



State of Washington  
**REPORT OF EXAMINATION  
 FOR WATER RIGHT CHANGE**  
**DRAFT**

WR File NR CS2-00142  
 WR Doc ID 5801766

Added or Changed Point of Withdrawal/Diversion

|                      |                           |
|----------------------|---------------------------|
| <b>PRIORITY DATE</b> | <b>WATER RIGHT NUMBER</b> |
| September 14, 1970   | CS2-00142                 |

|  |  |
|--|--|
| <b>MAILING ADDRESS</b>   | <b>SITE ADDRESS (IF DIFFERENT)</b>   |
| WA DEPT. OF FISH AND WILDLIFE<br>(HUMPTULIPS HATCHERY)<br>600 CAPITOL WAY N. C/O REAL ESTATE<br>OLYMPIA, WA, 98506 | HUMPTULIPS SALMON HATCHERY<br>1704 KIRKPATRICK RD<br>HUMPTULIPS, WA, 98552 |

**Total Quantity Authorized for Withdrawal or Diversion**

| DIVERSION RATE       | UNITS | ANNUAL QUANTITY (AC-FT/YR) |
|----------------------|-------|----------------------------|
| 30 (non-consumptive) | CFS   | 21,717.5                   |

**Purpose**

| PURPOSE          | WITHDRAWAL OR DIVERSION RATE |              |       | ANNUAL QUANTITY (AF/YR) |              | PERIOD OF USE (mm/dd) |
|------------------|------------------------------|--------------|-------|-------------------------|--------------|-----------------------|
|                  | ADDITIVE                     | NON-ADDITIVE | UNITS | ADDITIVE                | NON-ADDITIVE |                       |
| Fish Propagation | 30                           |              | CFS   | 21,717.5                |              | 01/01-12/31           |

**Source Location**

| COUNTY       | WATERBODY        | TRIBUTARY TO     | WATER RESOURCE INVENTORY AREA |
|--------------|------------------|------------------|-------------------------------|
| Grays Harbor | Humptulips River | North Bay        | 22                            |
| Grays Harbor | Stevens Creek    | Humptulips River | 22                            |

| SOURCE                     | PARCEL       | TOWNSHIP | RANGE | SECTION | QQ Q  | LATITUDE | LONGITUDE |
|----------------------------|--------------|----------|-------|---------|-------|----------|-----------|
| S01- Humptulips River      | 201112430010 | 20       | 11    | 12      | SE SE | 47.2315  | -123.9851 |
| S02- Stevens Creek (added) | 201112430010 | 20       | 11    | 12      | SW SE | 47.2329  | -123.9875 |

Datum: NAD83/WGS84

**Place of Use (See Attached Map)**

**PARCELS (NOT LISTED FOR SERVICE AREAS)**

201112430010

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**

That portion of the SE quarter of Section 12, T.20N., R.11 W.W.M., described as follows:  
 Beginning at a point which lies North 89°48'58" east 1337.70 feet from the South quarter corner of said Section 12, which point is also the SE corner of the SW ¼ of the SE ¼ of said Section 12; thence North 45°30'12" West 938.36 feet to the center of the SW ¼ of the SE ¼ said Section 12; thence North 00°02'30" West 659.81 feet to the center of the North line of the SW ¼ of the SE ¼ of said Section 12; thence South 89°44'44" West 169.19 feet to a point 500 feet East at right angles to the N-S centerline of said Section 12; thence parallel with the N-S centerline North 00°03'28" W 407.59 feet to the South right of way line of county road number 104;

thence along said right of way line 234.16 feet on a curve to the right having an angle of 43°34'16" and a radius of 307.92 feet and a length of 234.16 feet and a cord bearing North 88°42'48" E 228.58 feet; thence continuing along said Right-of-Way line North 20°29'56" East 9.42 feet; thence South 72°24'04" East 363.64 feet; thence South 62°25'04" E 293.72 feet; thence, leaving said county road number 104 Right-of-Way, South 00°01'31" East 171.87 feet to the center of the SE ¼ of said Section 12; thence North 89°44'44" East 469.22 feet to a point 200 feet west of the N-S centerline of the SE ¼ SE ¼ of Section 12; thence South 00°00'31" East 660.51 feet; thence South 59°36'10" East 231.90 feet to the ordinary high water on the right bank of the Humptulips River; thence Southwesterly along said line of ordinary high water 900 feet to the South line of said Section 12; thence South 89°48'58" West along the South line of said Section 12 56 feet to the point of beginning. Excepting a tract of land conveyed to the State of Washington by a deed dated August 15, 1915, and recorded in Book 129 of Deeds, page 51, in the records of Grays Harbor County containing 3 acres more or less. The so described tract contains 31.6 acres more or less.

**Proposed Works**

S01- Humptulips River: 9 pumps with a combined capacity of 31.2 cfs (average 1,550 gpm).

S02 – Stevens Creek: 2 electric pumps capable of discharging 3.56 cfs and 8.35 cfs, for a total diversion rate of 11.91 cfs. A third pump with 8.4 cfs capacity is proposed which will allow a total diversion rate of 20 cfs. The fish screen is designed with a 20 cfs transmitting capacity. Bypass reach is roughly 50-feet long.

**Development Schedule**

| BEGIN PROJECT | COMPLETE PROJECT | PUT WATER TO FULL USE |
|---------------|------------------|-----------------------|
| Started       | Complete         | December 31, 2025     |

**Measurement of Water Use**

|   |  |
|---|--|
| How often must water use be measured?                 | Monthly  |
| How often must water use data be reported to Ecology? | Annually   |
| What rate should be reported?                         | Peak Rate of Diversion (cfs), Average Rate of Diversion<br>Annual Quantity (ac-ft) |

**Provisions**

**Measurements, Monitoring, Metering and Reporting**

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

Progress on placing the water to full use consistent with the development schedule shall be reported every five years (i.e., by December 31 of 2020, 2025 and 2030).

Department of Ecology personnel, upon presentation of proper credentials, must have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

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 Fish and Wildlife Requirement(s)***

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://www.wdfw.wa.gov/reg/regions.htm>

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

***Proof of Appropriation***

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the superseding 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.

***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 change 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 will 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 must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the superseding 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, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

***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 of use is beneficial; and that there will be no detriment to the public interest

Therefore, I ORDER approval of Application No. CS2-00142, 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   |
|--|---|
| <b>Department of Ecology</b><br>Attn: Appeals Processing Desk<br>300 Desmond Drive SE<br>Lacey, WA 98503 | <b>Department of Ecology</b><br>Attn: Appeals Processing Desk<br>PO Box 47608<br>Olympia, WA 98504-7608 |
| <b>Pollution Control Hearings Board</b><br>1111 Israel RD SW, Ste 301<br>Tumwater, WA 98501              | <b>Pollution Control Hearings Board</b><br>PO Box 40903<br>Olympia, WA 98504-0903                       |

Signed at Olympia, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Michael J. Gallagher  
Water Resources Program/Southwest Region  
Department of Ecology

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

Water Right Control Number CS2-00142

Washington Department of Fish and Wildlife

**BACKGROUND***Description and Purpose of Proposed Change*

Application for Change/Transfer of Water Right CS2-00142 was filed by Phil Crane, representing Washington Department of Fish and Wildlife, on June 13, 2013. This application requested to add a point of diversion to a new diversion to Surface Water Certificate S2-00142.

This report serves as the written findings of fact concerning Water Right Application Number CS2-00142.

**EXISTING Water Right Attributes**

|                           |   |
|---------------------------|---|
| <b>Water Right Owner:</b> | <b>Washington Department of Fish and Wildlife</b>   |
| <b>Priority Date:</b>     | September 14, 1970  |
| <b>Place of Use</b>       | <p>That portion of the SE quarter of Section 12, T.20N., R.11 W.W.M., described as follows:</p> <p>Beginning at a point which lies North 89°48'58" east 1337.70 feet from the South quarter corner of said Section 12, which point is also the SE corner of the SW ¼ of the SE ¼ of said Section 12; thence North 45°30'12" West 938.36 feet to the center of the SW ¼ of the SE ¼ said Section 12; thence North 00°02'30" West 659.81 feet to the center of the North line of the SW ¼ of the SE ¼ of said Section 12; thence South 89°44'44" West 169.19 feet to a point 500 feet East at right angles to the N-S centerline of said Section 12; thence parallel with the N-S centerline North 00°03'28" W 407.59 feet to the South right of way line of county road number 104; thence along said right of way line 234.16 feet on a curve to the right having an angle of 43°34'16" and a radius of 307.92 feet and a length of 234.16 feet and a cord bearing North 88°42'48" E 228.58 feet; thence continuing along said Right-of-Way line North 20°29'56" East 9.42 feet; thence South 72°24'04" East 363.64 feet; thence South 62°25'04" E 293.72 feet; thence, leaving said county road number 104 Right-of-Way, South 00°01'31" East 171.87 feet to the center of the SE ¼ of said Section 12; thence North 89°44'44" East 469.22 feet to a point 200 feet west of the N-S centerline of the SE ¼ SE ¼ of Section 12; thence South 00°00'31" East 660.51 feet; thence South 59°36'10" East 231.90 feet to the ordinary high water on the right bank of the Humptulips River; thence Southwesterly along said line of ordinary high water 900 feet to the South line of said Section 12; thence South 89°48'58" West along the South line of said Section 12 56 feet to the point of beginning. Excepting a tract of land conveyed to the State of Washington by a deed dated August 15, 1915, and recorded in Book 129 of Deeds, page 51, in the records of Grays Harbor County containing 3 acres more or less. The so described tract contains 31.6 acres more or less.</p> |

| <b>County</b> | <b>Waterbody</b> | <b>Tributary To</b> | <b>WRIA</b> |
|---------------|------------------|---------------------|-------------|
| Grays Harbor  | Humptulips River | North Bay           | 22          |

| Purpose                               | Rate | Unit | Ac-ft/yr | Begin Season | End Season |
|---------------------------------------|------|------|----------|--------------|------------|
| Fish Propagation<br>(non-consumptive) | 30   | CFS  | 21,717.5 | 01/01        | 12/31      |

| Source Name            | Parcel       | Twp | Rng | Sec | QQ Q  | Latitude | Longitude |
|------------------------|--------------|-----|-----|-----|-------|----------|-----------|
| S01 – Humptulips River | 201112430010 | 20N | 11W | 12  | SE SE | 47.2315  | -123.9851 |

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;  
Datum: NAD83

### REQUESTED Water Right Attributes

|                             |  |
|-----------------------------|--|
| <b>Applicant Name:</b>      | Washington Department of Fish and Wildlife |
| <b>Date of Application:</b> | June 13, 2013                              |
| <b>Place of Use</b>         | Same                                       |

| County       | Waterbody              | Tributary To     | WRIA |
|--------------|------------------------|------------------|------|
| Grays Harbor | Humptulips River (S01) | North Bay        | 22   |
| Grays Harbor | Stevens Creek (S02)    | Humptulips River | 22   |

| Purpose                               | Rate | Unit | Ac-ft/yr | Begin Season | End Season |
|---------------------------------------|------|------|----------|--------------|------------|
| Fish Propagation<br>(non-consumptive) | 30   | CFS  | 21,717.5 | 01/01        | 12/31      |

| Source Name            | Parcel       | Twp | Rng | Sec | QQ Q  | Latitude | Longitude |
|------------------------|--------------|-----|-----|-----|-------|----------|-----------|
| S01 - Humptulips River | 201112430010 | 20N | 11W | 12  | SE SE | 47.2315  | -123.9851 |
| S02 – Stevens Creek    | 201112430010 | 20N | 11W | 12  | SW SE | 47.2329  | -123.9875 |

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;  
Datum: NAD83/WGS84

## Legal Requirements for Requested Change

### **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 World* on September 23, 2014 and September 30, 2014. No comments were received.

### **Consultation with the Department of Fish and Wildlife**

The Department must give notice to the Department of Fish and Wildlife of applications to divert, withdraw, or store water. The Applicant is the Washington Department of Fish and Wildlife for fish propagation purposed. Diversion of water will be conducted according to Washington Department of Fish and Wildlife best management practices.

### **Consultation with the Quinault Indian Tribe**

The Department of Fish and Wildlife informed the Quinault Indian Tribe of details of this water right change.

### ***State Environmental Policy Act (SEPA)***

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

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

This water right application is not categorically exempt from SEPA because it is a surface water right for more than 1 cfs. The Washington Department of Fish and Wildlife issued a Determination of Nonsignificance on December 12, 2013 after reviewing the SEPA Checklist prepared for this project. No comments were received following issuance of the DNS.

### ***Water Resources Statutes and Case Law***

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights. The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

## **INVESTIGATION**

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

- The State Surface Water Code, administrative rules, and policies.
- Department of Ecology's Water Right Tracking System (WRTS) database.
- Topographic and local area maps.
- Information submitted with the application.
- Notes from a site visit on February 26, 2015.

### ***Project Description and Location***

The Humptulips River Hatchery (Hatchery), owned and operated by the Washington Department of Fish and Wildlife (WDFW), is situated at the confluence of the Humptulips River (River Mile 22.5) and Stevens Creek. The Hatchery has operated as a state salmon and steelhead hatchery since 1976 and is a significant contributor to recreational, tribal, and commercial fisheries. The primary water source for the Hatchery is from a diversion in the Humptulips River.

*See Attachment #1*

Each fall, fish originating from the hatchery become stranded when adult salmon migrate past the collection facility located near the mouth of Stevens Creek. This straying occurs because juvenile fish

are imprinted on Humptulips River water and not water from Stevens Creek. These hatchery fish swim upstream into the upper Humptulips watershed and spawn with native stocks.

WDFW submitted water right change application (CS2-00142C) to add a point of diversion to Water Right Certificate S2-00142C to allow diversion from Stevens Creek in an effort to reduce spawning of Hatchery origin fish with native stocks.

### *Site Visit*

A site visit was conducted on March 2, 2015 by Chris Pitre of Golder Associates Inc. to verify site details and construction status. WDFW staff was present to discuss Hatchery operations, including Larry Peck, Jeremy Parker and Ken Isaksson.

At the time of the site visit, construction new diversion structure in Stevens Creek was complete. The diversion was operating successfully and water was being returned to Stevens Creek roughly 50 feet downstream of the diversion. Impact to flows in Stevens Creek was negligible.

This diversion was equipped with 2 electric pumps capable of discharging 3.56 cfs and 8.35 cfs, for a combined total of 11.91 cfs. Infrastructure was in place to allow for installation of a third pump with 8.4 cfs capacity, which would allow a total diversion rate of approximately 20 cfs. The fish screen is designed with a 20 cfs transmitting capacity.

The Humptulips River diversion was outfitted with nine electric pumps. According to the pump ratings dated March 18, 2012, the pumps are capable of producing approximately 31.2 cfs (average 1,550 gallons per minute [gpm]).

The Humptulips River diversion is also associated with SWC S2-21186 which authorizes a diversion rate of 15 cfs.

### History of Water Use

Construction was completed for the Humptulips River Hatchery in 1974 and it has operated nearly continuously as a State Salmon Hatchery since 1976. Fish production has varied over the years as a function of fishery management objectives and policy (e.g., the Genetic Habitat Management Plan) and climate and streamflow conditions.

Water use from the Humptulips River has been approximately 30 cfs in early spring and is greater in high return years under both SWC S2-00142 and S2-21186.

### Proposed Use

Change application CS2-00142 requests to add a diversion from Stevens Creek to reduce spawning of Hatchery origin fish with native stocks. WDFW proposes to reduce straying of hatchery fish by imprinting juvenile fish with Stevens Creek water. According to WDFW, imprinting juveniles with water from Stevens Creek should inhibit hatchery fish from straying higher into the Humptulips Watershed and cross-breeding with native stocks.

### Other Rights Appurtenant to the Place of Use

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Two other water rights and one claim are associated with the place of use, are owned by the Washington Department of Fish and Wildlife, and are used at the Humptulips Hatchery.

- Certificate S2-21186 authorizes diversion of 15 cfs from the same Humptulips River diversion as the subject application.
- Certificate S2-01068 authorizes diversion of 2 cfs of from Hatchery Creek (tributary to Stevens Creek) for incubation facilities.
- Groundwater Claim 000440CL for domestic supply to the hatchery facility.

### Impairment Considerations

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An instream flow rule set for Water Resources Inventory Area 22 (Lower Chehalis) establishes minimum instream flows for the Humptulips River with a priority date of March 10, 1976.

The existing point of diversion is located on the Humptulips River approximately 200 feet upstream of the confluence with Stevens Creek. Water diverted from the Humptulips River is passed through the hatchery and returned to Stevens Creek, roughly 500 feet upstream of the confluence of Stevens Creek and the Humptulips River, thereby creating a 200 foot bypass reach.

The proposed change involves adding a point of diversion on Stevens Creek. This will reduce the amount of being water diverted from the Humptulips River. Up to 20 cfs will be diverted from Stevens Creek where the bypass reach is only 50-feet long. Since the bypass reach on Stevens Creek is so short, impacts will be negligible. The proposed change will reduce impacts on the Humptulips River.

### Conclusions

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

- S2-00142 is in good standing and available for change.
- Fish propagation is a beneficial use.
- The proposed change of point of diversion will not impair existing rights.
- Approval of the requested changes will not enlarge the original right conveyed by S2-00142, subject to the provisions specified above.

### RECOMMENDATIONS

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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

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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:

- 30.0 cfs, 21,717.5 ac-ft per year, year round use.
- Non- consumptive.
- For fish propagation purposes.

***Points of Diversion***

- S01 – Humptulips River: SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ , Section 12, Township 20 North, Range 11 E .W.M.
- S02 – Stevens Creek: SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$ , Section 12, Township 20 North, Range 11 E .W.M.

***Place of Use***

- See legal description on page 1.

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*Tammy Hall, L.HG*

*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.*

