

File No. S2-30595
WAC Doc ID: 5162363

State of Washington
**REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION**

PRIORITY DATE
March 8, 2012

APPLICATION NUMBER
S2-30595

MAILING ADDRESS
City of Tacoma, Department of Public Utilities,
DBA Tacoma Power
3628 South 35th Street
Tacoma, WA 98409-3192

SITE ADDRESS (IF DIFFERENT)
Cushman No. 2 Dam
Potlach, WA

Quantity Authorized for Withdrawal or Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
6	CFS	4,000

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Fish Propagation (Non-Consumptive)		6	CFS		4,000	Continuous

Source Location

WATERBODY	TRIBUTARY TO	COUNTY	WATER RESOURCE INVENTORY AREA
Lake Kokanee	NF Skokomish River	Mason	16

SOURCE FACILITY/DEVICE	PARCEL	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Cushman Dam No. 2 Point of Diversion	42216-22-22222	22N	4W	16	SE NW	47° 23' 49.3"N	123° 12' 03.3"W

Datum: WGS84

Place of Use (See Map, Attachment 1)

PARCEL

42216-50-00126

SW ¼ of the NE ¼ of Section 16, T 22 N/R 4 W

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lot 126, Plat of Lake Cushman No. 9 as recorded in Volume 7 of Plats pages 84 through 87, records of Mason County, Washington

Proposed Works

Cushman No. 2 Dam impounds Lake Kokanee, a 128-acre lake with a gross storage capacity of 8,000 acre-feet at full pool (Elevation 480 feet Tacoma Datum). Pumps will be installed near the dam to pump water from Lake Kokanee to a head-tank structure with holding capacity of approximately 0.35 acre-feet. From the head-tank, water will be delivered via an underground pipeline to the North Fork Skokomish Fish Restoration Facility, a fish supplementation facility to be constructed on the southeast side of Lake Kokanee. After the water has passed through the fish supplementation facility, it will be discharged to the base of Cushman No. 2 Dam adjacent to the low-level outlet via an underwater pipeline.

Development Schedule

BEGIN PROJECT

May 1, 2013

COMPLETE PROJECT

December 31, 2014

PUT WATER TO FULL USE

May 1, 2018

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (by Jan 31)
What volume should be reported?	Total Annual Volume (afy)
What rate should be reported?	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.

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.

Department of Fish and Wildlife Requirement(s)

The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and

Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/regions/>
A permit from the Department of Fish and Wildlife may be needed to raise fish in any state waters: <http://wdfw.wa.gov/about/regions/>.

Water Use Efficiency

Use of water under this authorization shall be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

Proof of Appropriation

The water right holder 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.

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. S2-30595, 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 Hearing 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).

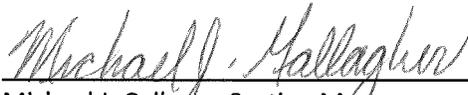
To appeal you must do the following within 30 days of the date of receipt of the Order.

- 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 Olympia, Washington, this 19th day of October 2012.



Michael J. Gallagher, Section Manager
 Water Resources Program/SWRO
 Department of Ecology

BACKGROUND

The Cushman Hydroelectric Project (Federal Energy Regulatory Commission [FERC] Project No. 460) is located on the North Fork Skokomish River in Mason County, Washington, and has two dams: Cushman No. 1 Dam at Lake Cushman and Cushman No. 2 Dam at Lake Kokanee. Electricity generated at the Cushman Hydroelectric Project moves to Tacoma on a 40-mile-long transmission line, which crosses the Tacoma Narrows. The project is owned and operated by the Public Utilities Department of the City of Tacoma (dba Tacoma Power).

The City of Tacoma was issued a Project license by FERC on July 30, 1998. The license was appealed, and settlement negotiations with the Skokomish Indian Tribe were engaged. A Settlement Agreement resulting in an Amended FERC License, extends the license term to July 30, 2048 and was made and entered by and among:

- City of Tacoma, Washington;
- United States Department of Commerce, National Marine Fisheries Service (NMFS);
- United States Department of Agriculture, Forest Service (USFS);
- United States Department of the Interior, Fish and Wildlife Service (FWS);
- United States Department of the Interior, Bureau of Indian Affairs (BIA);
- Washington Department of Fish and Wildlife (WDFW);
- Washington State Department of Ecology (Ecology); and
- Skokomish Indian Tribe.

Terms included action by the City of Tacoma to work expeditiously with Ecology to secure all needed water rights for Cushman Hydroelectric Project operations and implementation of the "Proposed License Articles."

Project Description

The impoundment of surface water by Cushman No. 2 Dam forms Lake Kokanee Reservoir, the smaller of the two reservoirs. Cushman No. 2 Dam was built on the North Fork Skokomish River by the City of Tacoma and dedicated in 1930. Lake Kokanee is 2 miles long, with 4.5 miles of shoreline. The dam is 580 feet long, 8 feet wide at the top and 40 feet wide at the base. The normal operating pool level is approximately Elevation 478 feet (Cushman datum). Cushman No. 2 Powerhouse generates on average 233 million kilowatt-hours a year. The Amended FERC License regulates minimum levels of Lake Kokanee among other operational obligations.

Tacoma Power is proposing a fish supplementation facility located near the southeast shoreline of Lake Kokanee to the east of Cushman No. 2 Dam. Water will be diverted from Lake Kokanee using additional pumps located at the existing Cushman No. 2 intake structure and pumped to the facility, sometimes referred to as the North Fork Skokomish Fish Restoration Facility. The water will pass through the facility and be discharged at the base of the dam adjacent to the penstocks via an underwater pipeline. The North Fork facility will include adult holding, spawning, egg incubation and early rearing facility for the three species: spring Chinook, steelhead, coho and possibly a fourth species, rainbow trout. The facilities will consist of a hatchery building, early and late life stage rearing vessels, adult holding vessels, fish waste management vessels, spawning waste disposal tanks and utility building.

The North Fork facility will be one of two fish propagation facilities, the other being the Saltwater Park Hatchery facility on the shoreline of Hood Canal. According to Article 417 of the FERC license, flow requirements are 3.5 cfs. However, for flexibility and to cover design uncertainty, Tacoma Power has requested 6 cfs. A summary of Application S2-30595 is listed in Table 1.

Table 1
Summary of Application No. S2-30595

<i>Attributes</i>	<i>Proposed</i>
Applicant	City of Tacoma, Department of Public Utilities, DBA Tacoma Power
Application Received	March 8, 2012
Instantaneous Quantity	6 cfs
Source	Lake Kokanee
Point of Diversion	Cushman No. 2 Dam SE ¼ of the NW ¼ of Section 16, T 22 N/R 4 W.
Purpose of Use	Fish Propagation
Period of Use	Continuous
Place of Use	North Fork Skokomish Fish Restoration Facility SW ¼ of the NE ¼ of Section 16, T 22 N/R 4 W.

This application is one of nine water right applications filed by Tacoma Power in Mason County, Washington. Tacoma Power submitted multiple water right applications in 1988, 2009 and 2012. The water right applications submitted in 2009 and 2012 were pursuant to the Settlement Agreement resolving the outstanding issues related to the FERC's relicensing of the Cushman Hydroelectric Project. In addition to the surface water and reservoir water right applications directly related to operation of the Cushman Project, Tacoma Power submitted surface water and groundwater right applications for fish propagation activities that will be required under the Amended FERC License Articles.

In total, the Tacoma Power applications include requests for surface water (S2-27419, S2-27420, S2-30504, S2-30505, S2-30506 and S2-30595), groundwater (G2-30507) and reservoir (R2-30508 and R2-30509) rights associated with the Lake Cushman and Lake Kokanee reservoirs, the proposed Saltwater Park Hatchery near the shoreline of Hood Canal and North Fork Skokomish Fish Restoration Facility near the shoreline of Lake Kokanee. These related applications for the Cushman Project are summarized in Table 2.

Table 2. Summary of Tacoma Power Water Right Applications.

Project	Control Number	Purpose of Use	Priority Date	Quantity (Qi)	Point of Withdrawal/ Diversion	Place of Use Location
Cushman No. 1	S2-27419	Power Generation	7/29/1988	1,500 cfs	22N/4W-5L	22N/4W-5L
	S2-30504	Power Generation	2/12/2009	300 cfs	22N/4W-5L	22N/4W-5L
	R2-30508	Power Generation	2/12/2009	263,350 ac-ft	22N/4W-5L	22N/4W-5L
Cushman No. 2	S2-27420	Power Generation	7/29/1988	1,700 cfs	22N/4W-16F	22N/4W-26E
	S2-30505	Power Generation and Fish Propagation	2/12/2009	300 cfs	22N/4W-16F	22N/4W-26E
	R2-30509	Power Generation and Fish Propagation	2/12/2009	700 ac-ft	22N/4W-16F	22N/4W-26E
North Fork Powerhouse	S2-30506	Power Generation	2/12/2009	350 cfs	22N/4W-16F	22N/4W-16F
Saltwater Park Hatchery	G2-30507	Fish Propagation	2/12/2009	3,142 gpm	22N/4W-26D, 26E	22N/4W-26F
North Fork Skokomish Fish Restoration Facility	G2-30595	Fish Propagation	3/8/2012	6 cfs	22N/4W-16F	22N/4W-16F

A map showing the locations of the proposed Point of Diversion (POD) at Cushman No. 2 Dam, the Place of Use (POU), and Lake Kokanee Reservoir is provided as Attachment 1.

Legal Requirements for Application Processing

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

- **Public Notice**
A public notice of the application must be published in a local newspaper once a week for two consecutive weeks (RCW 90.03.280). The public notice of application S2-30595 was published in the Shelton-Mason County Journal during the weeks of March 29 and April 5, 2012.
- **State Environmental Policy Act (SEPA)**
The applicable water right is subject to SEPA [WAC 197-11-305 and WAC 197-11-800(4)] because the instantaneous quantity is greater than the threshold of 2,250 gpm (5 cfs). Tacoma Power adopted the Final Environmental Impact Statement (EIS) prepared under NEPA by the FERC, FERC/EIS-0095F, Cushman Hydroelectric Project No. 460, November 1996. To meet the requirements of RCW 43.21C.030(2), the lead agency, Tacoma Power, adopted the EIS document as being appropriate for the implementation of the Amended FERC License and all its provisions, requirements and articles. The SEPA file number is SEP2009 – 40000135200.

- **Water Resources Statutes and Case Law**

Based on the provisions of RCW 43.21A.690 and RCW 90.03.265, this application has been processed by GeoEngineers, Inc. under Ecology Cost-Reimbursement Agreement No. GEO002 Amendment 5 (master contract No. C1000187).

- **Administrative Status of Surface Water Bodies**

Surface water bodies in the region are subject to administrative regulations governing the right to withdraw water for beneficial use. Minimum instream flow regulations for the Skokomish-Dosewallips watershed (Water Resource Inventory Area [WRIA] 16) have not been adopted. Administrative rules have been proposed in WAC Chapter 173-516 in 1985. Closure of the North Fork Skokomish to further water right allocations was proposed but to date has not been implemented.

Currently, no instream flows and basin closures have been set for WRIA 16 by Ecology. However, instream flow studies have been conducted related to watershed planning in WRIA 16 (Aspect Consulting, 2005). In addition, Watershed Planning Phases 1 through 3 have been completed, including a Draft Level 1 Assessment (Golder Associates, 2002) and a Watershed Management Plan (WRIA 16 Planning Unit, 2006).

INVESTIGATION

The examination of Surface Water Right Application S2-30595 submitted by City of Tacoma, Department of Public Utilities (doing business as Tacoma Power) was led by consultants from GeoEngineers, Inc. contracted as part of the Ecology's cost reimbursement program to facilitate the phased processing of the application. Phil Crane of the Water Resources Program, Ecology (Southwest Region), oversaw the examination and provided review.

The investigation included, but was not limited to, the review of:

- The State Water Code, specifically Title 173 Washington Administrative Code (WAC) and Title 90 Revised Code of Washington (RCW).
- United States Geological Survey (USGS) topographic maps.
- Washington State Department of Ecology, 2012, Washington State Well Log Viewer website, <<http://apps.ecy.wa.gov/wellog/index.asp>> (Accessed July 2012).
- Washington State Department of Ecology, 2012, Water Rights Tracking System (WRTS) website <<http://www.ecy.wa.gov/programs/wr/rights/tracking-apps.html>> (Accessed July 2012).
- City of Tacoma, Cushman Project, FERC No. 460 License Article 417 Fish Supplementation Plan, filed August 12, 2011.
- Information submitted by and conversations and/or meetings with Steve Fischer of Tacoma Power.
- A site visit on May 17, 2010.

The project site lies on the southeastern Olympic peninsula above Hood Canal, near the town of Potlatch, Washington. The proposed North Fork Powerhouse is to be located below Cushman No. 2 Dam. The proposed North Fork Skokomish Fish Restoration Facility will be located near the southeast

shoreline of Lake Kokanee. This application is located within the Mason County portion of the Skokomish-Dosewallips Water Resource Inventory Area (WRIA 16).

Four Statutory Tests

This Report of Examination (ROE) evaluates the application based on the information presented above. 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. The proposed appropriation would be put to a beneficial use;
2. Water is available for appropriation;
3. The proposed appropriation would not impair existing water rights; and
4. The proposed appropriation would not be detrimental to the public welfare.

Beneficial Use

In accordance with RCW 90.54.020(1), the proposed use of the impounded surface water for fish propagation represents a beneficial use of water.

Availability

Water is physically available to meet the requested diversion of 6 cfs (4,000 afy) at Cushman No. 2 Dam to provide a supply for non-consumptive use by the North Fork Skokomish Hatchery. The requested amount for the North Fork Skokomish Fish Restoration Facility is non-consumptive and will be returned to Lake Kokanee at the base of Cushman No.2 Dam. There are no closures on surface water bodies in WRIA 16. Therefore, surface water is legally available for appropriation.

Potential for Impairment

The requested water right is non-consumptive and therefore will not impair downstream users. Although it comprises a diversion of water from Lake Kokanee, the hatchery return flow is returned to Lake Kokanee and therefore will not impair existing water rights.

Public Welfare

RCW 90.03.290 requires that a proposed appropriation not be detrimental to the public interest. The year-round, non-consumptive diversion of up to 6 cfs under this water right for fish propagation at Cushman No. 2 Dam is consistent with state policy without adversely impacting instream flows or other public needs and values. No detriment to public interest could be identified during the examination of the subject application.

CONCLUSIONS

The conclusions based on the above investigation are as follow:

1. The proposed appropriation for fish propagation is a beneficial use of water;
2. The 6 cfs is available for appropriation;
3. The new appropriation will not impair senior water rights; and
4. The new appropriation will not be detrimental to the public interest.

RECOMMENDATION

Based on the information presented above, the author recommends that the request to non consumptively appropriate 6 cfs and 4,000 acre-feet be approved in the amounts described, limited, and provisioned on page 1 through 3 of this report.

Report by: _____
Joel W. Purdy, LG, LHG GeoEngineers, Inc. Date

Reviewed by: Phillip Crane _____
Phillip Crane, Water Resources Program 10/19/2012 Date

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