

PER RIGHTS REVIEW ROUTER

- Report of Exam
- Temporary Permit
- Preliminary Permit
- Change Finding
- Temporary Change
- Seasonal Change

FILE NO. G4-30254

G:\GROUP\PERMIT\WPFILES\PHIL\BAUDER, GPM

AUTHOR PHILIP KERR

DRAFT 3/18/92 gh. (by typist)      FINAL 3-26-92 gh. (by typist)

4-16-92  
3-26-92 gh.

DARRELL [Signature] 20 Mar 92 / 4/1/92 date

DOUG \_\_\_\_\_ date

MAIL OUT [Signature] 5/7/92 date

MIN FLOWS? CC TO CRO ENFORCEMENT & ADD NAME TO RIVER LETTER LIST 5/7/92

PERMIT FEE \$ 44.00

ORDER? No    OR circle f-6 f-7 f-8 f-9

Attach Fish Screening Criteria? No  
If so, staple packet to front of file

REMARKS / RELATED FILES (Regtrak started, Relinquishments, other applications:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Permit Fee Calculation:

$$\begin{array}{r}
 100 \times .40 = 40 \\
 20 \times .20 = 4 \\
 \hline
 \$44
 \end{array}$$

4x101

WASHINGTON STATE  
DEPARTMENT OF ECOLOGY

RECEIPT

181012

RECEIVED FROM Donna Bauder ..... May 29, 19 92  
Forty-four ..... DOLLARS 44.00

FUND: General ..... Rec.Rev. .... Basic Data ..... Other ..... Cash .....  
Check 5611

SOURCE: Water Code ..... Publications ..... Adjudications ..... Refunds ..... M.O. ....  
Per. and Lic. ..... Investments ..... Registration ..... Other .....

Remit fee 64-30254  
Milo Bauder  
By Anderson

Thank You 319

CHUCK CLARKE  
XXXXXXXXXXXXX  
Director



*file*

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

3601 W. Washington • Yakima, Washington 98903-1164 • (509) 575-2800

May 7, 1992

• Milo B. Bauder  
423 Greenbrook Place  
Richland WA 99352

RE: Ground Water Application No. G4-30254

Your application has been approved and a permit will be issued in accordance with the enclosed Report of Examination upon payment of the statutory fee of \$ 44.00 . Please make your check payable to the Department of Ecology.

This letter and enclosed Report of Examination constitute our determination and order. You have the right to obtain review of this order. Request for review must be made, within thirty (30) days of receipt of this order, to the Washington Pollution Control Hearings Board, Mail Stop PY-21, Olympia, Washington 98504-8921. Concurrently, a copy of the request must be sent to the Department of Ecology, Mail Stop PV-11, Olympia, Washington 98504-8711. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Please send your permit fee within 30 days.

Sincerely,

Doug Clausing, Section Supervisor  
Water Resources Program  
Central Regional Office

• PNK: gh

Enclosure(s): Report of Examination  
Ground Water Bulletin No. 1  
Focus Sheet  
Flow Meter Requirements

f-2:Form



# Focus

## Water Rights and Fish Recovery in the Columbia and Snake Rivers

### Overview

On December 20, 1991, the National Marine Fisheries Service (NMFS) listed Snake River Sockeye Salmon as an endangered species under the Endangered Species Act. In anticipation of this action, the Governors of Washington, Oregon, Idaho and Montana called on the Northwest Power Planning Council to amend its Fish and Wildlife Program to rebuild anadromous fish runs in the Columbia and Snake rivers. These amendments call for reduced salmon harvest, reduced reservoir pool levels, predation control, and significant change in the flow levels of the Snake and Columbia to aid migration of salmon up and down the rivers.

Included in the Power Council's plan to rebuild the fish runs is a call for a regional agreement on future water appropriations and instream flows. At Governor Booth Gardner's direction, Ecology is discussing future water management with Oregon, Idaho and Montana. While these talks are underway, the region must address pending applications for water withdrawals while being consistent with efforts to rebuild stocks listed under the Act. The Department of Ecology, which issues water rights in Washington, has adopted an interim policy on water appropriations in the Columbia and Snake river basins. This fact sheet explains the policy, the actions that led to it, and the decisions that lie ahead.

### State water rights, the Endangered Species Act, and instream flows

Ecology processes water right applications as part of its charge to protect and allow responsible use of the state's water resources. One criterion used to determine whether to issue a new water right is whether adequate water will remain to support instream uses if the requested amount of water is withdrawn. To make this determination, Ecology is guided by minimum instream flows established in rules and policies.

Instream flows for the main stem of the Columbia River are contained in a 1982 state regulation. Appropriations from the Snake River have been determined on a case by case basis, using flows calculated in 1974. Instream flows have been adopted for some tributaries of the Columbia and Snake rivers in Washington, but not for others.

The deliberations of the Power Council on a regional effort to improve the survival of endangered salmon have focused on a wide variety of measures. Significant emphasis has been placed on water flow and velocity levels in the Snake and Columbia rivers. Many measures in the Council's plan are directed at increasing these levels. Targets adopted by the Council and supported by the region's governors will be difficult to achieve, even in years of average water runoff.

About 1,500 applications for surface and ground water from the Columbia and Snake river basins in Washington are now awaiting decisions. These applications total only a very small portion of the Power Council's target flow for the lower Columbia River.

### Salmon recovery efforts

In addition to the listing of Snake River Sockeye Salmon as an endangered species, several other related activities have occurred or are underway:

- NMFS is considering similar listings for other anadromous fish runs returning to the Snake River.
- Fisheries experts have identified more than 100 declining anadromous fish runs returning to rivers throughout Washington, including the upper Columbia River.

- The Power Council's fish recovery plan requires actions affecting a wide variety of groups with interests in the river. Among these measures is a call upon states to establish minimum flow requirements, place conditions on water rights, and, if necessary, deny new water rights to increase the survival of salmon and steelhead.
- The plan also seeks target instream flows for the Snake and lower Columbia rivers during the periods of fish migration which will be difficult to achieve in many years as precipitation and runoff vary.
- The plan urged states to reexamine existing water policies and to develop a regional agreement on future appropriations from these basins.
- On January 27, 1992, Governors of the states of Washington, Oregon, Idaho and Montana wrote to NMFS committing their states to implement the Power Council's plan.

## Washington's interim policy

State decisions on water right applications are based on several criteria, including: water availability, fish and habitat needs, and the public interest in equitable and reasonable allocations of the state's water resources. Listing of the sockeye salmon and the related actions described above relate to these criteria and must be considered in decision-making.

Washington's interim water rights policy is consistent with the state's authority to manage water within its borders. It will guide the state's water appropriations during negotiations toward a regional agreement that is equitable for all states.

For the main stems of the Snake River and the Columbia River above Bonneville Dam the policy distinguishes between applications filed before and after the date sockeye salmon was listed as an endangered species:

- Applications filed before December 20, 1991, will be processed under rules and policies in effect at that time.
- Applications filed on or after December 20, 1991, will be processed following completion of the interstate negotiations and collection of additional information. These applications will retain their priority date.
- Waters not appropriated or waters without an application pending on December 20, 1991, will be withdrawn from further appropriations. This withdrawal will remain in effect until the interstate discussions are completed and it is determined whether additional water is available and whether it is in the public interest to appropriate additional water.
- New instream flow rules may be developed, and pending applications will be processed accordingly.

For tributaries of the Snake River and Columbia River above Bonneville Dam:

- By April 15, 1992, the departments of Fisheries, Wildlife, Ecology, Agriculture, and Trade and Economic Development will assess the health of fish runs, the availability of water, and the adequacy of instream flow protection in each tributary that supports anadromous fish. This review also will set priorities among streams that need additional study.
- Following the review, Ecology will continue processing applications normally for streams with healthy fish stocks, available water, and adequate instream flow protection.
- For streams with weak stocks, further study will be done to determine if low flows are a contributing cause. If so, the stream will be proposed for closure or appropriate instream flows will be established. The three agencies will provide staff for at least two field teams in 1992.
- For streams with weak stocks that are a high priority for instream flow studies, existing and new water right applications will be held or these waters will be withdrawn by rule pending completion of the studies.

## General provisions:

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- All new diversions and withdrawals must be measured.
- Ecology will increase monitoring for compliance with water right requirements.
- Ecology will identify areas where trust water rights can be acquired to enhance instream flows.
- The state will seeking funding assistance for instream flow field studies from the Bonneville Power Association.

## Federal authority

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Under the Endangered Species Act, NMFS may have authority to require those who are going to divert water to first apply for and receive an "incidental taking" permit. This permit covers any action that may harm or kill a member of a species listed under the Act. A water right from the state does not provide immunity from the Act. Ecology is seeking clarification from NMFS about the applicability of this requirement to the exercise of new water appropriations from the Snake and Columbia rivers.

## For more information

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The following Ecology staff can provide more information on water rights in the Columbia and Snake river basins:

<i>Ken Slattery</i>	Policy and Planning (206) 459-6114
<i>Renee Guillierie</i>	Media information (206) 438-7761
<i>Doug Clausing</i>	Water Rights, Central Washington (509) 457-7140
<i>Ted Olson</i>	Water Rights, Eastern Washington (509) 456-5057
<i>Gury Hunson</i>	Statewide Coordination (206) 438-7109

Direct written inquiries to: Water Resources Program,  
Department of Ecology, P.O. Box 47600, Olympia, WA, 98504-8711.

For more information about the Northwest Power Planning Council's Fish and Wildlife Program, contact: Northwest Power Planning Council, 851 SW Sixth Ave., Suite 1100, Portland, OR 97204 or call 1-800-222-3355.