



File NR: S4-35803
WR Doc ID: 6789031

State of Washington REPORT OF EXAMINATION FOR WATER RIGHT APPLICATION

PRIORITY DATE November 17, 2015	WATER RIGHT NUMBER S4-35803
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MAILING ADDRESS NEW SUNCADIA LLC 770 SUNCADIA TRAIL CLE ELUM, WA 98922-3214	SITE ADDRESS (IF DIFFERENT)
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Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AC-FT/YR)
6.93 ¹	cfs	587.1 ¹

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AC-FT/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Municipal	6.93		cfs	587.1		04/01 - 10/15

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
KITTITAS	YAKIMA RIVER	COLUMBIA RIVER	39-UPPER YAKIMA

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
YAKIMA RIVER	n/a	n/a	20 N.	15 E.	27	SWSE	n/a	n/a

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS) n/a
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LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Area served by New Suncadia, LLC; Suncadia Water Company, LLC; and Suncadia Environmental Company, LLC, in accordance with its Comprehensive Water System Plan and any approved amendments thereto:

Sections 11, 13, 14, 15, 23, 24, and 25 of T. 20 N., R. 14 E.W.M., Kittitas County.
Sections 18, 19, 20, 21, 28, 29, 30, and 31 of T. 20 N., R. 15 E.W.M., Kittitas County.

Proposed Works

Diversion of 6.93 cfs and 587.1 ac-ft/yr from the Yakima River for municipal water supply including domestic, commercial, and irrigation purposes of use. The requested water would be initially

¹ Quantities identified are not final and subject to change

conveyed through the existing City of Cle Elum intake facility on the Yakima River before entering Suncadia’s water system.

The City of Cle Elum and Town of South Cle Elum Water System Plan (2014, p. 3-11) describes the existing diversion for the Yakima River, along with a Cle Elum River source (not a component of this application), such:

The two major water supply sources, owned by the City of Cle Elum, are surface water sources on the Cle Elum River and the Yakima River. The Cle Elum River Source consists of eight shallow ground water wells, each with a 350 gallons per minute (gpm) submersible pump. The Yakima River Source, located at the South Cle Elum Bridge, is equipped with three 1,400 gpm pumps, although only two are operated simultaneously.

Development Schedule		
BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
March 23, 2016	July 1, 2031	July 1, 2032

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 Diversion (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", Chapter 173-173 WAC.

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.

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.

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

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).

Department of Fish and Wildlife Phone: (360) 902-2534
Attention: Habitat Program Email: habitatprogram@dfw.wa.gov
600 Capitol Way N Website:
Olympia, WA 98501-1091 <http://wdfw.wa.gov/conservation/habitat/planning/screening/>

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.

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 (POU), 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.

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. S4-35803, 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p> <p>Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p> <p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

Signed at Union Gap, Washington, this _____ day of _____ 2016.

 Trevor Hutton, Section Manager
 Water Resources Program
 Central Regional Office

DRAFT

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 -- New Suncadia LLC

Water Right Control Number S4-35803

Tyler Roberts, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S4-35803.

Project Description

On November 17, 2015, the Washington State Department of Ecology (Ecology) accepted Water Right Application Number S4-35803, submitted by New Suncadia, LLC (Suncadia). Attributes of the application are presented below in Table 1. Suncadia is proposing to accomplish two tasks with the requested water right.

First, Suncadia is seeking to expand municipal water supply capabilities in the current Bullfrog Urban Growth Area (UGA) and master-planned resort by acquiring a mitigated surface water right (Application S4-35803) to divert water from the Yakima River. Suncadia also seeks a non-additive, alternate groundwater right (Application No. G4-35804) to withdraw water from three existing well fields. This latter request is a companion application to S4-35803 and subject to a separate investigation.

The annual quantity for this request and the non-additive alternate is 587.1 acre-feet per year (ac-ft/yr), 411 ac-ft/yr of which would be consumptively used. Currently, Suncadia uses a portfolio of water rights senior to May 10, 1905 for year-round municipal supply of 869.7 ac-ft consumptive use (CU) out of a total 1,280.5 ac-ft/yr CU needed at full buildout. The quantity of 587.1 ac-ft/yr requested in this authorization—referred to as the “Lamb and Anderson” and “Big Creek” rights—is an additional quantity of seasonal municipal supply, intended to satisfy full buildout of the master-planned community and its property within the UGA.

Second, Suncadia is also proposing to simplify its water right use by acquiring a new water right permit mitigated by a portfolio of water rights on the mainstem Yakima River and Big Creek, also senior to May 10, 1905. Specifically, Suncadia proposes to use its own Lamb and Anderson water rights (Yakima River) and Big Creek water rights, currently held in the State’s Trust Water Rights Program (Trust) as mitigation. Suncadia estimates needing to rely on them to mitigate for the new permits as follows:

411 ac-ft/yr CU from this application:

Lamb and Anderson rights on mainstem Yakima:

- 0.5 ac-ft of CS4-05259CTCL@2sb7
- 125.57 ac-ft of CS4-00626CTCL@2sb7
- 228.18 ac-ft of CS4-00908CTLC@3sb7

Big Creek tributary rights:

- 42.81 ac-ft of CS4-00755(A)CTCL
- 13.94 ac-ft of CS4-YRB02CC00755@2

869.7 ac-ft/yr CU from the “Pautzke rights” (not a component of this application):

- CS4-YRB07CC01724@1/@4
- CS4-YRB07CC01724@2/@5
- CS4-YRB07CC01724@3/@6
- CS4-01724(A)CTCL
- CS4-01724(B)CTCL
- CS4-01724(C)CTCL

1,280.5 ac-ft/yr CU total from combined Pautzke and requested Lamb and Anderson, Big Creek authorizations presented in this Report on Exam.

Parcels covered by the proposed place of use (POU) are owned by multiple property owners within Suncadia’s service area under its water system plan approved by the Department of Health. The proposed points of diversion (PODs) are existing diversions owned by the City of Cle Elum, and provide water to the City of Cle Elum and Suncadia through a joint operating agreement.

See Attachment 2 for a map of the proposed water use under the subject application.

Priority Processing

This application is being priority processed because it qualifies under the criteria where an application may be processed prior to competing applications (Chapter 173-152 WAC), and the proposed water use meets the criteria for water budget neutral defined in WAC 173-152-020(18).

Table 1: Summary of Requested Water Right

Applicant Name:	New Suncadia LLC
Date of Application:	November 17, 2015
Place of Use	Area served by New Suncadia, LLC; Suncadia Water Company, LLC; and Suncadia Environmental Company, LLC, in accordance with its Comprehensive Water System Plan and any approved amendments thereto: Sections 11, 13, 14, 15, 23, 24, and 25 of T. 20 N., R. 14 E.W.M., Kittitas County. Sections 18, 19, 20, 21, 28, 29, 30, and 31 of T. 20 N., R. 15 E.W.M., Kittitas County.

County	Waterbody	Tributary To	WRIA
Kittitas	Yakima River	Columbia River	39-Upper Yakima

Purpose	Rate	Unit	Ac-Ft/Yr	Begin Season	End Season
Municipal	6.93	cfs	587.1	04/01	10/15

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Yakima River	n/a	n/a	20 N.	15 E.	27	SW SE	n/a	n/a

CFS = Cubic Feet per Second; Ac-Ft/Yr = Acre-Feet per Year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum: NAD83/WGS84.

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 RCWs 90.03.250 through 90.03.340, and RCW 90.44.060 for groundwater applications. In accordance with RCW 90.03.290, determination must be made on the following four criteria in order for an application for a water right to be approved:

1. Water must be both physically and legally available.
2. There must be no impairment of existing water rights.
3. The proposed water use must be a beneficial use.
4. 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 Daily Record of Ellensburg, Washington on December 15 and 22, 2015.

No protests or letters of concern were received by Ecology.

Water Banking and Mitigation in the Yakima Basin

RCW 90.42.100(1) states that Ecology is authorized to use the Trust Water Rights Program in the Yakima River Basin for water banking purposes. RCW 90.42.100(2)(a) authorizes the use of trust water rights to mitigate for water resource impacts, future water supply needs, or any beneficial use under Chapters 90.03, 90.44, or 90.54 RCW, consistent with any terms and conditions established by the transferor, except that within the Yakima River Basin return flows from water rights authorized in whole or in part for any purpose shall remain available as part of the Yakima Basin's Total Water Supply Available (TWSA) and to satisfy existing rights for other downstream uses and users.

WAC 173-172-035 defines "water budget neutral project" as a project where diversions or withdrawals of waters of the state are proposed in exchange for at least an equivalent amount of water from other water rights, the trust water program, a water bank, relinquishment of other water rights, or other mitigation projects that result in no diminishment of the source.

Ensuring that this authorization does not adversely impact TWSA is vital in the legal availability of water. TWSA comprises all of the natural flow and stored water estimated to be available to meet the needs of the Yakima Irrigation Project and the water users holding rights senior to it. The measuring point of TWSA is at Parker, Washington, which is located downstream of Union Gap, Washington.

United States Bureau of Reclamation (USBR) maintains instream target flows in the lower Yakima River at the Parker and Prosser stream flow gages from April 1 through October 31 each year.

Water Transfer Working Group

Applicant representative Joe Mentor presented the proposed water use to the Yakima River Basin Water Transfer Working Group (WTWG) on February 1, 2016. Discussions concerning the nature of this project are currently ongoing and not final.

Consultation with the Department of Fish and Wildlife

Ecology must give notice to the Department of Fish and Wildlife (DFW) of applications to divert, withdraw, or store water. To satisfy this, the water use was proposed to a representative of DFW at WTWG on February 1, 2016.

State Environmental Policy Act

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

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

Because this water right is requesting an instantaneous quantity greater than 1 cfs for a municipal purpose of use, it is not categorically exempt from SEPA. It is also part of a larger proposal that is subject to SEPA for other reasons.

RCW 43.21C.034 states that lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed.

Additionally, Part Six of Chapter 197-11 WAC provides additional authority on using existing documentation for a SEPA threshold determination. In particular, WAC 197-11-600(4)(b) allows for existing documents to be used for a proposal by employing "incorporation by reference", where any agency preparing an environmental document includes all or a part of an existing document by reference.

In light of the above regulations, and the consistency of the Cle Elum UGA Final EIS (EIS) water supply review with the water right requested by this application, SEPA considerations outlined in the EIS are sufficient. The EIS was published March 18, 2002 by the City of Cle Elum. Sections presenting the status of water supply at Suncadia are in the Final EIS Appendix B: Water Supply Technical Report Supplement.

INVESTIGATION

Proposed Use and Basis of Water Demand

Suncadia is requesting 6.93 cfs and 587.1 ac-ft/yr from the Yakima River for municipal water supply including domestic, commercial, and irrigation purposes of use. The requested water would be initially conveyed through the existing City of Cle Elum intake facility from the Yakima River before entering Suncadia's water system. This is consistent with Suncadia's existing diversions under their continuous (year-round) municipal authorizations, frequently referred to as the Pautzke rights. The applicant is requesting a seasonal period of use, from April 1 to October 15, and is proposing to mitigate the proposed diversion using the Lamb and Anderson water rights (from the Yakima River) and their Big Creek water rights.

The quantity of water requested is based on completing estimated full buildout water demand set forth in the EIS water demand model. The demand model considers the water demand for the Suncadia Resort and UGA properties for domestic, commercial and irrigation, including year-round needs for residential and commercial, and seasonal needs for a variety of municipal and recreational uses. Since development of the water demand model, Suncadia has provided yearly updates to Ecology and USBR on water demand for the Resort and UGA properties during its buildout.

Data from approximately ten years of municipal water use by Suncadia indicate that consumptive use is approximately seventy percent. Accordingly, the water demand model estimates the following total annual quantity:

- 1,280.5 acre-feet CU annually
- 869.7 acre-feet CU annually authorized under the Pautzke² rights
- 411 acre-feet CU requested in this application (Lamb and Anderson, Big Creek)

The Pautzke water rights are existing water rights that divert from Yakima River, year-round, and authorized for use on the Suncadia Resort and UGA properties. They are not subject to this report.

This project seeks authorization for the remaining 411 ac-ft CU by using the Lamb and Anderson rights (0.5 ac-ft of CS4-05259CTCL@2sb7, 125.57 ac-ft of CS4-00626CTCL@2sb7, and 228.18 ac-ft of CS4-00908CTLC@3sb7) from the Yakima River, and Big Creek trust water rights (42.81 ac-ft of CS4-00755(A)CTCL and 13.94 ac-ft of CS4-YRB02CC00755@2), all currently held by Suncadia.

An additional element to this request is that the requested right would be both seasonal and municipal. Frequently, residential or domestic water supply water rights are continuous, or year-round in period of

² The Pautzke water rights are authorized under the following Ecology Water Right Control Nos.: CS4-YRB07CC01724@1/@4, CS4-YRB07CC01724@2/@5, CS4-YRB07CC01724@3/@6, CS4-01724(A)CTCL, CS4-01724(B)CTCL, and CS4-01724(C)CTCL

use. Municipal water suppliers, however, supply water that is wider in scope and may include other beneficial uses beyond domestic or potable water. RCW 90.03.015(4) provides that "municipal water supply purposes," may include, but are not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes. Additionally, the EIS specifies Suncadia as a master-planned resort community, which includes not only single-family detached housing, multi-family housing, and hotels, but also recreational facilities, commercial spaces, and other non-residential components of municipalities that typically demand water. As this water right is intended primarily for irrigation of two golf courses, and golf course irrigation is consistent with a municipal use, the requested water use is consistent with municipal use seasonal in nature.

Other Rights Within the Place of Use

There are sixty-eight water rights that are, either wholly or in-part, within the POU for the requested water right. The attributes of these rights are described in detail in Attachment 1.

Water Availability

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

Physical availability

For water to be physically available for appropriation there must be ground or surface water present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. In addition, the following factors are considered:

- Volume of water represented by senior water rights, including federal or tribal reserved rights or claims;
- Water right claims registered under Chapter 90.14 RCW;
- Ground water uses established in accordance with Chapter 90.44 RCW, including those that are exempt from the requirement to obtain a permit; and
- Potential riparian water rights, including non-diversionary stock water.

In addition to these considerations, Ecology is required to consider potential mitigation suggested or offered by applicants which may offset impacts to surface water.

Water is physically available for permitting purposes based on the following:

- Proximity to the proposed source, the Yakima River;
- Existing diversion for the City of Cle Elum proposed for use by the applicant; and
- Mitigation offered by the applicant to ensure water budget neutrality with respect to TWSA at Parker.

Legal availability

To determine whether water is legally available for appropriation, the following factors are considered:

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.

- Fisheries and other instream uses (e.g., recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where further reducing the flow level of surface water would be detrimental to existing fishery resources.
- Absent mitigation, Ecology may deny an application for a new appropriation in a drainage where adjudicated rights exceed the average low flow supply, even if the prior rights are not presently being exercised. Water may not become available for appropriation until existing rights are relinquished for non-use by state proceedings.

The consumptive use diverted under this permit would be mitigated for TWSA with Suncadia’s existing trust water rights, with seasonal impacts to a portion of the Yakima River offset by use of the USBR Storage Contract. Mitigation, TWSA, and the USBR Storage Contract are discussed below.

Planned mitigation

A key element in establishing legal availability of water is whether mitigation offered by the applicant is sufficient in offsetting potential impacts to other water uses. Water rights senior to the proposed right, and placed in the state trust water program as an instream flow, may be used as credit to mitigate for a new water use, minimizing or offsetting the potential impacts to other rights in the basin.

Fidelity to the above listed obligations (under both *Legal Availability* and *Planned Mitigation*) involves ensuring the proposed water use is water budget neutral. Here, Suncadia’s existing Lamb and Anderson rights and Big Creek rights are proposed as mitigation under the subject application in an equivalent amount (587.1 ac-ft/yr and 6.93 cfs total diversion; 411 ac-ft/yr and 4.851 cfs of CU). These rights, listed in the table immediately below, are currently owned by Suncadia. Available consumptive use quantities that have not been committed to a third party use are listed below the mitigation attributes table.

Mitigation attributes for Application Nos. S4-35803 and G4-35804

Control No.	Source	Priority Date	Primary Qi (cfs)	Secondary Qi (cfs)	Primary Qa (ac-ft/yr)	Secondary Qa (ac-ft/yr)
CS4-05259CTCL@2sb7	Yakima River at Ellensburg	1884	0.5	0.08-0.18	195	57.5
CS4-00626CTCL@2sb7	Yakima River at Ellensburg	1885	1	0.07-0.36	392	105.5
CS4-00908CTCL@3sb7	Yakima River at Ellensburg	1885	3.29	0.31-0.74	868	228.18
CS4-00755(A)CTCL	Big Creek	1887	0.51	0.13-0.21	124.42	42.41
CS4-YRB02CC00755@2	Big Creek	1887	1.02	0.27-0.42	248.85	84.81
		SUM	6.32	Various	1828.27	518.4

Qi = instantaneous quantity; Qa = annual quantity.

Quantity available for mitigation

Control No.	Remaining Consumptive Qa (AC-FT/YR)
CS4-05259CTCL@2sb7	0.00
CS4-00626CTCL@2sb7	125.57
CS4-00908CTCL@3sb7	228.19
CS4-00755(A)CTCL	42.41
CS4-YRB02CC00755@2	84.81
Sum	480.98

Target Flows and Water Budget Neutrality in the Yakima Basin Total Water Supply Available

Water uses that would be authorized under the subject application would have their consumptive use partially offset by the Lamb and Anderson rights—a Yakima River irrigation water right historically diverted at Ellensburg, and downstream of the proposed PODs requested here. This presents the need to mitigate for Fall Fish Target Flows set by USBR in the intervening reach of the Yakima River.

The mechanism for this component of mitigation involves timed releases from the Yakima River storage facilities (Lake Cle Elum, Lake Kachess, and Lake Keechelus), upstream of both the proposed and historic PODs. Ecology and the USBR entered into a Water Storage and Exchange Contract, No. 09XX101700, dated January 29, 2009. The Storage Contract allows Ecology to store up to 1,000 acre-feet of state trust water in the Federal Yakima Project storage reservoirs for re-timing and later release for mitigation or other purposes during the non-irrigation season or when needed. This includes the ability for Ecology to assign water for this requested water use to the contract, allowing for Fall Target Flows to be met. The USBR will manage the water to meet all instream flow targets on the reach of the Yakima River adjacent to the POU.

Additional use will be offset by Big Creek rights, which contribute to TWSA but are not regulated by USBR.

Beneficial Use

The proposed use of municipal water supply for domestic, commercial, and irrigation is defined in statute as a beneficial use (RCW 90.54.020(1)).

Impairment Considerations

Impairment is an adverse impact on the physical availability of water for a beneficial use that is entitled to protection. A water right application may not be approved if it would:

- Interrupt or interfere with the availability of water to an adequately constructed groundwater withdrawal facility of an existing right. An adequately constructed groundwater withdrawal

facility is one that (a) is constructed in compliance with well construction requirements and (b) fully penetrates the saturated zone of an aquifer or withdraws water from a reasonable and feasible pumping lift.

- Interrupt or interfere with the availability of water at the authorized POD of a surface water right. A surface water right conditioned with instream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the instream flow more frequently or for a longer duration than was previously the case.
- Interrupt or interfere with the flow of water allocated by rule, water rights, or court decree to instream flows.
- Degrade the water quality of the source to the point that the water is unsuitable for beneficial use by existing users (e.g., via sea water intrusion).

The Yakima River system is a highly managed basin where target flows are managed by the USBR. Absent the effects of other water users, there would be essentially the same amount of water physically available at the new POD as at the initial trust water POD. Since the water rights proposed as mitigation are relatively senior, and the USBR has managed flows to meet the needs of the irrigators, authorizing a move upstream would be unlikely to result in additional calls on the junior or senior users.

Any differences in season of use between the proposed new use and mitigating rights will be addressed by use of the USBR Storage and Exchange Contract.

Public Interest Considerations

When considering a proposal or request for a new water right, Ecology is required to evaluate whether the proposal is detrimental to the public interest (RCW 90.03.290(3)). This evaluation must consider how the proposal will affect an array of factors such as wildlife habitat, recreation, water quality, and human health. For instances where an approval of a water right application, change, or transfer, would be detrimental to the public interest, Ecology is required to “reject such an application and refuse to issue the permit asked for.” (RCW 90.03.290(3)).

The subject application relies on mitigation in the form of water rights provided by the applicant and held in trust by Ecology. The consumptive use portion of the requested water right would be mitigated with rights senior to 1905, and relatively senior in the subbasin. When the consumptive portion of the instream flow trust water right is not being used for mitigation, the unused quantity may be added to target flows at Parker Dam and continue to the confluence of the Yakima and Columbia Rivers.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

Beneficial Use

The proposed use of water for municipal water supply is a beneficial use.

Water Availability

Water is physically available at the quantities sufficient to meet projected demand. When combined with the proposed mitigation measures, water is legally available under the provisions of WAC 173-539A-060(2).

Impairment

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

Public Interest

Approval of the proposed appropriation is not detrimental to the public interest.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved 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:

6.93 cfs
587.1 acre-feet per year
For municipal water supply from April 1 to October 15.

Point of Diversion

SW¼, SE¼, Section 27, Township 20 North, Range 15 E.W.M.

Place of Use

Area served by New Suncadia, LLC; Suncadia Water Company, LLC; and Suncadia Environmental Company, LLC, in accordance with its Comprehensive Water System Plan and any approved amendments thereto:

Sections 11, 13, 14, 15, 23, 24, and 25 of T. 20 N., R. 14 E.W.M., Kittitas County.
Sections 18, 19, 20, 21, 28, 29, 30, and 31 of T. 20 N., R. 15 E.W.M., Kittitas County.

Tyler Roberts, Permit Writer

Date

If you need this document in a format for the visually impaired, call the Water Resources Program at 509-575-2490. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Attachment 1: Water Rights Within the Described POU for Application No. S4-35803

Water Right Control Number	Document Type	Priority Date	Qi in GPM	Qa in Ac-Ft	Acres of Irrigation	Purpose of Use
S4-84111-J	CFO	10/30/1884	219.93	88.94	NA	Municipal
S4-83047-J	CFO	6/30/1889	152.60	60.00	NA	Instream Flows
S4-84112-J	CFO	5/6/1893	1498.99	355.98	NA	Municipal
S4-83014-J	CFO	10/9/1893	43985.34	6.04	NA	Instream Flows
S4-83000-J	CFO	6/30/1896	1346.49	1100.00	NA	Municipal
S4-84348-J	CFO	7/3/1903	31418.10	25000.00	NA	Power Generation
S4-83328-J	CFO	6/30/1904	33.66	15.00	26.00	Irrigation
S4-84641-J	CFO	5/10/1905			Various	
S4-84639-J	CFO	5/10/1905			Various	
S4-84649-J	CFO	5/10/1905			Various	
S4-84643-J	CFO	5/10/1905			Various	
S4-84645-J	CFO	5/10/1905			Various	
S4-84642-J	CFO	5/10/1905			Various	
S4-84347-J	CFO	5/10/1905	581984.40	336000.00	59122.29	Domestic Single, Irrigation, Power, and Stockwater
S4-84640-J	CFO	5/10/1905			Various	
S4-84638-J	CFO	5/10/1905			Various	
S4-84650-J	CFO	5/10/1905			Various	
S4-84648-J	CFO	5/10/1905			Various	
S4-84644-J	CFO	5/10/1905			Various	
S4-84647-J	CFO	5/10/1905			Various	
S4-84646-J	CFO	5/10/1905			Various	
S4-84732-J	CFO	3/2/1907	13.46	3.40	NA	Dust Control and Highway
S4-84744-J	CFO	3/2/1907		Unquantified		Fire Protection
S4-84741-J	CFO	3/2/1907	134.65	5.30	NA	Fire Protection
S4-83001-J	CFO	9/2/1908	1409.33	446.7	NA	Municipal
G4-300927CL	Claim	1/1/1930	5.00	10.00	50.00	Irrigation and Stockwater
G4-*09599CWRIS	Certificate	7/17/1968	280.00	112.00	NA	Commercial Industrial and Frost Control
G4-*09771CWRIS	Certificate	9/24/1968	43.00	11.00	NA	Commercial Industrial and Domestic Multiple
G4-103403CL	Claim	5/3/1974	1.00	75.00	15.00	Irrigation
G4-103404CL	Claim	5/3/1974	2.00	200.00	40.00	Irrigation
CS4-WRC120034	Change Application	4/8/1992	1256.64	100.00	34.00	Commercial Industrial, Irrigation, and Stockwater
CS4-YRB01CC01293	Change ROE	12/23/1998	1346.49	1100.00	NA	Municipal

Water Right Control Number	Document Type	Priority Date	Qi in GPM	Qa in Ac-Ft	Acres of Irrigation	Purpose of Use
CS4-YRB02CC00755@2	Change ROE	5/1/2000	489.22	262.00	54.33	Instream Flows
CS4-YRB07CC01724@1	Change ROE	5/1/2000	1499.09	1005.98	NA	Domestic Multiple, Irrigation, Recreation
CS4-YRB07CC01724@2	Change ROE	5/1/2000	1000.89	536.30	NA	Domestic Multiple, Irrigation, Recreation
CS4-YRB07CC01724@3	Change ROE	5/1/2000	1763.90	929.62	NA	Domestic Multiple, Irrigation, Recreation
CS4-01724(A)CTCL	Change ROE	4/23/2001	300.72	283.92	NA	Municipal
CS4-01724(B)CTCL	Change ROE	4/23/2001	260.32	123.64	NA	Municipal
CS4-01724(C)CTCL	Change ROE	4/23/2001	224.42	92.54	NA	Municipal
CS4-00755(A)CTCL	Change ROE	4/23/2001	197.49	131.00	27.18	Instream Flows
CG3-21798C@1	Change ROE	1/28/2003	500.00	160.00	NA	Municipal
CS4-01724CTCL@1	Change Application	8/7/2003	9.04	910.10	NA	Domestic Multiple, Irrigation, Recreation
CS4-01724CTCL@2	Change Application	8/7/2003	489.22	307.26	NA	Domestic Multiple, Irrigation, Recreation
CS4-01724CTCL@3	Change Application	8/7/2003	969.47	593.72	NA	Domestic Multiple, Irrigation, Recreation
CS4-YRB07CC01724@4	Change ROE	8/7/2003	1499.09	1005.98	NA	Municipal
CS4-YRB07CC01724@5	Change ROE	8/7/2003	1000.89	536.30	NA	Municipal
CS4-YRB07CC01724@6	Change ROE	8/7/2003	1763.90	929.62	NA	Municipal
CS4-01279CTCL	Change Application	4/27/2004	0.11	21.00	NA	Domestic Multiple
CS4-01293CTCL@1	Change ROE	10/7/2004	1346.49	1100.00	NA	Municipal
CS4-00908CTCL@1	Change Application	10/14/2004	1476.65	868.00	NA	Municipal
CS4-00626CTCL	Change Application	10/14/2004	448.83	392.00	NA	Municipal
CS4-05259CTCL	Change Application	10/14/2004	224.42	195.00	NA	Municipal
CS4-01724(B)CTCL@1	Change Application	12/8/2004	260.32	88.94	NA	Municipal
CS4-01724(A)CTCL@1	Change Application	12/8/2004	0.00	0.00	NA	Municipal
CS4-01724(C)CTCL@1	Change Application	12/8/2004	0.00	0.00	NA	Municipal
CS4-01724(B)CTCL@2	Change ROE	12/8/2004	40.39	34.70	NA	Municipal
CS4-02223CTCLsb2@1	Change ROE	6/16/2009	453.32	101.00	NA	Instream Flows and Mitigation
G4-35374	Mitigated Auth.	7/8/2010	NA	0.41	0.01	Domestic Single and Irrigation
CS4-00714sb2	Change ROE	10/12/2010	673.25	25.64	NA	Instream Flows and Mitigation
G4-35425	Mitigated Auth.	10/12/2010	3.31	3.31	0.09	Domestic Multiple and Irrigation

Water Right Control Number	Document Type	Priority Date	Qi in GPM	Qa in Ac-Ft	Acres of Irrigation	Purpose of Use
G4-35551	Mitigated Auth.	3/5/2012	49.28	6.20	1.00	Domestic Multiple and Irrigation
G4-35604	Super Permit	3/18/2013	46.24	27.72	NA	Domestic Multiple
G4-35645	Mitigated Auth.	8/20/2013	NA	0.41	0.01	Domestic Multiple and Irrigation
CS4-00756sb2@3	Change ROE	12/2/2013	NA	21.01	NA	Instream Flows
CS4-00176sb2	Change ROE	1/17/2014	4.49	0.88	NA	Instream Flows and Mitigation
CS4-01422sb5	Temporary Donation	6/18/2014	334.38	132.50	NA	Instream Flows
G4-35752	ROE	4/7/2015	4.48	0.28	NA	Domestic Single

Qi = instantaneous quantity; Qa = annual quantity; CFO = Conditional Final Order

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Attachment 2

