

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

REPORT OF EXAMINATION
TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

- Surface Water** (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)
- Ground Water** (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE June 30, 1998	APPLICATION NUMBER S3-30097	PERMIT NUMBER	CERTIFICATE NUMBER
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NAME CARL A. BEACH			
ADDRESS (STREET) 3617 South Bates	(CITY) Spokane	(STATE) Washington	(ZIP CODE) 99206-5917

PUBLIC WATERS TO BE APPROPRIATED

SOURCE Pend Oreille River		
TRIBUTARY OF (IF SURFACE WATERS) Columbia River		
MAXIMUM CUBIC FEET PER SECOND 0.07	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE FEET PER YEAR 4.66

QUANTITY, TYPE OF USE, PERIOD OF USE

0.07 cubic foot per second, 3.66 acre-feet per year, from April 1 to October 1, each year, for the seasonal irrigation of 2 acres; 1 acre-foot per year, continuously, for domestic supply and fire protection, as required.

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) SW¼	SECTION 35	TOWNSHIP N. 36	RANGE, (E. OR W.) W.M. 43 E.	W.R.I.A. 62	COUNTY Pend Oreille
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RECORDED PLATTED PROPERTY

LOT 30 or 31	BLOCK 1	OF (GIVE NAME OF PLAT OR ADDITION) River Edge Estates
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LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

Lot 30 and 31, Block 1, of River Edge Estates, being within the SW¼ of Sec. 35, T. 36 N., R. 43 E.W.M.

DESCRIPTION OF PROPOSED WORKS

Pump and pressure distribution system.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: July 1, 2000	COMPLETE PROJECT BY THIS DATE: July 1, 2001	WATER PUT TO FULL USE BY THIS DATE: July 1, 2002
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REPORT

BACKGROUND

An application to appropriate public surface water was submitted by Carl A. Beach to the Department of Ecology on June 30, 1998. The application was accepted and assigned Surface Water Application No. S3-30097. The applicant proposes to divert surface water from the Pend Oreille River in the amount of 0.07 cubic feet per second for the seasonal irrigation of 2 acres (one acre each lot), continuous domestic supply for one unit, and fire protection as required. The proposed point of diversion is to be located within the SW1/4 of Sec. 35. The proposed place of use will be Lots 30 and 31, Block 1, of River Edge Estates.

A notice of application was duly published in accordance with RCW 90.03.280; no protests or objections were received.

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW.

INVESTIGATION

James M. Lyerla conducted a field examination on December 16, 1998. This project is located adjacent to the Pend Oreille River and there is presently a camper trailer on one of the two lots. It did not appear that the applied for water system had been installed on the date of the examination nor had any of the property been irrigated. The applicant is advised that a proof of appropriation examination will be required prior to the issuance of a final Certificate of Water Right and the final quantities allocated will be based on flow meter records.

Washington State University Agriculture Department Circular No. 512 is used as a guide for determining seasonal amounts of irrigation water needed by geographic location. These amounts are calculated on a 70% system efficiency from the two-year frequency table and for maximum irrigation water requirement. Based upon data in this circular a maximum water duty for this area is 22 inches per acre, for an annual allotment of 3.66 acre-feet for 2 acres.

CONCLUSIONS

It is the conclusion of this examiner that: public surface water is available for appropriation for a beneficial use; that seasonal irrigation of 2 acres and a continuous domestic supply for one unit, and fire protection as required are beneficial uses; that the appropriation of such water will not impair existing rights or be detrimental to the public welfare.

This application for a public surface water permit should be approved in the amount of 0.07 cubic feet per second, 3.66 acre feet per year, during the irrigation season, for the irrigation of 2 acres and 1 acre foot per year for domestic supply for one unit, and fire protection as required, subject to the following provisions:

“An approved measuring device shall be installed and maintained in accordance with RCW 90.03.360 and/or WAC 508-64-020 through WAC 508-64-040.” (Installation, operation and maintenance requirements attached hereto).

“The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and the place of use specified.”

The water source and/or water transmission facilities are not wholly located upon the land owned by the applicant. Issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtainment of such right is a private matter between applicant and owner of that land.

“This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.”

"A certificate of water right will not be issued until a final examination is made."

“Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations.”

The construction of the facilities for the appropriation of water under the application may require removal of material from or adjacent to a stream channel or watercourse. A Hydraulic Approval may be obtained from the Department of Fish and Wildlife prior to commencing work.

In accordance with the recommendations of the Department of Fish and Wildlife, the permit shall be issued subject to the following provision(s):

“This permit shall be issued subject to Washington Department of Fish and Wildlife screening criteria as outlined in a Hydraulic Project Approval. Please contact the Department of Fish and Wildlife, 600 Capitol Way

North, Olympia, Washington 98501-1091, Attention: Habitat Management Division, Phone (360) 902-2534, to obtain specific requirements for your project.”

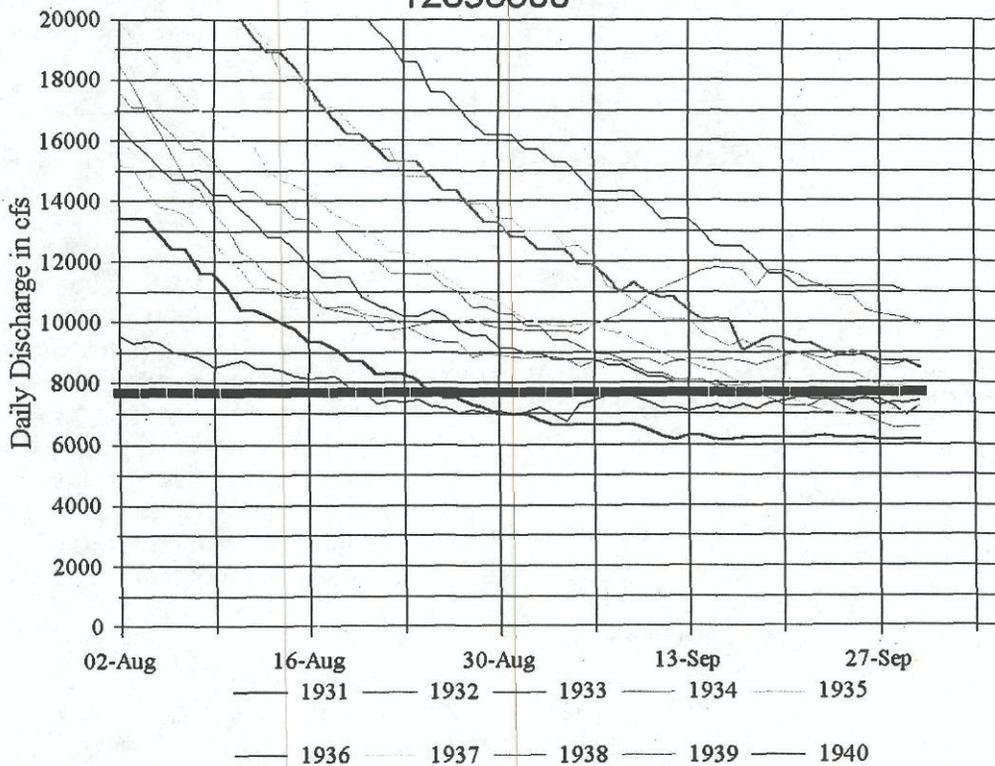
“That portion of this authorization relating to irrigation is classified as a Family Farm Permit in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm - a geographic area including not more than 2,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 2,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm.”

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

“The Washington State Department of Fish and Wildlife (WDFW), has recommended that water rights from the Pend Oreille River be conditioned with instream flows of 7,700 cubic feet per second (cfs) on a year-round basis (as measured at the gage near Newport, Washington).

The following hydrographs for the U.S.G.S. Gage on the Pend Oreille River at Newport, Idaho (12395500) demonstrate important hydrologic characteristics of the Pend Oreille River. Before the construction of the Albeni Falls Dam, the river exhibited normal, riverine flow conditions. The first hydrograph shows the typical late summer flow regime for 10 different water years in the 1930s and early 1940s. The solid line at 7700 cfs represents WDFW’s recommended instream flow value as it would have applied to the river in the 1930s. When summer flows reached their baseflow, they tended to stay down at that level for the remainder of the water year.

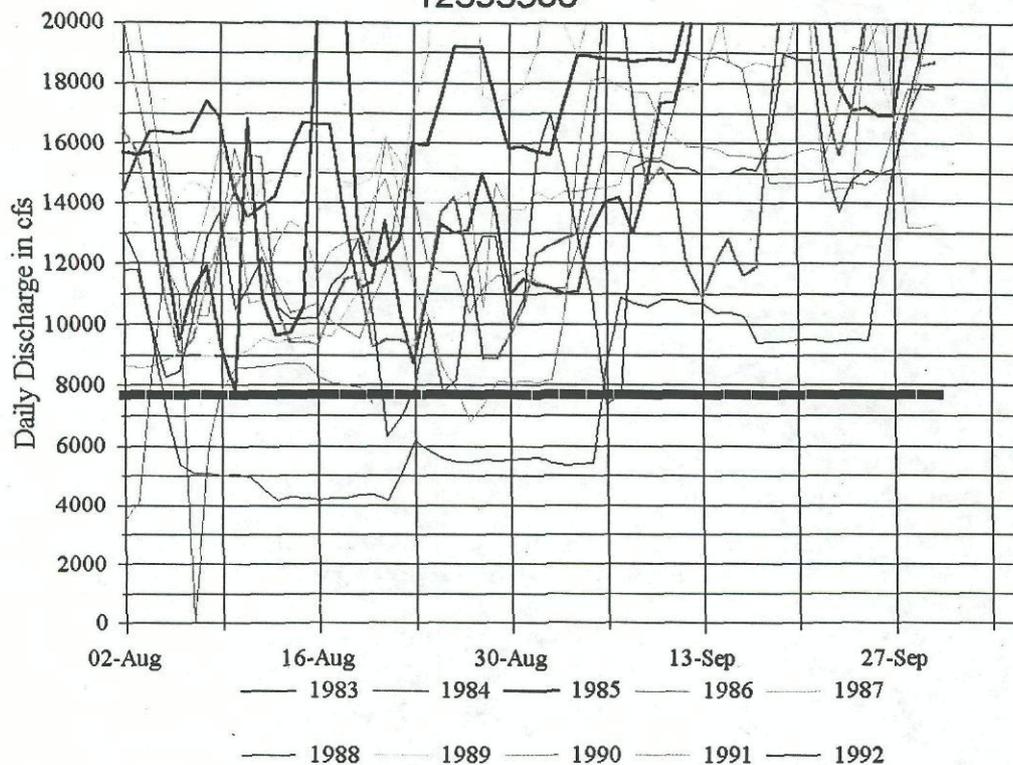
Pend Oreille R at Newport 12395500



With the construction of the Albeni Falls dam in 1952, the character of the daily discharge changed dramatically from a riverine regime to an impounded, highly regulated, flow regime. The next hydrograph depicts the late summer, daily average discharge for a ten-year period in the 1980s through the early 1990s. The highly variable discharge data reflects the flows that result from the power generation demands that are placed on the river.

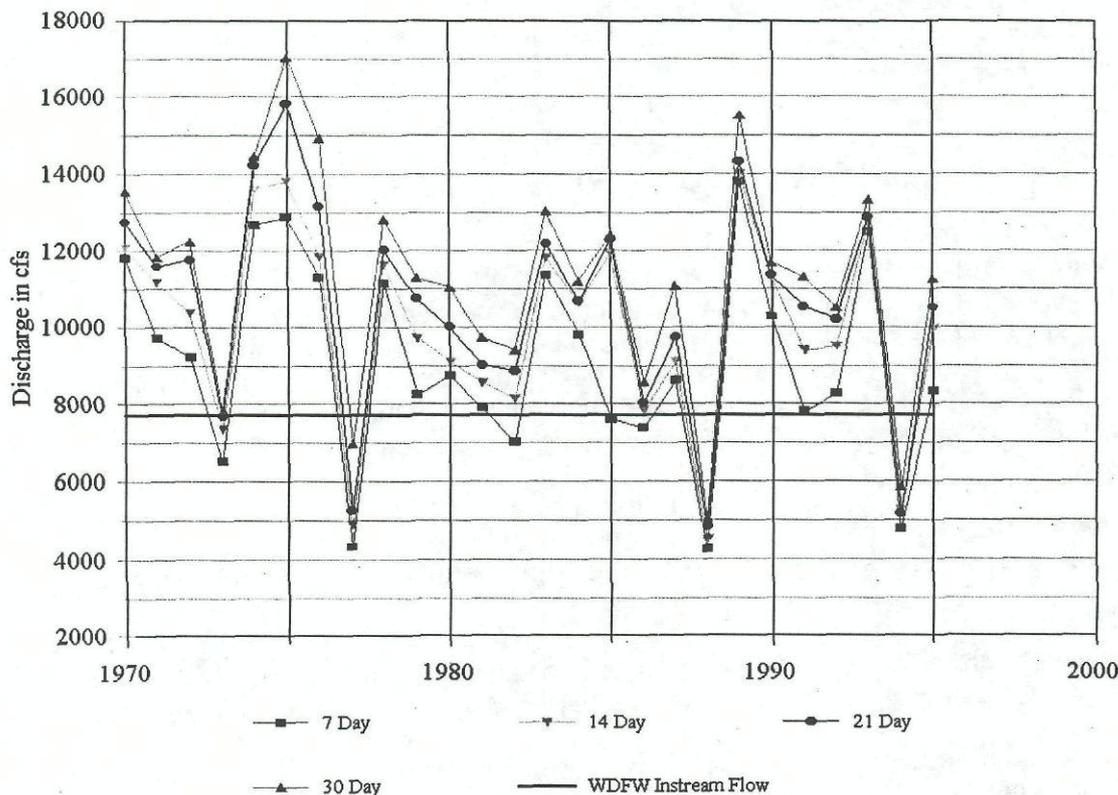
Pend Oreille R at Newport

12395500



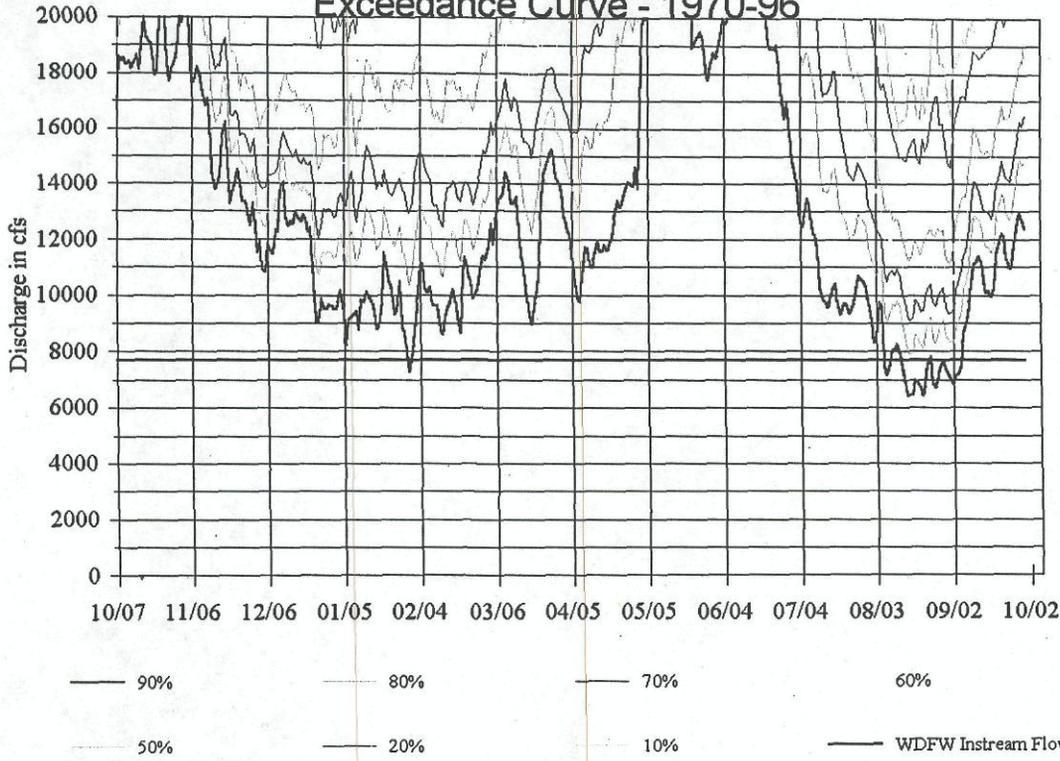
Trying to devise a methodology to implement the WDFW recommended instream flow given the current flow regime of the river requires some careful consideration of the day-to-day variability of the discharge. Given its fluctuations, just simply regulating junior water rights every time the daily average flow drops below 7700 cfs (the recommended instream flow) would be inappropriate and unworkable. Examining the data in the hydrograph indicates that the day-to-day variability is on the order of 5,000 cfs. Looking at a suite of duration frequency low flow analyses (7-day, 14-day, 21-day, and 30-day) for the 1970 through 1996 period allows us to get a better handle on when the flow in the river is truly flowing at a rate that is below the recommended instream flow. By looking at the actual daily flow data, we can see that three water years during the period 1970 – 96 exhibited sustained, low flow periods that were lower than the 7700 cfs threshold (1977, 1988, and 1994). The data from the duration frequency analysis shows that using a 14-day low flow criteria gives us the best opportunity to identify the low flow events.

Pend Oreille River Low Flow Analysis



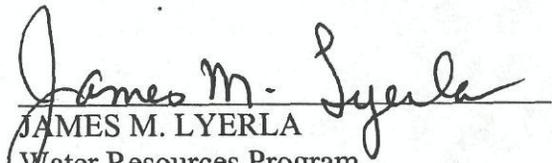
Calculating the exceedance probability for the daily average flows for the period 1970 – 96 allows us to see how frequently (on a yearly basis) and for what duration (how many weeks during each year) the flows on the Pend Oreille River can be expected to be below the recommended instream flow. The following graph demonstrates that on average, we can expect the summer low flows in the Pend Oreille River will be above the instream flow 8 to 9 times out of ten years. During that one in ten year event when the flow in the river is below the recommended flow, the low flow will last for approximately one month (typically August).

Pend Oreille R at Newport Exceedance Curve - 1970-96



Therefore, this permit shall be conditioned that all diversion shall cease when the 14-day average flow in the Pend Oreille River falls below 7700 cfs (as measured at the Pend Oreille River at Newport gage) as recommended by WDFW."

Signed at Spokane, Washington
this 29th day of June, 1999


JAMES M. LYERLA
Water Resources Program
Department of Ecology



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N. Monroe, Suite 202 • Spokane, Washington 99205-1295 • (509) 456-2926

June 29, 1999

Mr. Carl A. Beach
3617 South Bates
Spokane, WA 99206-5917

Dear Mr. Beach:

Re: Surface Water Application No. S3-30097

Enclosed please find a copy of the Department of Ecology's Report of Examination. This report constitutes our determination and order regarding the above referenced application.

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 \$25.80. Please remit your payment by check to the Department of Ecology within thirty (30) days from receipt of this letter.

Issuance of this Report of Examination is an appealable decision under Chapter 43.21B RCW. If you would like to appeal this order and determination, you must file your appeal with the Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903 within thirty (30) days of the date of mailing of this letter and the enclosed Report of Examination. A copy of your appeal must also be sent to the Department of Ecology, Water Resources Program Appeals Coordinator, P.O. Box 47600, Olympia, WA 98504-7600 within thirty (30) days of the date of mailing of this letter and the enclosed Report of Examination.

Sincerely,

George B. Schlender
Section Manager
Water Resources Program

GBS:kt
Enclosures