCW 90.44.060. RCW 90.42.100 authorizes Ecology to use the Trust Water Right Program for water banking purposes within the Yakima River Basin.

INVESTIGATION

In considering this application, the investigation included, but was not limited to, research and/or review of:

- The State Water Code
- Existing water rights on file for Sapphire Skies
- Records of other water rights in the vicinity
- Notes from site visit on September 8, 2009
- Correspondence from the applicant's consultant
- Topographic and local area maps
- The Washington Irrigation Guide (WIG)
- Climate data for Cle Elum area
- Projected water balance for Henshaw Lake
- Flatwater Lake Mitigation Storage and Release Plan, dated December 12, 2010

Site Visit

Kurt Walker of the Department of Ecology, observed the subject property on September 8, 2009, during a routine site visit related to the application for change CS4-00365CTCLsb5 (Henshaw). The applicant's consultant, Joe Morrice of Aspect Consulting, and Bernard Henshaw (property owner at that time) were also present.

Determination of Diversionary Quantities

After initial filling, reservoir operation will consist of annual refills (diversions) and infiltration and/or releases (augmentation). Annual refills will occur between May 1 and July 29, when surplus instream flow rights are available in the SSWE. The annual refills will be equal to the sum of 1) the mitigation releases required to offset month-to-month CU mitigation deficits in the SSWE and 2) evaporative losses and additional releases required under the reservoir permit (R4-35364) to account for capture of incidental precipitation and runoff into the lake. The overall water budget for the lake used to determine annual diversions to refill the lake is summarized in Table 3. Individual components of the water budget are described below.

Table 3
Annual Water Budget for Henshaw Lake

Input		Output	
Precipitation (average)	23.59 ac-ft	Evaporation (estimated)	31.55 ac-ft
¹ Diversionary Filling	*21.91 up to 49.97 ac-ft	² Mitigation Releases	13.95 up to 42.01 ac-ft

¹ To be diverted from the Yakima River when surplus instream flow rights are available from the SSWE (May 1 through July 29).

² Released to offset the month-to-month impacts associated with new groundwater appropriations. Listed range of mitigation releases assumes City Heights is supplied by the City of Cle Elum (low range), and City Heights is self-supplied (high range). Includes the release of incidental precipitation or other incidental surface water captured by reservoir.

* Current amount of instream flow rights (CU credits) available from the SSWE is 53.04 ac-ft, pending additional monitoring to establish the instream flow rights available from the Pasco water right. Listed range of diversions assumes City Heights is supplied by the City of Cle Elum (low range), and City Heights is self-supplied (high range).

Mitigation Releases

The annual mitigation releases (augmentation) to offset instream flow CU mitigation deficits in the SSWE will depend on the level of project build out and the source of supply for City Heights. If City Heights is self-supplied, total annual mitigation releases at full build out of all projects would be approximately 35.08 ac-ft.. If City Heights instead receives year-round supply from the City of Cle Elum then the City Heights water right G4-35273 could be fully mitigated by instream flow rights (credits) available instream from the SSWE, the total annual mitigation releases from the lake would be reduced to approximately 7.02 ac-ft

Evaporative Losses

In order to maintain the lake level, net evaporative losses from the lake surface (evaporation minus precipitation) will need to be replaced during refilling of the reservoir. As shown on Table 5, on average precipitation falling on the 12.5 acre footprint of the reservoir is 23.59 ac-ft/yr and evaporation from the reservoir surface is calculated to be 31.55 ac-ft/yr, resulting in an average net annual evaporative loss of 7.96 ac-ft/yr.

Average precipitation data are from the Washington Irrigation Guide (WIG) Appendix A. Evaporation was estimated using the ASCE Penman-Monteith method and the formula by Allen and Robison (2007) as follows:

$$ET_{\text{lake}} = ETr \times 0.6$$

Where ET_{lake} is the evaporation from the lake surface; ETr is the alfalfa reference crop evapotranspiration derived using the ASCE Penman-Monteith method and local climate data; and 0.6 is a “crop” coefficient applicable to relatively shallow reservoirs and ponds.

Additional Releases Required under the Reservoir Permit R4-35364

In addition to the new groundwater appropriations which rely on the reservoir, the reservoir itself will need to be water budget neutral. This can be accomplished by releasing the portion of incidental precipitation which falls on the proposed reservoir that, absent the reservoir, would have otherwise contributed to streamflow. Joe Morrice of Aspect Consulting has offered an analysis of the pre-reservoir water budget for the Henshaw Lake property. Mr. Morrice concludes that prior to construction of the reservoir, on average 16.00 inches (or 16.67 ac-ft over the 12.5 acre footprint of the reservoir) of precipitation would be consumed by evapotranspiration (ET) and 6.65 inches, or 6.93 ac-ft would contribute to instream flow. Based on this evaluation, for the reservoir to be water budget neutral, a minimum of 6.93 ac-ft must be released every year to account for interception of incidental precipitation that would have otherwise reached the Yakima River. Additionally, if other incidental surface water is captured by the reservoir, it too must be released.

In summary, annual refilling of the reservoir will require diversion of up to a total of 49.97 ac-ft. This quantity includes 7.96 ac-ft to replace evaporative losses; and, at full build out of all projects listed in Table 2, up to 35.08 ac-ft for subsequent release to mitigate for instream flow deficits in the SSWE.

Impairment Considerations

On May 10, 1905, the United States withdrew/reserved all unappropriated surface waters of the Yakima River Basin. The applicant has offered mitigation in the form of pre-1905 priority instream flow rights from the SSWE to offset the new diversions/appropriations, including the diversion to fill and refill the reservoir that is the subject of this report. The Yakima River reaches benefiting from the SSWE instream flow rights are located at or upstream of the new proposed point of diversion. Additionally, the reservoir is intended to be water budget neutral (see Diversionary Quantities Section above). As a result, the new diversions and uses must be water budget neutral with respect to TWSA.

Water Availability

Water will be diverted from the Yakima River between May 1 and July 29. Water is physically available during this period. However, on May 10, 1905, the United States withdrew/reserved all unappropriated surface waters of the Yakima River Basin. Surface water rights with priority dates subsequent to May 10, 1905 are subject to curtailment and thus not available in all years. The applicant has changed existing water rights to instream flow purposes. These rights will be conveyed to Ecology’s Trust Water Right Program and managed in the SSWE in accordance with the Trust Water Right Agreement.

The SSWE was created by the transfer of pre-1905 water rights to instream flow and water banking purposes through the TWRP. Northland Resources, LLC (a Sapphire Skies, LLC company) and Ecology have entered into a Trust Water Right Agreement regarding the conveyance, storage, and acceptance of the instream flow rights. As a result of these transfers, the SSWE includes instream flow rights based on the quantity of CU associated with the originating water rights. These CU values have been quantified on a month-by-month basis (see Table 4).

Table 4
Instream Flow Rights (Consumptive Use) in the Sapphire Skies Water Exchange (ac-ft)

Water Right	Apr	May	Jun	Jul	Aug	Sep	Annual
Pasco ¹	0.09	4.2	11.5	15.9	14.0	9.2	55.0
Newton ²	0	15.7	26.6	31.4	0	0	73.7
Henshaw	0	1.4	17.3	28.6	25.2	16.5	89.0
Total	0.09	21.3	55.4	75.9	39.2	25.7	217.7

Notes: ¹ Pasco water right includes approximately 0.01 ac-ft per month CU mitigation credits from October through March. Mitigation under the Pasco water right is limited to a total of 42.5 ac-ft/yr; 9.0 ac-ft in June, 13.0 ac-ft in July, and 7.0 ac-ft in August unless Ecology issues an order increasing the mitigation stated. All other monthly values are as shown in Table 2.

² CU mitigation credits under the Newton water right will be used prior to July 29 each year.

Deducting the CU associated with the new groundwater permits and water budget neutral determinations relying on the SSWE from the instream flow rights (mitigation) noted in Table 4 results in a surplus of instream flow rights (CU mitigation) available in-stream in May, June, and July. However, there is a shortage of instream flow rights (CU mitigation) available instream to cover these projects during the early and late irrigation season (April, August, and September) and the non-irrigation season (October 1 thru March 31) (see Table 5). These instream flow right (CU mitigation) deficits represent impacts associated with the new groundwater appropriations which are not mitigated by the SSWE alone. These stored instream flow rights (in the form of diverted water) are intended to later be infiltrated and/or released to augment flow in the Yakima River to mitigate for the CU deficits from August through April. Table 5 summarizes the seasonal surplus of instream flow rights and the amount of CU not covered by the SSWE alone (deficit).

Table 5
Consumptive Use Mitigation Surplus and Deficit Distribution after New Groundwater Uses

Instream Flow Right Distribution (CU)	Maximum Authorization (ac-ft)	¹ Currently Available (ac-ft)
Surplus (May 1 – July 29) ²	51.63	53.04
Deficit (August 1 – April 30) ²	41.14	42.66

¹ Pasco water right is currently limited to 42.5 ac-ft after a 2010 monitoring study showed that source (spring) lacked available water to satisfy the water right as trusted. Quantities approved under Permit No. G4-35273 (City Heights) are also limited to account for limited availability under the Pasco right. The applicant will have another opportunity to repeat the monitoring study in 2011.

² The timing and quantities of surpluses and deficits listed above assume full build out of all the projects listed in Table 2 and that City Heights is self-supplied.

Public Interest Considerations

When investigating a water right application, Ecology is required to consider whether the change is detrimental to the public interests. Ecology must consider how the change will affect an array of factors such as wildlife habitat, recreation, water quality, and human health. The environmental amenities and values associated with the area were taken into account during the consideration of this application.

Consideration of Protests and Comments

No protests or comments were received during the 30-day comment period following publication of the public notice.

CONCLUSIONS

- Water is available for appropriation up to the amounts provided in the Trust Water Right(s) held by Ecology and managed consistent with the Trust Water Right Agreement between Sapphire Skies and the Department of Ecology.
- Recreation and instream flow for mitigation of flow reductions are beneficial uses of water.
- Existing water rights will not be impaired.
- The appropriation will not be detrimental to the public interest.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the Application No. S4-35365 be approved and a permit issued in the amounts and within the limitations listed below and 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.

- Diversion of 1.0 cfs, May 1 through July 29 each year, for reservoir storage for recreation and mitigation of instream flows
- A maximum of 49.97 acre-feet per year.

Point of Diversion

750 feet south and 1,150 feet east from the north quarter corner of Section 35, T. 20 N., R. 15 E.W.M.

Place of Use

As described on Page 1 of this Report of Examination.

Report by: _____
Mark C. Schuppe, Water Resources Program Date

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