File NR: G4-35605
WR Doc ID: 5648013

DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE
March 12, 2013

WATER RIGHT NUMBER
G4-35605

MAILING ADDRESS
NEWPORT HILLS LAND COMPANY, INC.
PO BOX 687
ROSLYN WA 98941-0687

SITE ADDRESS (IF DIFFERENT)
UNKNOWN

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
49	GPM	8.96

Total withdrawals from all sources must not exceed the total quantity authorized for withdrawal listed above.

Purpose

	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		
PURPOSE	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	PERIOD OF USE (mm/dd)
Domestic Multiple	49	0	GPM	8.96	0	01/01 - 12/31

REMARKS

The instantaneous quantity is a maximum shared equally between the four authorized sources. Multiple domestic use for up to 32 recreational residences.

Irrigation, including incidental lawn and/or garden is not authorized by this water right.

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
0	0	Anna Bell (AC239) 3 additional systems pending	14

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well #1 (Anna Bell Water Club)	951652	APG953	21N	14E	21	NENW	47.30360	-121.09772
Well #2 (Newport Creek Plat)	20542	APE751	21N	14E	21	SENW	47.29869	-121.09512
Well #3 (Eagles Nest Plat)	957154	APE780	21N	14E	21	NWSW	47.29613	-121.09978
Well #4 (Hex Mountain Plat)	956697	APG996	21N	14E	21	NESW	47.29506	-121.09405

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

12045, 12046, 12047, 18548, 18549, 18550, 18551, 20540, 20542, 951650, 951651, 951652, 951653, 951654, 951655, 951656, 951658, 951659, 951660, 951661, 951662, 956692, 956693, 956694, 956695, 956696, 956697, 956698, 956699, 956700, 956701, 956702, 956703, 956704, 956705, 956706, 956707, 957142, 957143, 957144, 957145, 957146, 957147, 957148, 957149, 957150, 957151, 957152, 957153, 957154, and 957155.

The place-of-use is owned by various private landowners. A mix of individual and small, public water supply systems will be developed.

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

A portion of the W½ of Section 21, T. 21 N., R. 14 E.W.M.:

Lot 10* of that certain record of survey filed on September 10, 2007, in Book 34 of Surveys at Page 136 under Kittitas County Auditor's File No. 200709100070, being a portion of the west half of Section 21, T. 21 N., R. 14 E.W.M., Kittitas County, state of Washington. (*Currently being subdivided into 10 lots, commonly referred to as Sasse Ridge Plat).

Lots 1-14* of that certain record of survey filed on April 7, 2011, in Book 12 of Plats at Page 19, under Kittitas County Auditor's File No. 201104070042, being a portion of the west half of Section 21, T. 21 N., R. 14 E.W.M., Kittitas County, state of Washington. (*Commonly referred to as Eagle Nest Plat).

Lots 1-8* of that certain record of survey filed on June 21, 2010, in Book 11 of Plats at Page 247, under Kittitas County Auditor's File No. 201007210063, being a portion of the west half of Section 21, T. 21 N., R. 14 E.W.M., Kittitas County, state of Washington. (*Commonly referred to as Hex Mountain Plat).

Lots 1-8* of that certain record of survey filed on June 7, 2010, in Book 11 of Plats at Page 245, under Kittitas County Auditor's File No. 201006070057, being a portion of the west half of Section 21 T. 21 N., R. 14 E.W.M., Kittitas County, state of Washington. (*Commonly referred to as Cedar Grove Plat).

Lots 2-5, 7, and 9-11,* of that certain record of survey filed on September 22, 2006, in Book 10 of Plats at Page 164 under Kittitas County Auditor's File No. 200609220067, being a portion of the west half of Section 21, T. 21 N., R. 14 E.W.M., Kittitas County, state of Washington. (*Commonly referred to as Anna Bell Plat).

Lots 1, 6, 12, and 14 of that certain boundary line adjustment filed on September 10, 2007, in Book 34 of Surveys at Page 136 under Kittitas County Auditor's File No. 200709100070, being a portion of the west half of Section 21, T. 21 N., R. 14 E.W.M., Kittitas County, state of Washington.

Lots 1-8 of that certain lot line adjustment filed on May 20, 2005, in Book 31 of Surveys at Page 89 under Kittitas County Auditor's File No. 200505200021, being a portion of the west half of Section 21, T. 21 N., R. 14 E.W.M., Kittitas County, state of Washington.

Proposed Works

Subject Well #1 (APG-953) was drilled in 2006 to a depth of 245 feet with a 4-inch liner and a 6-inch casing. This existing water system, Anna Bell Water System, is a pressurized pump system utilizing 2-inch mainlines at the source meter, a booster pump, and an 85-gallon capacity storage tank. All 14 parcels to be connected to this system are individually metered at the parcel level.

Subject Well #2 (APE-751) was drilled in 2004 to a depth of 140 feet with a 4-inch PVC liner and a 6-inch casing. It is to be determined whether this future Department of Health (DOH)-approved system, Sasse Ridge LLC, will use either a pressurized pump system or a gravity flow delivery system. Meters have not been installed.

Subject Well #3 (APE-780) was drilled in 2008 to a depth of 620 feet with a 4-inch liner and a 6-inch casing. It is to be determined whether this future DOH-approved system, Jolly Mountain, will use either a pressurized pump system or a gravity flow delivery system to serve parcels within the Eagle Nest Plat. A booster pump and a 25,000-gallon capacity storage tank, which is partially buried, will also be utilized. Meters have not been installed.

Subject Well #4 (APG-996) is an artesian well and was drilled in 2006 to a depth of 345 feet with a 4-inch liner and a 6-inch casing. It is to be determined whether this future DOH-approved system, Hex Mountain, will use either a pressurized pump system or a gravity flow delivery system. Meters have not been installed.

Domestic wastewater will be discharged to an individual or group on-site septic system, pursuant to the *Declarations of Covenant*, which will be signed and recorded by individual or group parcel owners.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	October 31, 2030	October 31, 2033

In determining the timeframe of the above Development Schedule, that is the amount of time for the applicant to implement the authorized use of water, a reasonable and just time was considered and allowed under the existing conditions to complete construction of the project. Sufficient time was also awarded in order for the applicant to collect water-use data and to put the water to full beneficial use. The **Development Schedule** reflects consideration of the cost and magnitude of the project and the potential engineering and physical features typically to be encountered.

Measurement of Water Use

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

Provisions

A. Wells, Well Logs and Well Construction Standards

1. Subject Wells #1-4 are authorized for groundwater withdrawal from the Swauk Formation Aquifer.
2. All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction." Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.
3. All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.
4. Flowing wells shall be constructed and equipped with valves to ensure that the flow of water can be completely stopped when not in use. Likewise, the well shall be continuously maintained to prevent the waste of water through leaky casings, pipes, fittings, valves, or pumps - either above or below land surface.
5. Installation and maintenance of an access port for each source as described in WAC 173-160-291(3) is required.
6. In accordance with WAC 173-160, wells shall not be located within certain minimum distances of potential sources of contamination. These minimum distances shall comply with local health regulations as appropriate. In general, wells shall be located at least 100 feet from sources of contamination. Wells shall not be located within 1,000 feet of the boundary of a solid waste landfill.

B. Measurements, Monitoring, Metering and Reporting

1. An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use," WAC 173-173.
2. You must measure and report your water use in accordance with the "Upper Kittitas Groundwater Rule," WAC 173-539A-070, http://www.ecy.wa.gov/biblio/wac173539A.html. Water-use-data shall be recorded **bi-weekly** and maintained by the property owner for a minimum of five years and made available to Ecology upon request. The maximum, individual and combined rates of withdrawal and the annual total volume from each source shall be submitted to Ecology by January 31st of each calendar year.
3. 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.
4. 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.

C. Water Level Measurements

1. In order to maintain a sustainable supply of water and ensure that your water source is not impaired by future withdrawals, static water levels **should** be measured and recorded monthly using a consistent methodology. Static water level is defined as the water level in a well when no pumping is occurring and the water level has fully recovered from previous pumping. Static water level data **should** include the following elements:
   - Unique Well ID Number.
   - Measurement date and time.
   - Measurement method (air line, electric tape, pressure transducer, etc.).
   - Measurement accuracy (to nearest foot, tenth of foot, etc.).
   - Description of the measuring point (top of casing, sounding tube, etc.).
   - Measuring point elevation above or below land surface to the nearest 0.1 foot.
   - Land surface elevation at the well head to the nearest foot.
   - Static water level below measuring point to the nearest 0.1 foot.

D. Department of Health Requirements

1. 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

E. Easement and Right-of-Way

1. 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.

F. Water Use Efficiency

1. 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.

G. Proof of Appropriation

1. Final beneficial use calculations for each connection to the 4 different water systems, either independently or combined, shall be determined during the investigation at the Proof of Appropriation stage.

2. The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, the source(s), system

instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

H. Schedule and Inspections

1. 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.

I. General Conditions

1. This authorization shall in no way excuse the permittee from compliance with any federal, state, or local statutes, ordinances, permits, or regulations including those required and administered by other programs of Ecology.

2. You (applicant) will pay the sum of **$1,236.31**, which represents a proportionate amount of the payment due and owing to the United States Bureau of Reclamation for storage and delivery of water under Paragraph 15(a) of Water Storage and Exchange Contract No. 09XX101700, between the Bureau of Reclamation and the State of Washington Department of Ecology, Yakima Project, Washington, dated January 29, 2009.[1] The consumptive use of 1.561 acre-feet (ac-ft) from September 1 through March 31 is subject to the terms and conditions in the Water Storage and Exchange Contract No. 09XX101700.

3. You (applicant) will record with the Kittitas County Auditor a property covenant as required under WAC 173-539A-050 that restricts or prohibits trees or shrubs over a septic drain field on each Parcel as follows:

   12045, 12046, 12047, 18548, 18549, 18550, 18551, 20540, 20542, 951650, 951651, 951652, 951653, 951654, 951655, 951656, 951658, 951659, 951660, 951661, 951662, 956692, 956693, 956694, 956695, 956696, 956697, 956698, 956699, 956700, 956701, 956702, 956703, 956704, 956705, 956706, 956707, 957142, 957143, 957144, 957145, 957146, 957147, 957148, 957149, 957150, 957151, 957152, 957153, 957154, and 957155.

4. You (applicant) will also record with the Kittitas County Auditor a property covenant that restricts water use to indoor domestic and prohibits water for outdoor irrigation on the following parcels:

   12045, 12046, 12047, 18548, 18549, 18550, 18551, 20540, 20542, 951650, 951651, 951652, 951653, 951654, 951655, 951656, 951658, 951659, 951660, 951661, 951662, 956692, 956693, 956694, 956695, 956696, 956697, 956698, 956699, 956700, 956701, 956702, 956703, 956704, 956705, 956706, 956707, 957142, 957143, 957144, 957145, 957146, 957147, 957148, 957149, 957150, 957151, 957152, 957153, 957154, and 957155.

5. You (applicant) will record with the Kittitas County Auditor an appropriate conveyance instrument under which the applicant obtains an interest in Trust Water Right No. CS4-02316sb8(a1) to offset consumptive use.

[1] *"Long-Term Water Storage and Exchange Agreement between the U.S. and the State of Washington, Department of Ecology,* (Contract No. 09XX101700)", http://www.ecy.wa.gov/programs/wr/cro/images/pdfs/exchangecontract_012909.pdf, accessed on May 9, 2013.

6. The approved quantity of water shall not exceed the amount of water available under Trust Water Right No. CS4-02316sb8(a1), nor shall it exceed the availability of unused storage capacity.

7. Any valid priority calls against the source Trust Water Right No. CS4-02316sb8(a1), based on local limitations in water availability, will result in temporary curtailment of the use of water under the permit until the priority call for water ends.

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. G4-35605, 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 **Pollution Control Hearings Board** 1111 Israel RD SW Ste 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

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://www.leg.wa.gov/CodeReviser

Signed at Yakima, Washington, this 10 day of February, 2014.

Mark Kemner, LHG, Section Manager
Water Resources Program/CRO

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.

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application No. G4-35605.

Priority Processing

This application is being priority processed because it qualified under the criteria under which an application may be processed prior to competing applications (WAC 173-152-050(2)(g) and WAC 173-539A-060).

Table 1: Summary of "Originally" Requested Water Right

Applicant Name	Newport Hills Land Company Inc.
Date of Application	March 12, 2013
Place of Use	A portion of the W½ of Section 21, T. 21 N., R. 14 E.W.M., Kittitas County, Washington. (Multiple parcels and parcel ownership.)

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Domestic Multiple	100	GPM	8.9	01/01	12/31

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q
Well #1 (Anna Bell Plat)	951652	APG-953	21N	14E	21	NW
Well #2 (Sasse Ridge)	20542	AFH-751	21N	14E	21	W½
Well #3 (Jolly Mountain)	957154	APE-780	21N	14E	21	W½
Well #4 (Hex Mnt. Plat)	956697	APG-996	21N	14E	21	W½

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.

On August 1, 201, the applicant amended the original application to correct the unique well tag number for Well #1. The corrected parameter follows:

Table 2: Summary of "Amended-Request" Water Right

Date of Amendment	August 1, 2013
Amended ID of Well #1	Well #1 Unique Tag # APE-751

Legal Requirements for Approval of Appropriation of Water

RCWs 90.03 and 90.44 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 RCW 90.03.250 through 90.03.340 and RCW 90.44.050. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for water rights to be approved:

- Water must be available.
- There must be no impairment of existing rights.
- The water use must be beneficial.
- The water use must not be detrimental to the public interest.

The place-of-use for this application is located wholly within the area covered by the Upper Kittitas Groundwater Rule, WAC 173-539A and is subject to the provisions of this rule, which provides that all new groundwater withdrawals in the area must be water-budget-neutral.

The applicant intends to mitigate for consumptive use under the requested appropriation through the purchase of mitigation of mitigation credits from the Yakima River Mitigation Water Services (YRMWS) Exchange. The YRMWS Exchange was established by transferring Court Claim No. 02316 into the Trust Water Right program (TWRP). Consumptive loss resulting from the applicant's proposed use will be offset with Trust Water Right No. CS4-02316sb8(a1).

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 June 22 and 29, 2013. No comments or protests were received by Ecology during the 30-day comment period.

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 (RCW 77.57.020). Notice was provided November 4, 2013, during a Water Transfer Working Group (WTWG) meeting at the United States Bureau of Reclamation in Yakima, Washington. A unanimous "thumbs up" recommendation was communicated in response to this proposal.

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 is met:

(a) It is a surface water right application for more than 1 cubic-foot 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 gpm.

(c) It is an application that, in combination with other water right applications for the same project, collectively exceeds 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 for Water Resources, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

Site Visit

Ecology personnel, Candis Graff and Anna Hoselton visited the site on September 17, 2013. Vernon Swesey, representative for the applicant, was also present. Photographs and GPS points were recorded of the source locations and local geology was noted. After the site visit, with the use of aerial software (ArcMap 10)and the current Kittitas County parcel layer, it was determined that the sources are correctly located on Parcel Nos. 951652, 20542, 957154, and 956697, which the application identifies.

Proposed Use and Basis of Water Demand

The Lake Cle Elum subbasin is located within the Upper Kittitas Basin and is subject to the provisions of WAC 173-539A. No new groundwater use within the Lake Cle Elum subbasin is allowed unless the consumptive use associated with the new groundwater withdrawal is fully mitigated by a pre-May 10, 1905, priority existing water right.

The DOH-approved Group B water system, Anna Bell, became effective on July 29, 2010, and is approved for 14 connections, of which 3 connections pre-exist. This source is metered. Three additional water systems are anticipated.

The place-of-use is owned by numerous private landowners. The application proposes new uses of groundwater that would be made water-budget-neutral by placing a portion of the Crushe, LLC's 1881, 1887, and 1900 water rights in the Trust Water Right Program.

Each landowner intending to purchase land and develop a domestic water supply (i.e., each landowner who purchases a mitigation certificate from the applicant), would jointly sign and submit an assignment form to Ecology.

WAC 173-539A-050 provides that a new use of groundwater can be approved if the consumptive use loss associated with a new groundwater use is offset by an equal or greater amount of a pre-1905 water right held by Ecology in the Trust Water Right Program. The estimated consumptive water requirement for the 32 proposed residences is as follows:

- Each residence will use an average of 250 gpd (based on the recreational, part-time-nature of each residence) of water for domestic supply, year-round (365 days), 30% of which is considered to be consumptively used (lost to the atmosphere as water vapor, or otherwise lost to the basin's hydrologic system).
- Total annual use for 32 residences is 8.961 acre-feet per year (af/yr). Thirty percent (30%) of this water or 2.688 af/yr, is consumptively-used water (CU).

Trust Water Rights to be Held as Mitigation

On September 30, 2013, Ecology issued a Report of Examination (ROE—CS4-02316sb8(a1) authorizing Crushe, LLC, (who owns 50% interest in Court Claim 02316) to transfer 100% of their January 1, 1881, water right to the state Trust Water Rights Program, for the purpose of instream flow and mitigation use from April 1 to October 31, in the Yakima River. Specifically, a total of 78.00 af/yr of water was transferred to the primary reach and 44 af/yr of water was transferred to the secondary reach.

On September 30, 2013, Ecology issued an ROE—CS4-02316sb8(b1) authorizing Crushe, LLC, (who owns 50% interest in Court Claim 02316) to transfer their June 9, 1881, water right to the state Trust Water

Rights Program, for the purpose of instream flow and mitigation use from April 1 to October 31, in the Yakima River. Specifically, a total of 135.5 af/yr of water was transferred to the primary reach and 76 af/yr of water was transferred to the secondary reach.

On September 30, 2013, Ecology issued an ROE-CS4-02316sb8(c1) authorizing Crushe, LLC, (who owns 50% interest in Court Claim 02316) to transfer their January 29, 1887, water right to the state Trust Water Rights Program, for the purpose of instream flow and mitigation use from April 1 to October 31, in the Yakima River. Specifically, a total of 39 af/yr of water was transferred to the primary reach and 21.97 af/yr of water was transferred to the secondary reach.

On September 30, 2013, Ecology issued an ROE-CS4-02316sb8(d1) authorizing Crushe, LLC, (who owns 50% interest in Court Claim 02316) to transfer their March 3, 1900, water right to the state Trust Water Rights Program, for the purpose of instream flow and mitigation use from April 1 to October 31, in the Yakima River. Specifically, a total of 48 af/yr of water was transferred to the primary reach and 27 af/yr of water was transferred to the secondary reach.

The United States Bureau of Reclamation (USBR) manages surface-water supply in the Yakima Basin. Surface water supply is matched with all of the known demands and if adequate supplies are not available, USBR will ration proratable water users in the Basin.

The trust water right transfer authorizations to Court Claim 02316 described above has been changed to instream flow in the Yakima River to mitigate for groundwater withdrawals in Kittitas County. Using senior water rights to mitigate for groundwater in continuity with surface water ensures that the new use is water-budget-neutral and will not impair the Total Water Supply Available (TWSA).

Other Rights Appurtenant to the Place of Use

There are several water rights appurtenant to the proposed place-of-use and are described in **Attachment 2**, Table 4. Other water rights within 0.5-mile vicinity are summarized in Table 5.

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 point of diversion 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).

Impairment, Qualifying Works, Well Interference and Capture of Surface Water

There are four concepts that are important when considering whether a withdrawal of water from a well would impair another existing water right. The concepts are defined as follows:

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.
- Interrupt or interfere with the availability of water at the authorized point of diversion 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.

Qualifying Works (ground water withdrawal facilities) are defined as those wells which in the opinion of the Department are adequately constructed. An adequately constructed well is one that:

(a) is constructed in compliance with well construction requirements;

(b) fully penetrates the saturated thickness of an aquifer or withdraws water from a reasonable and feasible pumping lift (WAC 173-150);

(c) has withdrawal facilities capable of accommodating a reasonable variation in seasonal pumping water levels; and

(d) the withdrawal facilities and pumping facilities are properly sized to match the ability of the aquifer to produce water.

Well interference is the overlap of the cones of depression for two or more wells. Well interference reduces the water available to the individual wells and may occur when several wells penetrate and withdraw groundwater from the same aquifer. Each pumping well creates a drawdown cone. When several wells pump from the same aquifer, well density, aquifer characteristics, and pumping demand may result in individual drawdown cones that intersect and form a composite drawdown cone.

Capture of Surface Water occurs as "...a reduction in the natural discharge (or outflow) rate of groundwater from the aquifer or an increase in the natural or artificial recharge (or inflow) rate to the aquifer. The primary sources of captured discharge are groundwater that would otherwise have flowed to streams, drains, lakes, or oceans, as well as reduction in groundwater evapotranspiration..." (Barlow and Leake, 2012).

Water Availability

For water to be available for appropriation, it must be both physically available (for example, productivity of the aquifer) and legally available (for example, closure of basins to further appropriations).

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.
- Potential riparian water rights, including non-diversionary stock water.
- Lack of data indicating water usage can also be a consideration in determining water availability, if the department cannot ascertain the extent to which existing rights are consistently utilized and cannot affirmatively find that water is available for further appropriation.

Based on the hydrogeologic analysis described below, groundwater is physically available for the project.

Hydrologic/Hydrogeologic Evaluation

The following hydrologic/hydrogeologic technical excerpts were written and prepared in a technical memorandum dated September 17, 2013, by licensed hydrogeologist, Anna Hoselton, who analyzed the proposed place-of-use and points-of-withdrawal, and neighboring points-of-withdrawal in detail. Her evaluation seeks to address, by way of discussion, analysis, and evaluation, the physical water availability and the potential for impairment to existing water users. The entire Technical Memorandum can be reviewed upon request.

Study Area General Geology/Hydrogeology

The study area is situated on west facing slopes on the east side of Cle Elum Lake within the west half of Section 21, T. 21 N., R. 14 E.W.M. Field observations and geologic maps (Tabor, et al., 2000; Haugerud and Tabor, 2009) indicate the subject area and wells are located in a region that is underlain by the Eocene age sedimentary deposits of the Swauk Formation and un-conformably overlain and intruded by Eocene Teanaway Formation basalt flows and dikes, respectively. Quaternary mass wasting sediments thinly overlay the Teanaway basalt unit across the approximate central-east portion of the subject area (Figure 1). Of the three units, the Swauk Formation is the apparent primary unit of interest to area well drillers.

The Swauk Formation is a composed of fluvial, alluvial, and lacustrine deposits that include sandstones interbedded with shales, coal, conglomerates and breccias (Tabor et al., 1982, 2000; Cheney and Hayman, 2009). Doran (2009), whose thesis study area includes the subject area of this report, describes the Swauk Formation as having a "broad fining upward pattern" with conglomerates found near the base of the unit; coarse to fine-grained sandstones found throughout, mud-rich, silty, fine-grained sandstone interbedded with medium-to fine-grained sandstone in the central portion and the dacitic/andesitic Silver Pass member intercalated with clastics in the middle to upper portions. The study area, from Lake Cle Elum and the Cle Elum River, north to Mount Davis and east to the Miller Creek trailhead is also described by Doran (2009) as having been "...intensely deformed..." and has been less studied.

Tabor's (1982, 2000) geologic mapping suggests bedding attitudes in the Swauk Formation generally display a southeast to south-southeast dip. Within the subject area, however, because the Swauk Formation is largely overlain/intruded by the Teanaway Formation and mass wasting deposits, bedding attitudes are unknown. Outcrops to north, west, and east (Tabor et al, 2000) of the subject area however suggest that bedding orientation may vary slightly from the more general pattern and display moderate to steeply dipping beds locally.

In the subject area (Section 21, T21N, R14E), there are only ten water well reports on file with Ecology. Consequently, 31 additional well logs from sections directly north (section 9 and 16) were also examined and considered. Review of these data show the regional geology is complex and the local groundwater resources of the Swauk Formation aquifer system are not easily understood. For example, the Swauk Formation appears to be often mistaken for granitic material by well drillers where it has been altered by contact metamorphic processes such as during the extrusion of the Teanaway Basalt flows and dikes. Records from drillers constructing wells in the area of the Teanaway flows and dikes often record sequences of basalt, granite, sandstone, granite and basalt. The "granite" in such cases is interpreted to be altered Swauk Formation. Presence of the Silver Pass member can further complicate identification and interpretation of the Swauk Formation aquifer(s).

Aquifer characteristics of the Swauk Formation are expected to reflect the low to moderate hydraulic conductivity typical of sandstone aquifers. It is also expected that the Swauk Formation aquifer will behave generally confined due to vertical transmissivity contrasts between bedding type (low permeability bed overlying higher permeability bed, etc.). Consequently, aquifer storativity values are expected to be correspondingly low. Well report data indicates yields from the Swauk Formation aquifer are estimated to be poorly (1 to 5 gpm) to moderately (10 to 50 gpm) productive. Sustainability of the estimated pumping rates is, however, unknown due to lack of pump test and monitoring data. Groundwater head distribution is difficult to interpret due to the nearly 900 feet of relief within the section (Section 21, T21N, R14E) the wells are located, although driller recorded static water levels (swls) appear to generally correlate with local topography when adjusted to estimated elevations. It is also expected that, in addition to topography, groundwater head distribution will also correlate with geologic structural trends.

Groundwater flow within the Swauk Formation and the subject area will be largely influenced by structural attitude (dip and plunge direction) and secondary permeabilities resulting from folding and faulting. Secondary permeabilities will encourage preferential flow through parted bedding planes, the more brittle shale beds that are commonly fractured during deformation, and vertically via joints and fractures that may cut across bedding. Generally, wells encountering only primary permeabilities in the Swauk Formation will likely have moderately low yields, steep draw downs and small areas of pumping influence. Wells encountering secondary permeabilities are expected to have somewhat higher yields, less steep drawdown and broader areas of pumping influence initially; however, as the area of pumping influence expands, local zones of higher permeabilities may be depleted and result in declining well yields as zones of lower primary permeabilities are encountered at greater distances. Teanaway dike swarm intrusions into the Swauk Formation may cause groundwater barriers which may result in local damming or build-up of groundwater head.

Recharge to the Swauk Formation aquifer is by precipitation and aquifer discharge from up gradient regions beyond the subject area. Discharge from the Swauk Formation aquifer is to wells, springs, surface water, to down gradient regions of the aquifer beyond the subject area and to adjacent units of lower head.

Physical Water Availability Discussion

Water is considered to be physically available from the bedrock unit in the subject area to satisfy the proposed use in part because of discharge anticipated from the large areal extent of the up-gradient formation and data from existing water well reports. However, there is uncertainty regarding the sustainability of local water resources because of geologic complexities resulting from the emplacement of the overlying Teanaway basalt flows and dikes and lack of pump test or monitoring data. Water is also available without injury to the Total Water Supply Available (TWSA) by way of mitigation offered through the use of Trust Water Right No. CS4-02316sb8(a1), otherwise known as the Crushe Trust Water, banked in the Yakima River Mitigation Water Services Exchange in accordance with RCW 90.42 and WAC 173-539A-060.

General Impairment Discussion

The regional geology is complex and the local groundwater resources are not well understood, however, impairment between groundwater users is not expected due to low well density and general aquifer characteristics. Sustainability of the aquifer yield under increasing well development over time is uncertain due to lack of pump test and monitoring data. Local recharge to the aquifer by direct infiltration is limited to unlikely due to the overlying Teanaway basalt flows. Lack of direct infiltration appears to be supported by isotopic analysis of groundwater in deep wells that does not indicate the presence of "modern" water near the region of proposed use suggesting that recharge is more likely to come from up-gradient regions of the Swauk formation (to the north and northeast) that are not overlain by basalt. Given the relatively low well density and domestic pumping volumes associated with the subject request, the proposed use is not anticipated to impair or interfere with the ability of nearby well owners to fully utilize their well(s).

Withdrawal of groundwater at wells APE751, APE780, and APG996 is likely to capture groundwater that would otherwise discharge to down-gradient regions of the Swauk Formation and/or Cle Elum lake depending on structual attitude and head and possibly to un-identified springs. Withdrawal of groundwater at well APG953 is also likely to capture groundwater that would otherwise discharge to down-gradient regions of the Swauk Formation, but may also capture groundwater that would otherwise discharge down-gradient to Bell Creek which in then discharges to Cle Elum lake. Previous inquiry to the Water Transfer Working Group (WTWG) Fisheries representatives indicate that the Creeks in this region do not have fish issues due to gradient and lack of flow. Consequently any impacts to Bell Creek, Cle Elum lake and the Yakima mainstem are adequately addressed with the proposed mitigation.

Legal Availability

To determine whether water to be 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.
- The Department 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 would not become available for appropriation until existing rights are relinquished for non-use by state proceedings.

Based on the proposed mitigation described below and the use of the Contract, groundwater is legally available for the project.

Planned Mitigation

WAC 173-539A provides the following exception to the withdrawal of un-appropriated groundwater:

1. Uses for a structure for which a building permit is granted and the building permit application vested prior to July 16, 2009.
2. Uses determined to be water-budget-neutral pursuant to WAC 173-539A-050, which provides that water-budget-neutral projects may be approved. A water-budget-neutral project is one that is mitigated by a pre-1905 water right held by Ecology within the TWRP.

The applicant has entered into a contract with Yakima River Mitigation Water Services Exchange for a beneficial interest in an 8.96 acre-feet per year (ac-ft/yr) portion of Trust Water Right No. CS4-02316sb8(a1).

Beneficial Use

The proposed use of water for multiple domestic is defined in statute as a beneficial use (RCW 90.54.020(1)).

Public Interest Considerations

Consideration of Protests and Comments
No protests were filed against this application.

Conclusions

In conclusion,

- Water is physically available at the quantities sufficient to meet project demand. When combined with the proposed mitigation measures, water is legally available under the provisions of WAC 173-539A.
- RCW 90.54.020 recognizes multiple domestic use as a beneficial use of water.
- Approval of the proposed appropriation will not result in impairment of existing water rights.
- 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 purpose of use, water quantities, points of withdrawal, and place of use recommended in this Report of Examination (ROE) are the maximum combined limits for this authorization. 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:

- 49 gallons per minute (gpm) combined between 4 sources.
- 8.96 acre-feet per year (ac/fy) per year.
- Continuous multiple domestic for up to 32 recreational home sites.

Points of Withdrawal

Well #1: Approximately 160 feet south and 1590 feet east from the NW corner of Section 21, within the NE¼NW¼, Section 21, Township 21 North, Range 14 E.W.M.

Well #2: Approximately 1950 feet south and 2220 feet east from the NW corner of Section 21, within the SE¼NW¼, Section 21, Township 21 North, Range 14 E.W.M.

Well #3: Approximately 2400 feet north and 1143 feet east from the SW corner, within the NW¼SW¼, Section 21, Township 21 North, Range 14 E.W.M.

Well #4: Approximately 2031 feet north and 2563 feet east from the SW corner of Section 21, within the NE¼SW¼, Section 21, Township 21 North, Range 14 E.W.M.

Place of Use

(See Page 2).

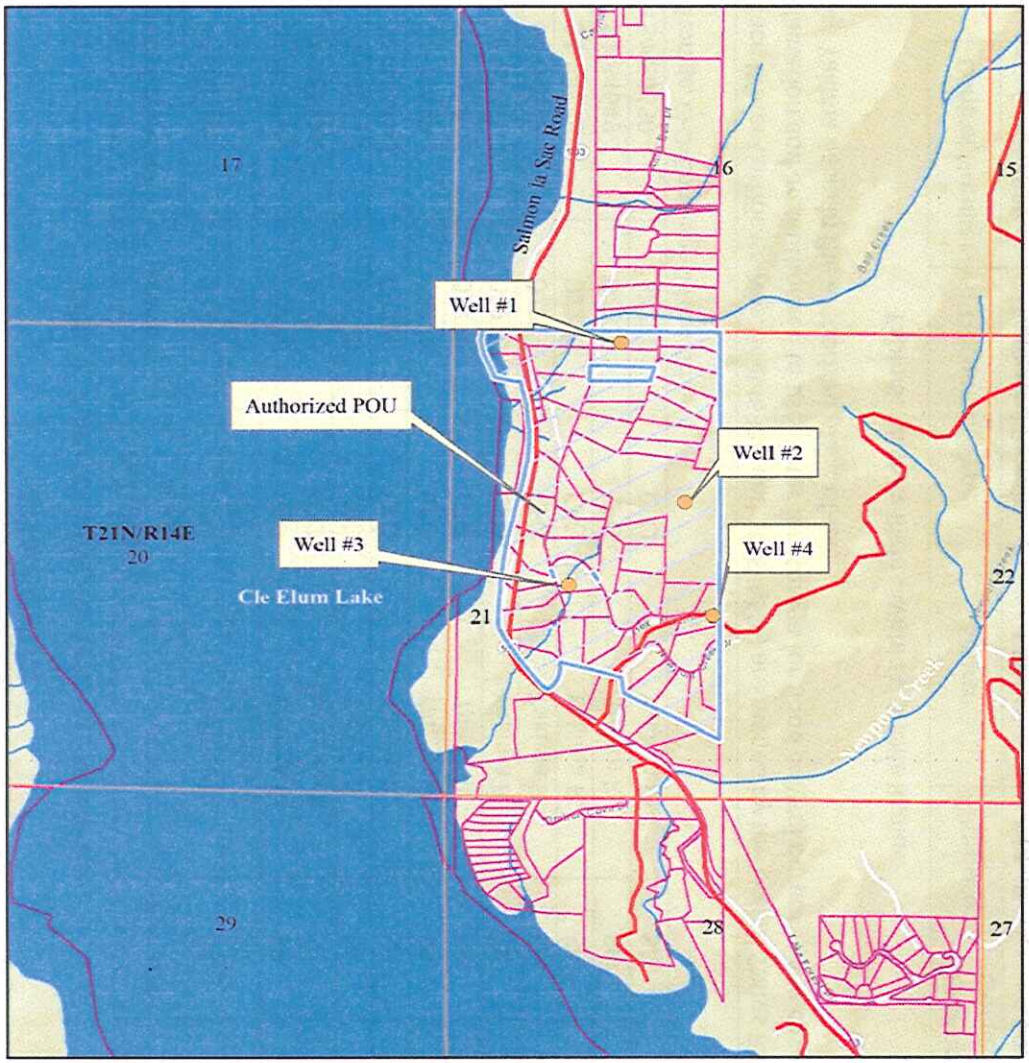
Candis L. Graff

Feb 2, 2014
Date

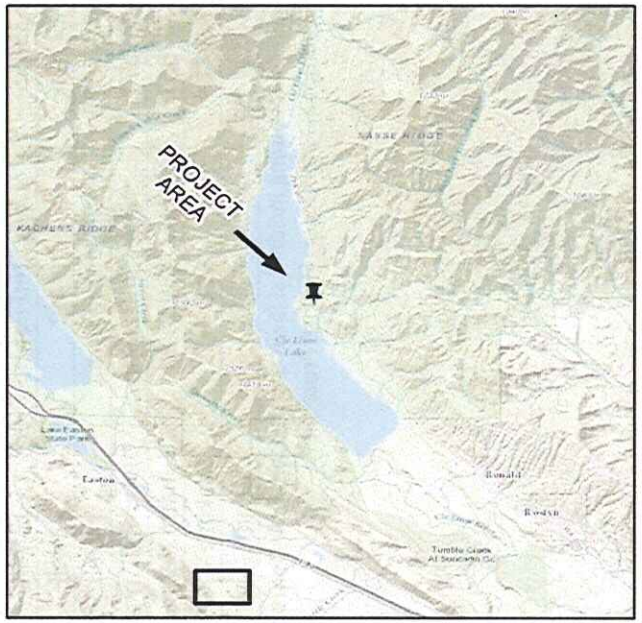
If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

ATTACHMENT 1

NEWPORT HILLS LAND CO., INC.
G4-35605
T21N/R14E
WRIA 39 - Kittitas County



Map Date: 9/18/2013



Legend

- Authorized Place of Use
- Authorized Point of Withdrawal
- Local Roads
- Townships
- Sections
- Parcels
- Water Bodies

Comment:
Place of use and source locations are as defined within the Report of Examination cover sheet for the document identfied in the header above.

ATTACHMENT 2

Table 4: Appurtenant Water Rights to Place-of-Use

Control Number	Claim #	Document Type	Source	Purpose	Qa (Annual Quantity)
S4-84638-J	02276	CFO	Yakima R.	SR	166,846
S4-84639-J	02276	CFO	Kachees R.	SR	250,261
S4-84640-J	02276	CFO	Yakima R.	SR	446,610
S4-84641-J	02276	CFO	Bumping R.	SR	38,768
S4-84642-J	02276	CFO	Tieton R.	SR	216,850
S4-84643-J	02276	CFO	Tieton R.	SR	5,300
S4-84644-J	02276	CFO	Yakima R.	SR	472
S4-84645-J	02276	CFO	Tieton R.	SR	2
S4-84646-J	02276	CFO	Yakima R.	SR	56
S4-84647-J	02276	CFO	Yakima R.	SR	60
S4-84648-J	02276	CFO	Yakima R.	SR	408
S4-84649-J	02276	CFO	Tieton R.	SR	1,265
S4-84650-J	02276	CFO	Yakima R.	SR	5,120

SR=Storage, CFO=Conditional Final Order

Surface Water Certificate Nos. S4-84638-J and S4-84650-J are owned by the United States Bureau of Reclamation and are authorized to use water for storage for flood control purposes and covers the entire Yakima Basin in the authorized place-of-use.

Table 5: Vicinity Rights Within 0.5-Mile Radius

Control Number	Document Type	Source	Purpose	Qa (Annual Quantity)
G4-35385P	Mitigated Permit	1 Well	DM, IR	5.792
G4-35595	Mitigated Permit	1 Well	DM	2.352
G4-29192P	Permit	1 Well	DM	27
G4-35475P	Mitigated Permit	1 Well	DG	.118
S4-26757T	New Application	Unnamed Stream	ST	1.0
S4-26755T	New Application	Unnamed Stream	ST	1.0
S4-84741-J	CFO	Yakima River	FR	5.3
S4-84744-J	CFO	Yakima River	FR	Unknown

IR=Irrigation, including incidental lawn and garden, DM=Domestic Multiple, ST=Stockwater, CFO=Conditional Final Order, FR=Fire Protection.

Mitigated Permit Nos. G4-35385P, G4-35595P, and G4-35475P authorize water for various water systems and use existing wells within the 0.5-mile radius of the subject, proposed wells and are mitigated for total consumptive use.

G4-29192P is authorized for up to 27 dwellings within the Twin Lakes Recreational area.

S4-26757T and S4-26755T are new applications for temporary stockwater; however, Ecology has not processed these proposals and it is unlikely they will ever be processed without mitigation offered.

S4-84741-J and S4-84744-J are owned by the United States Department of Fish and Wildlife for the purpose of fire control within the Wenatchee Forest boundaries. Use of water from the Yakima River and its tributaries within the Wenatchee Forest boundaries is contingent solely on whether a wild fire exists.