



State of Washington  
Draft  
REPORT OF EXAMINATION  
APPLICATION TO STORE WATER FOR  
BENEFICIAL USE

PRIORITY DATE  
5/3/2013

WATER RIGHT NUMBER  
R3-30684

MAILING ADDRESS  
Stemilt Holdings, LLC  
123 Ohme Garden Road  
Wenatchee WA 98801

SITE ADDRESS (IF DIFFERENT)  
Intersection of McClenny Road and Page  
Road, Franklin County, WA

**Purpose and Quantity**

| PURPOSE         | STORAGE QUANTITY | PERIOD OF USE |
|-----------------|------------------|---------------|
| See S3-22228(B) | 90 af            | 2/1 – 12/1    |

**Source Location**

| COUNTY   | WATERBODY   | TRIBUTARY TO   | WATER RESOURCE INVENTORY AREA |
|----------|-------------|----------------|-------------------------------|
| Franklin | Snake River | Columbia River | 33-Lower Snake                |

**Location of Impounding Structure**

| SOURCE NAME | PARCEL      | TWP | RNG | SEC | QQ Q   | LATITUDE | LONGITUDE |
|-------------|-------------|-----|-----|-----|--------|----------|-----------|
| Snake River | 108-210-044 | 10  | 32  | 13  | SW¼SW¼ |          |           |

LEGAL DESCRIPTION OF SUBMERGED LANDS

**Specifications of Impounding Structure**

| HEIGHT OF DAM                                       | LENGTH ON TOP (ft) | WIDTH ON TOP (ft)                           |
|---|--------------------|---|
| 14 ft.  | 590 ft.            | 15 – 36 ft.                                 |
| SLOPE OF FRONT OR WATER SIDE (horizontal: vertical) |                    | SLOPE OF BACKSIDE (horizontal: vertical)    |
| 2.5:1   |                    | 2:1   |
| NORMAL OPERATING POOL LEVEL (ELEVATION FT)          |                    | HEIGHT OF DAM ABOVE WATER LINE AT NOPL (ft) |
| 873.5   |                    | 3   |

TYPE OF DAM AND CONSTRUCTION MATERIALS

Homogeneous earth fill with 60-mil HDPE lined pond

**LOCATION AND APPROXIMATE DIMENSIONS OF SPILLWAY INCLUDING CREST LENGTH**

24-inch diameter overflow pipe through embankment located at the NE corner of the reservoir.

**LOCATION, SIZE AND TYPE OF OUTLET VALVE AND OUTLET CONDUIT STRUCTURE**

Outlet from the reservoir is pressurized and controlled through a booster pump station located near the southwest corner of the pond. The outlet conveyance includes a pump gallery consisting of five piped intakes (three 2-inch, one 12-inch, and one 16-inch diameter) located in a sump which feeds into pump cans associated with the booster pump station.

| NUMBER OF ACRES SUBMERGED WHEN RESERVOIR IS FILLED TO NOPL | MAXIMUM DEPTH (FEET) AT NOPL | APPROXIMATE AVERAGE DEPTH (FEET) |
|--|------------------------------|----------------------------------|
| 8  | 21                           | 13                               |

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

**PARCELS**

108-210-044

**LEGAL DESCRIPTION**

The west half of Section 12, T.10 N., R. 32 E.W.M. except the portion lying southeasterly of a line described as follows: beginning at the southwest corner of Section 12, thence N. 89°37' E., 1,200 feet along the south line of the section to the point of beginning; thence N. 30°33' E., 3097.64 feet to center of the section and termination of the line. Together with a portion of the southeast quarter of Section 11, T. 10 N., R. 32 E. W.M. lying southeasterly of Page Road

**Development Schedule**

| BEGIN PROJECT | COMPLETE PROJECT | PUT WATER TO FULL USE |
|---------------|------------------|-----------------------|
| Completed     | December 1, 2013 | December 1, 2014      |

**Provisions**

**1. Dam Safety**

Dam owners are required to evaluate the safety of their dam and all appurtenant works and to make modifications, as become necessary, to reasonably secure safety to life and property. For current requirements, please contact the dam safety office at the Department of Ecology.

**2. 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 containment and distribution systems have 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.

### **3. 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.

### **4. Conservation**

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.

### **5. Easement 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.

### **6. Multiple Fillings**

This authorization allows for multiple fillings of the reservoir each year subject to the authorization for Surface Water Right S3-22228(B).

### **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. R3-30684 subject to existing rights and the provisions specified above.

### **Your Right To Appeal**

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

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

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

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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

Signed at Spokane, Washington, this       day of       2013.

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Keith L. Stoffel, Section Manager

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 -- Stemilt Holdings, LLC

Water Right Control Number R3-30684

Jeffrey MacLennan, Department of Ecology

## BACKGROUND

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This report serves as the written findings of fact concerning Water Right Application Number R3-30684.

An application to construct a reservoir and store water was submitted on May 3, 2013 and assigned Reservoir Application Number R3-30684. The applicant proposes to store approximately 90 acre-feet of water. A reservoir permit is required when storing water to a depth of 10 or more feet at its deepest point, or one that will retain 10 or more acre-feet of water. (WAC 508-12-260).

### *Priority Processing*

This application qualifies for expedited processing under RCW 90.03.370(1)(b)(i): "(b)The department shall expedite processing applications for the following types of storage proposals: (i)Development of storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored."

**Table 1 Summary of Requested Water Right**

|                             |  |
|-----------------------------|--|
| <b>Applicant Name:</b>      | Stemilt Holdings, LLC                      |
| <b>Date of Application:</b> | 5/3/2013                                   |
| <b>Place of Use</b>         | NW¼NW¼, Section 12, T. 10 N., R. 32 E.W.M. |

| <b>County</b> | <b>Waterbody</b> | <b>Tributary To</b> | <b>WRIA</b>    |
|---------------|------------------|---------------------|----------------|
| Franklin      | Snake River      | Columbia River      | 33-Lower Snake |

| <b>Source Name</b> | <b>Parcel</b> | <b>Twp</b> | <b>Rng</b> | <b>Sec</b> | <b>QQ Q</b> |
|--------------------|---------------|------------|------------|------------|-------------|
| Snake River        | 108-220-033   | 10N        | 32E        | 13         | Gov Lot 4   |

Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian

## Legal Requirements for Approval of Appropriation of Water

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### *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 *Tri-City Herald* on June 28 and July 5, 2013.

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

Water to fill this reservoir will be provided under S3-22228(B). The parent document, S3-22228C required an hydraulic project approval from the Department of Fish and Wildlife prior to construction of the source facilities.

*State Environmental Policy Act (SEPA)*

Franklin County as lead agency issued a Mitigated Determination of Nonsignificance on March 28, 2013.

## **INVESTIGATION**

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A field investigation was conducted on August 6, 2013. Construction is well underway. This project is located about 9 miles northeast of Pasco.

### **Proposed Use and Basis of Water Demand**

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The water stored in this reservoir will be used as a component of the water distribution system under S3-22228(B). S3-22228(B) authorizes the diversion of 3,145 acre-feet at the rate of 9.75 cfs for the irrigation of 600 acres.

### **Impairment Considerations**

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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).

Because the water used to fill this reservoir has already been authorized under S3-22228(B), there should be no impairment to existing rights.

### **Water Availability**

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

#### ***Physical availability***

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

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

- 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.

#### *Legal availability*

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

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.
- Fisheries and other instream uses (e.g., recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where further reducing the flow level of surface water would be detrimental to existing fishery resources.
- 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.

Water is physically available under S3-22228(B) and legally available under RCW 90.03.370.

#### Beneficial Use

The proposed use of water the water stored in this reservoir is defined in statute as a beneficial use (RCW 90.54.020(1)).

#### *Consideration of Protests and Comments*

No protests were filed against this application.

#### Conclusions

It is the conclusion of this examiner that water is available for appropriation for a beneficial use; that storage of water for agricultural irrigation is a beneficial use; and that the appropriation of such water will not impair existing rights or be detrimental to the public welfare.

#### RECOMMENDATIONS

It is recommended this application to construct a reservoir and store public water should be **APPROVED** in the amount of 90 acre-feet.

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*Jeff MacLennan, Report Writer*

*Date*

*If you need this publication in an alternate format, please call the 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.*

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