DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

File No.:S4-35319
WR Doc ID: 4681443

PRIORITY DATE
May 18, 2010

WATER RIGHT NUMBER
S4-35319

MAILING ADDRESS
Public Utility District No. 2 of Grant County
PO Box 878
Ephrata Washington 98823-0878

SITE NAME
Nason Creek Acclimation Facility

Quantity Authorized for Withdrawal or Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
10.2	CFS	5,513

Purpose

PURPOSE	DIVERSION RATE ADDITIVE	DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (ac-ft/yr) ADDITIVE	ANNUAL QUANTITY (ac-ft/yr) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Fish Acclimation	10.2		CFS	5,513		October 1 - May 31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Chelan	Nason Creek	Wenatchee River	45-Wenatchee

SOURCE FACILITY/DEVICE	PARCEL	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Nason Creek Point of Diversion	261612230100	26N	16E	11	SENE	47°46'6.50"N	120°48'12.52"W

Datum: NAD83/WGS84

Place of Use (See Map: Attachment 1)

PARCEL
261612230100

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

That portion of the Southeast quarter of the Northeast quarter of Section 11, Township 26 North, Range 16, E.W.M., Chelan County Washington, lying North of the railroad right-of-way, East of the Nason Creek right-of-way, and South of State Highway 2.

Except those portions conveyed to the State of Washington by deeds recorded under Auditor's File Numbers 236889 and 462806.

Also the following property:

All that portion of the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of Section 12, Township 26 North, Range 16, E.W.M., Chelan County, Washington, lying southerly of the southerly right of way line for primary State Highway (P.S.H.) 15 (now State Route 2) and lying northerly of the northerly right of way line for the Burlington Northern Santa Fe Railroad.

Together with the portion of the right of way for old P.S.H. 15 vacated by final order of the Chelan County Commissioners dated August 30, 1976, recorded in Book 736 of deeds, at Page 1263, under Auditor's File No. 764072, which would attach by operation of law.

And all that portion of the north half of the northeast quarter of the southwest quarter of Section 12, Township 26 North, Range 16, E.W.M., lying between the southerly right of way line and primary State Highway No. 15 (now State Route No. 2) and the northerly right of way line of Burlington Northern Railroad.

Proposed Works

The Nason Creek Acclimation Facility (NCAF) will be supported by one point of diversion located approximately 240 feet upstream from the Highway 2 bridge crossing Nason Creek, about 3.5 miles west of the intersection with State Route 207. Water will be diverted with four 90-horsepower (hp) electric submersible pumps, conveyed through a 24-inch diameter pipe to one of the facility's eight circular acclimation ponds, and then returned to Nason Creek through a 48-inch diameter pipe located approximately 230 feet downstream of the point of diversion.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
May 1, 2015	October 1, 2020	October 1, 2025

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 (cfs)

Provisions

Measurements, Monitoring, Metering and Reporting

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

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Region Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Region Office for forms to submit your water use data.

Instream Flow Limitations

Fill or charging of the facility's rearing tanks is subject to the instream flows specified in WAC 173-545-060(7) for control point ECY 45J070, located at Nason Creek river mile 0.2. Instream flow hydrographs presented in WAC 173-545-170 shall be used for identification of instream flows on days not specifically identified in the citation above.

Department of Fish and Wildlife Requirement(s)

The intake(s) shall be screened in accordance with Department of Fish and Wildlife (WDFW) screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). A permit from the Department of Fish and Wildlife may be needed to raise fish in any state waters. If you have questions about screening criteria or raising fish in state waters you may contact the WDFW at:

Department of Fish and Wildlife
Attention: Habitat Program
600 Capitol Way N
Olympia, WA 98501-1091

Phone: (360) 902-2534
Website: http://wdfw.wa.gov/about/regions/

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

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 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.

Proof of Appropriation

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

Schedule and Inspections

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

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that there will be no

impairment of existing rights; that the purpose(s) of use are beneficial; and it is clear that overriding consideration of the public interest will be served by the new appropriation.

Therefore, I ORDER approval of Application No. S4-35319, 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 111 Israel RD SW STE 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Yakima, Washington, this 10 day of JULY 2013.

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

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

BACKGROUND

On May 18, 2010, Public Utility District No. 2 of Grant County (Grant PUD) filed Application No. S4-35319, requesting appropriation of public surface water to supply a fish acclimation facility. The applicant proposes to divert 10.2 cubic feet per second (cfs) and a cumulative annual diversion volume (Qa) of 5,513 acre-feet per year (ac-ft/yr). The purpose of use is for fish acclimation year round, as needed.

The proposed Nason Creek Acclimation Facility (NCAF) is located on the bank of Nason Creek in the Wenatchee River Basin Water Resource Inventory Area (WRIA 45), approximately 3.5 miles west of the intersection with State Route 207 (Coles Corner). The large-scale facility will over-winter rear and acclimate up to 275,000 spring Chinook salmon, which are listed as endangered and are protected under the Endangered Species Act (ESA).

This application will be the primary water supply for the facility. In addition, a companion groundwater application (No. G4-35320) was filed requesting 800 gallons per minute (gpm) and 200 ac-ft/yr from two wells. Groundwater will be used to control frazil ice on the surface water intake screens and to supply emergency flows to the acclimation ponds in the event of a surface water intake failure.

Table 1
Summary of Application No. S4-35319

Attributes	*Proposed*
Applicant	Public Utility District No. 2 of Grant County
Application Received	May 18, 2010
Instantaneous Quantity	10.2 cubic feet per second (cfs)
Source	Nason Creek
Point of Diversion	SE¼, NE¼, Section 11, T. 26 N., R. 16 E.W.M.
Purpose of Use	Fish Acclimation
Period of Use	October 1 through May 31, annually
Place of Use	Nason Creek Acclimation Facility within the SE¼, NE¼ of Section 11, and SW¼, NW¼ of Section 12, T. 26 N., R. 16 E.W.M.

Legal Requirements for Application Processing

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

- **Public Notice**
  Notice of the proposed appropriation was published in the *Wenatchee World* of Wenatchee, Washington on June 13 and 20, 2012. No protests were received by Ecology.

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

  A SEPA review of the proposed diversion was completed by Chelan County and concluded with a Determination of Nonsignificance issued on August 23, 2011. No comments were received.

- **Water Resources Statutes and Case Law**

  Chapter 90.03 RCW authorizes the appropriation of surface water for beneficial use and describes the process for obtaining a water right. Laws governing the water right permitting process are contained in RCW 90.03.250 through 90.03.340. Based on the provisions of RCW 43.21A.690 and RCW 90.03.265, this application has been processed by Aspect Consulting, LLC (Aspect Consulting) under Ecology Cost-Reimbursement Agreement No. ASP009 (master contract No. C1000185).

INVESTIGATION

Aspect Consulting reviewed available documents pertaining to the application's site conditions, projected water usage and demand, and the potential effect on existing water right holders and instream flows. This included the information submitted by the applicant and pertinent Ecology records. Most notably, it included review of the Grant PUD's Hatchery and Genetic Management Plan (HGMP) summarizing the recommendations of the Priest Rapids Coordination Committee (PRCC) Hatchery Subcommittee. Grant PUD must meet the terms and conditions of the 2008 Biological Opinion (BiOp) issued by the National Oceanic Atmospheric Administration (NOAA) for the Priest Rapids Hydroelectric Project and the Priest Rapids Project Salmon and Steelhead Settlement Agreement. These requirements are incorporated into the new Federal Energy Regulatory Commission (FERC) License, issued April 17, 2008, for continued operation of the Priest Rapids and Wanapum hydroelectric dams located on the Columbia River.

A site visit was performed on November 5, 2010. Tyson Carlson of Aspect Consulting and Kelsey Collins representing Ecology met with Ross Hendrick of the Grant PUD. The site visit included inspection of the proposed point of diversion and place of use, and an interview with the applicant.

Project Description

The PRCC Hatchery Subcommittee oversees the development, implementation, and monitoring of species-specific hatchery programs designed to supplement naturally producing populations, including spring, summer, and fall Chinook, Steelhead, Sockeye, and Coho salmon. The HGMP (Grant PUD 2009) presents the supplementation program specifically designed for spring Chinook salmon in the Wenatchee River basin, including Nason Creek. The purpose of the program is to mitigate for unavoidable mortality of spring Chinook salmon at the Priest Rapids and Wanapum Dams as well as to conserve, and ultimately restore the naturally spawning Nason Creek spring Chinook salmon. The ultimate goal of the supplementation program is the annual release of up to 275,000 spring Chinook smolts to Nason Creek.

The proposed water use will support the adult-based supplementation phase, where Nason Creek origin adults are trapped and spawned, grown to smolt size, then released. Adult holding, spawning, incubation, and early rearing activities will occur at Eastbank Hatchery near Wenatchee. Final acclimation will be required at the Nason Creek Acclimation Facility (and several other long- and short-

term sites) located within the basin. Fish will be transported from Eastbank to the facility in October, acclimated over the winter, and then released in May to the creek via a fish release pipe outlet.

Site Description

The proposed Nason Creek Acclimation Facility is located across two parcels located adjacent to Nason Creek and State Highway 2, approximately 3.5 miles west of the intersection with State Route 207, in the southeast quarter of the northeast quarter of Section 11 and the southwest quarter of the northwest quarter in Section 12, Township 26 North, Range 16 E.W.M. Grant PUD owns both parcels, and has received permission from the Washington Department of Transportation to access their adjacent property. The point of diversion will be located on the right bank of Nason Creek, immediately upstream from the State Highway 2 Bridge. The point of diversion will consist of up to four 90-horsepower (hp) electric submersible pumps placed in a diversion structure constructed in Nason Creek, capable of a total flow rate of 10.2 cfs. Water will be conveyed approximately 800 feet through a 24-inch diameter pipe to one of the facility's eight circular acclimation ponds, and then returned to Nason Creek through a 48-inch diameter return located approximately 230 feet downstream of the original point of diversion.

WRIA 45 IRPP

The Wenatchee River Basin Instream Resources Protection Program (IRPP), Chapter 173-545 WAC, was established to protect water quality, wildlife, fish, and other environmental values, as well as aesthetics, recreation and navigation, and to meet certain future out-of-stream water needs. The IRPP defines minimum instantaneous flows at nine control stations throughout the Wenatchee River Basin. The program effectively limits, and in some cases prohibits, the further issuance of consumptive water rights that could interfere with the instream flows established for the specified stream management units.

As defined by the IRPP, the control point (stream gage station) that defines the stream management unit most applicable to the application under consideration is ECY 45J070 (Nason Creek near mouth), extending from the headwaters of Nason Creek downstream to the confluence of Nason Creek and the Wenatchee River. Minimum instream flows in WAC 173-545-060(7) for this stream management unit are specified year round and fluctuate seasonally from a low of 120 cfs to a high of 210 cfs.

Water Quality

Ecology has established a total maximum daily load (TMDL) for the Wenatchee River and tributaries, which are known to exceed the water quality criteria for temperature, July through September, and Dissolved Oxygen (DO) and pH, which includes phosphorus. In response to the TMDLs, Ecology prepared a Water Quality Improvement Report for each TMDL (Ecology 2007 and 2009) providing targets for reducing loading to the Wenatchee River and its tributaries, along with implementation action items and associated timeframes. The Water Quality Improvement Report for DO and pH included the recommendation of no increase in nutrient loading for the upper Wenatchee River.

WAC 173-221A-100(1)(b) conditionally exempts certain smaller upland hatcheries from the requirement to obtain a wastewater discharge permit, such as the Upland Fin-Fish Hatching and Rearing General NPDES Permit issued by Ecology's Water Quality Program. The site will not produce more than 20,000 pounds of fish in a calendar year. However, as a condition of the exemption, the site must comply with WAC 173-221A-100(2) through (6). The Grant PUD plans to use low phosphorus feed and, during the period of use, conduct routine water quality monitoring above the point(s) of diversion and below the point(s) of return to verify no negative impacts to DO, pH, and total phosphorus.

Agency Consultation

During this investigation the Grant PUD undertook in planning, designing, and permitting its Wenatchee River Basin spring Chinook programs and associated facilities – including the NCAF – extensive agency consultation occurred. For example, the Grant PUD established several groups to guide policy, development, and implementation of the NCAF (e.g., PRCC Hatchery Subcommittee). Together, these groups, along with other agencies, Tribes, and co-managers produced several documents guiding the development of the Nason Creek Supplementation Program (including the HGMP). Then, to achieve final project approval, several permitting actions had to be completed, resulting in multiple permits from local, State, and Federal governmental agencies.

In addition, during the early stages of the water right application process, the Grant PUD solicited support from numerous entities, including those participating on the PRCC Hatchery Subcommittee. A Statement of Agreement (SOA) supporting the subject water right application was approved by NOAA Fisheries, Washington Department of Fish and Wildlife (WDFW), the United States Fish and Wildlife Service, and local Native American tribes, including the Tribes and Bands of the Yakama Nation (Yakama Nation), the Confederated Colville Tribes (Colville Tribe), and the Umatilla Reservation, on September 16, 2010. A detailed summary of all consultation activities and project permit issuance is documented in the subject water right file (Aspect Consulting 2013).

Ecology has also sought consultation with the U.S. Bureau of Reclamation (Reclamation) who controls all unappropriated waters of the Columbia River above Priest Rapids Dam – including all tributaries and groundwater that are in continuity. Reclamation subsequently granted a release of water for the subject application via email dated May 29, 2013.

Application Evaluation

The Grant PUD requested that the NCAF water right applications be processed under Chapter 173-152 WAC, commonly known as the Hillis Rule. This rule allows Ecology to prioritize the processing of new water right applications that are water budget neutral. Defined in WAC 173-152-020(18), a water budget neutral project is, "a project where diversions or withdrawals of waters of the state are proposed in exchange for at least an equivalent amount of water from other water rights, the trust water program, a water bank, relinquishment of other water rights, or other mitigation projects that result in no diminishment of the source."

WAC 173-152-020(19) defines a water source as "an aquifer, aquifer system, or surface water body, including a stream, stream system, lake, or reservoir and any spring water or underground water that is part of or tributary to the surface water body or aquifer that the department determines to be an independent water body for the purposes of water right administration."

For the purposes of evaluating water right applications at NCAF, we define the source of water as the reach of Nason Creek, extending from the headwaters to the gage near the confluence with the Wenatchee River, and all tributaries and groundwater in continuity. The proposed use of either surface water or groundwater at the NCAF will not result in a diminishment of the defined source as measured at the downstream gage, and therefore qualifies for priority processing.

Although the NCAF surface water right application meets the criteria of Chapter 173-152 WAC, several basin- and site-specific factors must also be considered, including the following:

- Guidance regarding classification of water uses as nonconsumptive for surface water is given by Ecology's Water Resources Program, Policy 1020 (Ecology 1991). Specifically, nonconsumptive use at a fish hatchery is defined when water is returned immediately to the same source at the point of diversion, in the same quantity as diverted, and water quality standards are met.

  Ecology Policy 1020 provides an exception to the definition of consumptive use of surface water in some fish hatcheries when the use of water does not result in diminishment of the source. Exception 2.B. allows the use of water to be "classified as nonconsumptive when the water is returned to the same pool from which it is diverted and the pool's water elevation is not changed by the initial start-up and stopping of the diversion."

- The WRIA 45 IRPP specifically addresses projects that would reduce flow in a portion of a stream's length creating a bypass reach. Under WAC 175-545-060(10), the use of water is expressly defined as consumptive with respect to the bypass reach and is subject to the instream flow values defined in WAC 175-545-060(7) unless Ecology, by order, determines that different flows may be maintained in the bypass reach.

Ecology does recognize that certain projects may have a small component of water consumption – such as, through an increase in bank storage or evaporation rate. However, as a matter of policy, Ecology classifies these types of projects as nonconsumptive. The consumptive use of water to initially fill or charge the system is also allowed, but subject to instream flows and existing rights (Ecology 1991). Following release of the fish each spring, the facility will be drained and water returned to Nason Creek.

Four Statutory Tests

This Report of Examination (ROE) evaluates the application based on the information presented above and in referenced FERC relicensing documents. To approve the application, Ecology must issue written findings of fact and determine that each of the following four requirements of RCW 90.03.290 has been satisfied:

1. Water is available for appropriation;
2. The proposed appropriation would not impair existing water rights;
3. The proposed appropriation is a beneficial use; and
4. The proposed appropriation would not be detrimental to the public welfare.

Water Availability and Impairment of Instream Flows

Based on our understanding of the proposed project, water will be returned in the same quantity as diverted and water quality standards will be met; however, the relative location of the point of diversion and point of return will create a 230-foot bypass reach. In addition, the requested 10.2 cfs represents a proportionally large amount of creek discharge during seasonal low-flow conditions (nearly 18 percent of the recorded 90 percent exceedance flow), most certainly affecting stage height during start up and stopping of the diversion. Therefore, we concluded that use of surface water under Application No. S4-35319 is consumptive with respect to the bypass reach and is subject to instream flows.

Under WAC 173-545-060(4), "all water rights (surface and groundwater) established after the effective date of this rule, and not covered under the reservation in WAC 173-545-090, are subject to these

instream flows." However, Ecology may determine that the benefits of the project outweigh impacts to instream flows via an Overriding Consideration for the Public Interest (OCPI) determination.

The OCPI determination allows Ecology to issue a water right permit that is not subject to instream flow values defined in WAC 175-545-060(7). Use of OCPI will provide certainty to the Grant PUD in the long-term operation of the NCAF, as regulation of the diversion while fish are on station at the NCAF would be injurious to up to 275,000 spring Chinook salmon, which are listed as endangered and are protected under the ESA.

In making a statutory determination of OCPI under RCW 90.54.020(3)(a), the analysis requires three steps:

1. Determine whether and to what extent important public interests would be served by the proposed appropriation. The public interests served may include benefits to the community at large as well as benefits to the river or other environmental resources.

2. Determine whether and to what extent the proposed appropriation would harm any of the public interests (fish, wildlife, scenic, aesthetic, and other environmental and navigational values) protected by the closure and/or any other public interests; and

3. Determine whether the public interests served (as determined in Step 1) clearly override any harm (as determined in Step 2).

The following sections of this report present this three-step OCPI analysis. For completeness, the OCPI analysis includes both the subject surface water application (No. S4-35319) and the companion NCAF groundwater application (No. G4-35320).

Analysis of Public Interests Benefitted by the Proposed Appropriations

The following elements have been identified as benefits to the public interest:

- **Supplementation of ESA-listed salmon.** The Nason Creek spring Chinook salmon population is listed as endangered and is protected under the ESA. The NMFS determined in a 2008 BiOP that there is a high risk of extinction of this population. Supplementation is necessary to meet the requirements of the ESA. The NCAF is intended to supplement the natural population of Nason Creek spring Chinook, a spawning aggregate of spring Chinook salmon in the Wenatchee River Basin that is critical for recovery of the Upper Columbia River spring Chinook salmon.

- **Mitigation for Priest Rapids Project.** As required by the FERC relicensing, the NCAF is part of the comprehensive protection plan for spring Chinook populations in the mid-Columbia River region. The purpose of the NCAF is to help mitigate unavoidable mortality of spring Chinook salmon at the Priest Rapids and Wanapum Dams as well as to conserve, and ultimately restore, the naturally spawning spring Chinook salmon in Nason Creek.

- **Augmentation of Instream Flows.** Although certain aspects of the water right applications are defined as consumptive to either the bypass reach or to local groundwater, the overall effect of the NCAF will be to increase instream flows at the downgradient stream gage. During groundwater pumping, flows in Nason Creek in the vicinity of the NCAF will increase as the natural groundwater discharge occurs further downstream.

- **Implementation of FERC License.** This project will allow Grant PUD to comply with the conditions in its FERC license, which is necessary for continued operation of the Priest Rapids

and Wanapum hydroelectric dams located on the Columbia River. These dams provide affordable power to Grant PUD customers throughout Washington.

Analysis of Public Interests Potentially Harmed by the Proposed Appropriations

The following elements have been identified to potentially harm the public interest:

- **Reduction of flow in the bypass reach.** The proposed use of surface water will cause a reduction of flow in the bypass reach. This reduction in flow could preclude other uses of Nason Creek in the vicinity of the NCAF.
- **Pumping lag effect on Nason Creek.** Pumping of the two groundwater wells will cause drawdown in the aquifer beneath the NCAF. Although much of the drawdown will be quickly attenuated once pumping is stopped, a small amount of groundwater and/or surface water will replenish aquifer storage instead of contributing to baseflow in Nason Creek, thereby impacting instream flows. This pumping lag will not affect any senior water rights.

Summary of OCPI Analysis

The conclusion of the OCPI analysis can only be reached by weighing the potential benefits and harms to the public interest. When all of the public interest benefits and harms are compared, it becomes evident that the potential benefits clearly outweigh the potential harms. This analysis comes at the end of a very long public process supported by key stakeholders in the basin.

Based on the analysis presented above, Ecology could conclude that the benefit to public interest in supplementing the natural population of Nason Creek spring Chinook, to 1) avoid extinction, and 2) aid in the ultimate recovery of the species in the Upper Columbia River, override any minor detriment to the public interest indentified. Therefore, the use of the OCPI determination on the subject application for the consumptive use of surface water in the 230-foot bypass reach and the consumptive use of local groundwater (under No. G4-35320) is appropriate.

The site is also conditionally exempt from the requirement to obtain a wastewater discharge permit on the condition it comply with WAC 173-221A-100(2) through (6). Water quality monitoring will be conducted to verify no negative impacts to water quality, including listed TMDLs.

Potential for Impairment

RCW 90.03.290 and RCW 90.44.060 require a determination that a new appropriation will not impair existing rights. There are numerous water right certificates, permits, and claims for the Nason Creek and wells in continuity with the river. However, there are no surface water diversions or wells located in or near the 230-foot bypass reach on the Nason Creek.

Therefore, because the proposed appropriation will not diminish the overall quantity or quality of water in Nason Creek downstream of the point of discharge, there are no other surface water or groundwater users in the bypass reach, and charging of the facility shall not take place during low flows, no impairment of surface water or groundwater rights is expected to occur.

Beneficial Use

In accordance with RCW 90.54.020(1), the proposed appropriation for fish acclimation is a beneficial use of water. As detailed on the Application for Permit, the point of diversion will be supported by the

necessary infrastructure to deliver the full appropriation of water to the long-term facility. The rate at which the water will be diverted is needed to sustain up to 275,000 spring Chinook salmon during the over-winter acclimation period.

Public Interest

No protests to the water right application were received. The proposed appropriation will support the Grant PUD's obligation to mitigate for the Priest Rapids Hydroelectric Project. An approved SOA was submitted from the PRCC Hatchery Subcommittee, which includes NOAA Fisheries, WDFW, the United States Fish and Wildlife Service, and local Native American tribes, including the Bands of the Yakama Nation and the Confederated Tribes of the Colville Reservation.

To highlight the continued consultation with fisheries co-managers regarding the use of OCPI, the Grant PUD presented the permitting rationale to the PRCC Hatchery Subcommittee for review. Continued support for the project was then acknowledged and documented in the approved meeting minutes (dated April 18, 2013). In addition, Ecology conducted direct consultation via e-mails to local Native American Tribes, including Phil Rigdon of the Yakama Nation and Kirk Truscott of the Colville Confederated Tribes. Response e-mails supporting the project and use of OCPI were subsequently received May 7, 2013 and May 9, 2013 respectively.

Finally, the effects of the appropriation on the public interest are analyzed in the availability section above, where it was concluded that overriding consideration of public interest clearly support approving the application.

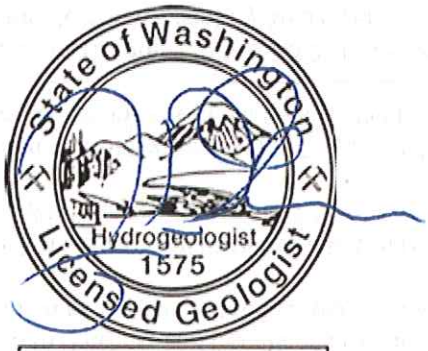
CONCLUSIONS

It is the conclusion of this investigator that the proposed application supporting the NCAF would be a beneficial use of water and would not impair existing rights. While the use of water is water budget neutral, the use is consumptive with respect to the bypass reach. However, overriding consideration of the public interest will be served through operation of the facility.

RECOMMENDATION

Based on the information presented above, the author recommends that the request to appropriate surface water from Nason Creek for fish acclimation be approved as described, limited, and provisioned on page 1 through 3 of this report in the following quantities:

10.2 cfs, 5,413 ac-ft/yr from a point of diversion located within the SE¼, NE¼, Section 11, T. 26 N., R. 16 E.W.M. and to be used at the Nason Creek Acclimation Facility within the SE¼, NE¼ of Section 11, and SW¼, NW¼ of Section 12 T. 26 N., R. 16 E.W.M.



Report by: _____ _____
Tyson D. Carlson, LHG, Aspect Consulting, LLC — Date

Reviewed by: Kelsey S. Collins _____ July 11, 2013
Kelsey S. Collins, Water Resources Program — 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.

CITATIONS

Anchor QEA 2009. Nason Creek, Draft Groundwater Report. Prepared for the Grant County Public Utility District. May 2009.

Anchor QEA 2012. Nason Creek, Groundwater Report. Prepared for the Grant County Public Utility District. September 2012.

Aspect Consulting 2013. Analysis for an Overriding Consideration of the Public Interest (OCPI) Determination, Grant County PUD No. 2 – Nason Creek Acclimation Facility, Water Right Application Nos. S4-35319 and G4-35320. April 16, 2013.

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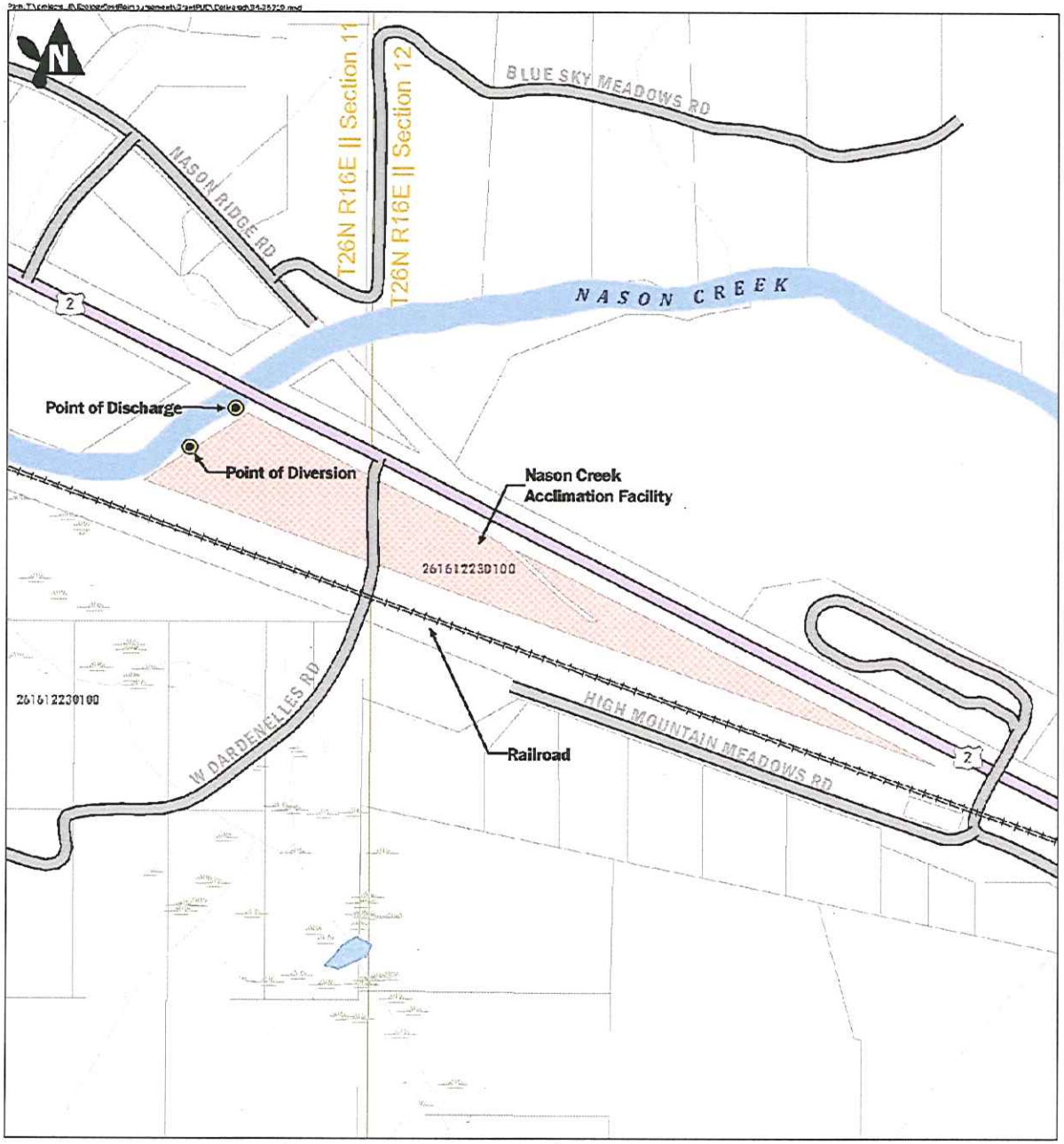

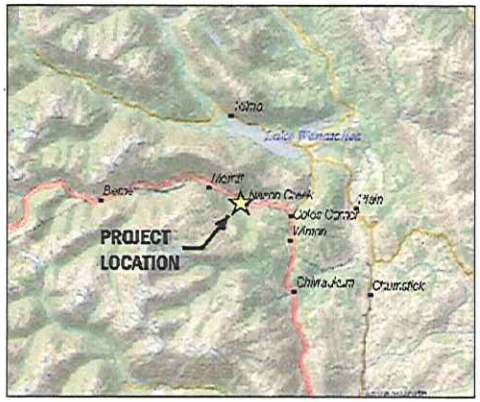

Comments: *Place of use and point of diversion are defined on the cover sheet under the heading "LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED."*

Tax Parcel No

261612230100

- Point of Diversion/Discharge
- Authorized Place of Use
- Sections (TRS)
- Tax Parcel
- Wetland/Marsh

0 250 500 1,000 Feet

No. S4-35319
(Grant County Public Utility District No. 2)
T26N R16E, Sec 11
Chelan County, Washington

Aspect Consulting	May, 2013	ATTACHMENT NO.
	050100 / TDE / DAH	1