File NR G4-32390
WR Doc ID 2084987

State of Washington
Department of Ecology
Office of Columbia River
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE
12/13/1995

WATER RIGHT NUMBER
G4-32390

MAILING ADDRESS
Chelan County PUD 1
PO Box 1231
Wenatchee, WA 98807-1231

SITE ADDRESS (IF DIFFERENT)
2098 Highway 7
Oroville, WA 98844

Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
200	GPM	311

Purpose

	WITHDRAWAL RATE			ANNUAL QUANTITY (AF/YR)		
PURPOSE	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	PERIOD OF USE (mm/dd)
Fish Propagation		200	GPM		311	01/01 - 12/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Okanogan	Groundwater		49-Okanogan

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well			40N	27E.W.M.	33		N 48.91966	W 119.44361
							Datum: NAD83	

Place of Use (See Attached Map)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

All of Government Lot 6, section 33, township 40 North, Range 27 E.W.M., lying East of Okanogan County Road No. 9437. Except the North 418.00 feet of said Government Lot 6 and EXCEPT that portion of said Government Lot 6 lying South of a line beginning at a point on the East right-of-way line of Okanogan County Road No. 9437; Whence the southwest corner of Government Lot 8, section 33, township 40 North, range 27 E.W.M., bears South 13° 18'18" West a distance of 1561.54 feet; thence running North 85° 47'57" east a distance of 433.48 feet, more or less, to the West bank of the Similkameen River.

Proposed Works

A well with 3 and 5 horsepower (HP) pumps set at 2 different levels for the purpose of supplying water to moderate water temperature of a 655,388 gallon fish acclimation pond

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	6 months from permit issuance	3.5 years from permit issuance

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm)

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, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements. In order to verify the annual allocation, the permit holder shall install a totalizing meter.

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.

Department of Fish and Wildlife Requirement(s)
A permit from the Department of Fish and Wildlife may be needed to raise fish in any state waters: http://wdfw.wa.gov/about/contact/.

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.

This permit authorizes an alternative source of water to S4-29889P in the quantities authorized herein are non-additive to S4-29889P

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, including installation of a totalizing meter, has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections
Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Finding 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. G4-32390, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Yakima, Washington, this 7th day of June 2013

Mark C. Schuppe, Operations Manager
Office of Columbia River

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 -- Chelan County PUD 1
Water Right Control Number G4-32390
Carolyn Comeau, Department of Ecology

BACKGROUND

On December 13, 1995 Ecology accepted an application from Public Utility District No. 1 of Chelan County (PUD) for withdrawal of groundwater for use at their fish rearing facility (Facility) on the Similkameen River. This Facility is part of the Rock Island Hatchery Complex which was developed as a result of the 1987 Rock Island Hydropower Project Settlement Agreement amongst Chelan County PUD, tribes and fish and wildlife agencies and organizations. The Facility, operated by Washington Department of Fish and Wildlife, is used to acclimate and rear juvenile salmonids that come from the PUD's Eastbank Hatchery. Once acclimated, the fry are released into the Similkameen River.

The Facility currently uses surface water right permit S4-29889P to fill and refresh the acclimation pond from September 1 through April 30. However, for many years groundwater withdrawals have been used to moderate the acclimation pond's water temperature. Ecology's Office of Columbia River is working with the PUD to bring their groundwater use into compliance.

Priority Processing

This application is being priority processed because it qualifies under the criteria in which an application may be processed prior to competing applications when the proposed water use is non-consumptive and results in a benefit to the environment. (WAC 173-152-050(2)(c)).

Table 1 Summary of Requested Water Right

Applicant Name:	Chelan County PUD 1
Date of Application:	12/13/1995
Place of Use	NE SW S.33, T.40N., R.27E.W.M.

County	Waterbody	Tributary To	WRIA
Okanogan	Groundwater		49-Okanogan

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Water temperature moderation of fish acclimation pond	450	gpm	150	9/1	4/30

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well			40N	27E.W.M.	33		N 48.91966	W 119.44361

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

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 Omak-Okanogan County Chronicle on September 14 and 21, 2011. No protests or comments were received.

Consultation with the Department of Fish and Wildlife

A notice was sent on October 15, 2012 to the Washington Department of Fish and Wildlife (WDFW) informing them of the applicant's request to withdraw water. WDFW's May 8, 2013 response stated that they do not oppose the issuance of this application.

State Environmental Policy Act (SEPA)

A water right application is subject to a 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 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 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 application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

The following information is based on conversations with Chelan PUD staff, an October 11, 2011 site tour by Ecology staff Eiko Urmos-Berry and Ron Dixon, and reviews of Chelan PUD's metering data and Ecology's records.

The Facility is located at 2098 Highway 7 Oroville, WA, in North-Central Washington on the west bank of the Similkameen River in Okanogan County, WRIA 49. The Similkameen River flows from British Columbia into Washington State to its confluence with the Okanogan River near Oroville. The Facility includes a 65 x 273 x 5 foot fish rearing pond which holds 655,388 gallons of water. The water supply system consists of a screened intake structure and two submersible pumps. Water withdrawn from the Similkameen River passes through the fish pond and is returned to the river 65 feet downstream from the intake.

Surface Water Right

The Facility uses surface water right permit No. S4-29889P for fish rearing and acclimation from September 1 through April 30. This permit is subject to the minimum flow regulations stated in Chapter 173-549 WAC.

Groundwater Wells

The Facility has three wells: One for potable domestic use and two (North Well and South Well) for maintaining water levels and/or temperatures in the fish rearing ponds. Neither of the wells used for temperature moderation operate under authority from Ecology. The North Well currently is out of operation due to impacted silting. The South Well, which is currently being operated, is the only point of withdrawal (POW) proposed in this application.

South Well

- The South Well is located west of the Similkameen River on a neighboring lot next to the Facility's southern boundary line. A legal agreement between the private property owner and the PUD gives the PUD permission to use the well. The PUD reports that the well has a 48 inch diameter and is 31 feet deep. While the South Well has two pumps which are metered for water use, the type of meter used is not a totalizing meter.
    - Pump #1 is shallowly placed in the well. It has a 3 HP motor with a 200 gpm capacity. It is typically regulated at 100 gpm.
    - Pump #2 is placed deeper than pump #1 and is used as a backup pump when the water level drops below pump #1. It has a 5 HP motor with a 200 gpm capacity which can be regulated to 150 gpm.

Discharge System

- Discharge Outlets: The acclimation pond has two outlets that discharge water to the river. A GPS reading was not taken of the northernmost outlet due to access issues. The hatchery operator determines which discharge outlet to use based on the river's water level.

Proposed Use

The applicant proposes to use groundwater from an existing well to moderate water temperature in the fish rearing facility's acclimation pond. The Similkameen River's water temperature fluctuates and can drop to 32 degrees Fahrenheit in the winter. The well's winter water temperature generally remains consistent at about 54 degrees Fahrenheit.

Other Rights Appurtenant to the POU

- Surface water right permit, S4-29889P, issued to the Facility for fish rearing purposes.
- Permit-exempt well currently used by the Facility for domestic purposes.

Impairment Considerations

For water to be available for appropriation, it must not cause impairment. "Impair" or "impairment" means to: 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or; 2) to prevent the beneficial use of the water to which one is entitled, and/or; 3) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (Chapter 173-150 WAC).

Analytical modeling using the Theis equation was done to determine the effects the proposed withdrawal could have on nearby well owners. The analysis indicates that, *"... any drawdown which may occur as a*

result of the permitting action is not expected to interfere with the ability of nearby well owners to fully utilize their well(s)."

Review and tour of the Facility's design and operations were used in combination with the subject aquifer characteristics to determine the effects the proposed withdrawal could have on instream flows and therefore surface water users. The Facility discharges and returns the withdrawn water to the river in the same quantity as withdrawn and in close proximity to the POW and within the same pool. As stated in the hydrogeologic analysis: *"If water is pumped from the well, circulated through the fish rearing and acclimation facility, and discharged above the natural discharge location, the water use is not expected to negatively impact the flows of the Similkameen River and can be considered a non-consumptive use."*

Review of pertinent state law and Ecology's hydrogeologic analysis were used to determine whether the proposed water right would be subject to instream flow regulations

WAC 173-549-060 states that groundwater withdrawals that have significant hydraulic continuity with the surface water and would interfere with stream flow during the period of stream closure or with maintenance of minimum instream flows are subject to instream flow regulation.

Ecology's hydrogeologic analysis states *that "...the unconsolidated shallow groundwater aquifer is not only recharged by the Similkameen River, but that the shallow groundwater aquifer discharges to the Similkameen River when the hydraulic heads (groundwater level elevations) in the aquifer are above that of the Similkameen River."* However, the proposed water right would not diminish the source's quantity since discharged water would be returned at a point in close proximity to the withdrawal well in the same quantity as withdrawn.

Water Availability

Physical Availability

This issue was addressed by evaluating the hydrogeologic characteristics of the subject aquifer and reviewing the PUD's metering data.

Ecology reviewed the well logs for twelve wells located in the area of the subject well. Ecology's hydrogeologic analysis for the application states that, *"No well log on file with the Department of Ecology matched the reported diameter and depth of the subject well. However, there are twelve well logs on file with Ecology within Section 33 where the subject well is located."* The analysis continues by stating that, *"All of the wells are relatively shallow with the exception of one...and that the static water levels (SWL) in the wells are 21 feet or less below the top of the well for those wells completed to a depth of less than 60 feet. These shallow water levels represent the top of the water table."*

The PUD has been withdrawing water from the well for many years. Weekly metering data submitted for 2008-2012, estimated weekly withdrawals with the maximum annual use of 311 acre-feet in 2011.

Legal availability

This issue was addressed through review of state law and Ecology's water resources and water quality records.

The Similkameen River is an adjudicated basin and has an instream flow rule, Chapter 173-549 WAC. Review of Ecology's data for 2001 through 2012 showed that minimum flow orders were issued for ten of the twelve years. Ecology's hydrogeologic analysis included analytical modeling to estimate if the proposed non-consumptive use would impair instream flows and surface and ground water users. See the section above titled, "Impairment Considerations".

Beneficial Use

Beneficial use encompasses two principal elements of a water right:

- Beneficial use refers to the purpose for which water may be used. RCW 90.54.020(1) declares water use for fish maintenance and enhancement as a beneficial use of water.
- Beneficial use determines the measure of a water right. The owner of a water right is entitled to the amount of water necessary for the purpose to which it has been used.

The PUD's application identified an annual quantity of 150 acre-feet. However, based on the metering data for 2009 through 2011, submitted by the PUD, the proposed maximum annual quantity could be as high as 311 acre-feet.

Public Interest Considerations

WDFW was notified by Ecology of this application on October 15, 2012.

Review of WDFW's 2011 Columbia River Instream Atlas showed the Similkameen River as having good flows and habitat and poor fish (salmonids) use. A possible reason for the poor fish use is that dams located downstream from the Facility restrict fish passage.

Ecology issued the Facility a National Pollutant Discharge Elimination System (NPDES) permit number WAG 135007 for June 28, 2010 through August 1, 2015. The permit's purpose is to ensure that the discharged water meets state and federal water quality standards.

Review of the Clean Water Act Section 303(d) list of water quality status for the Similkameen River showed one temperature listing, one TMDL listing for arsenic and several listing as a "water of concern". Discharges from the Facility that would affect these parameters are regulated through the NPDES permit.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

Based on this investigation, the following conclusions are drawn:

Beneficial Use: The analysis provided above demonstrates that the proposed water use to be a beneficial use.

Water Availability: The analysis provided above demonstrates that water is physically and legally available.

Impairment: The analysis provided above demonstrates that the proposed beneficial use of water is not expected to impair the rights of nearby well owners, surface water users and instream flows.

Public Interest: The analysis provided above demonstrates that the proposed use of water will not be detrimental to the public's interest.

RECOMMENDATIONS

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

200 gpm
311 ac-ft/yr
For fish propagation and water temperature moderation of fish acclimation pond

Point of Withdrawal

Approximately 1740 ft east and 1455 ft north of the southwest corner of S.33, T.40N., R.27E.W.M.

Place of Use

All of Government Lot 6, section 33, township 40 North, Range 27 E.W.M., lying East of Okanogan County Road No. 9437. Except the North 418.00 feet of said Government Lot 6 and EXCEPT that portion of said Government Lot 6 lying South of a line beginning at a point on the East right-of-way line of Okanogan County Road No. 9437; Whence the southwest corner of Government Lot 8, section 33, township 40 North, range 27 E.W.M., bears South 13° 18'18" West a distance of 1561.54 feet; thence running North 85° 47'57" east a distance of 433.48 feet, more or less, to the West bank of the Similkameen River.

Carolyn Comeau — June 7, 2013

Carolyn Comeau — *Date*

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