STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

July 16, 2008
CERTIFIED MAIL
7007 2560 0001 7674 5616

Icicle Chapter of Trout Unlimited
c/o Dan Davies
12780 Prowell Road
Leavenworth, WA 98826

RE: Water Right Application No. S4-35173 – Temporary Authorization to divert water for fish acclimation and children's fishing pond

On April 7, 2008, the Icicle Chapter of Trout Unlimited (TU) submitted an application seeking authorization to divert 1 cubic foot per second (cfs) continuously from March 1 through October 31, for a non-consumptive steelhead acclimation and children's fishing pond. The application has been assigned control No. S4-35173. This project proposes to divert water from the Wenatchee River within the NW¼ of the SW¼ of Section 12, Township 24 N., Range 17 E.W.M.

To facilitate the construction of the steelhead acclimation pond prior to the next release of hatchery fish, TU has requested a temporary permit to divert water from the Wenatchee River and pump it into the Blackbird Island steelhead pond located on Tax Parcel No. 241712320000 within the NW¼ of the SW¼ of Section 12, Township 24 N., Range 17 E.W.M. TU is proposing to use this pond to acclimate Wenatchee River steelhead to improve their homing fidelity and increase returns of anadramous fish. The secondary use of the pond will be as a children's fishing pond; TU will plant fish in the pond for this purpose after the steelhead have been released into the Wenatchee River. The proposal includes continuous pumping of water from the river into the pond. Water will return to the Wenatchee River via an outflow structure 600 feet downstream from the proposed diversion.

The City of Leavenworth holds five water rights which places of use include the acclimation pond parcel: SWC08105, S4-35004JC, S4-28122P, GWC00437-A, G4-29958P. These water rights are part of the city's municipal water system portfolio. No water withdrawn or diverted under these rights is used within the proposed place of use for No. S4-35173.

This water right application is being processed prior to competing applications in accordance to WAC 173-152-050(2)(b). This temporary water right is considered nonconsumptive and will enhance or protect the quality of the environment.

This TEMPORARY AUTHORIZATION has the following parameters and provisions:

1) Violation of any of the terms and/or conditions of this authorization will result in immediate termination, issuance of Administrative Orders to Cease and Desist, and may also subject the violator to civil penalties.

2) A diversion of 1 cfs may take place from March 1, 2008 to October 31, 2008. This Temporary Authorization will expire on October 31, 2008.

3) The place of use under this Temporary Authorization will be a pond located within the NW¼ of the SW¼ of Section 12, Township 24 N., Range 17 E.W.M.

4) The purpose of use under this Temporary Authorization will be to provide water continuously for a steelhead acclimation and children's fishing pond within the place of use.

5) The maximum annual volume of water allowed is 485.1 ac-ft/yr.

6) The priority date for this water right is April 7, 2008.

7) The Department of Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this Temporary Authorization. Applicants for a temporary water right should not construe that a temporary authorization will result in the granting of a permanent water right.

8) The applicant and operator of the system under this Temporary Authorization shall:

   - Have a copy of this Temporary Authorization available on-site.
   - Be aware of the parameters and provisions and operate accordingly.
   - Provide said copy as evidence of this authorization upon request by Department of Ecology staff.

9) An approved measuring device shall be installed and maintained for the source identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC.

10) The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation, and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements".

11) Water use data shall be recorded weekly. The maximum monthly rate of diversion and the monthly total volume shall be submitted to Ecology by January 31, 2009. Ecology requires submittal of monthly meter readings to collect seasonal information for water resource planning, management, and compliance.

12) Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

13) At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, monthly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting.

14) Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.

15) The intake shall be screened at all times in accordance with Department of Fish and Wildlife screening criteria. http://wdfw.wa.gov/hab/engineer/habeng.htm.

16) This Temporary Authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.

17) The applicant must obtain Hydraulic Project Approval from the Washington Department of Fish and Wildlife for all construction activities occurring within the high water mark of the Wenatchee River and its tributaries. Please contact the Department of Fish and Wildlife, 3860 Chelan Hwy N., Wenatchee, WA 98801-9625 or by telephoning Bob Steele at (509) 662-0503.

You have a right to appeal this order. To appeal this you must:

- File your appeal with the Pollution Control Hearing Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board:

Mail appeal to:	OR	Deliver your appeal in person to:
Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903		Pollution Control Hearings Board 4224 – 6th Ave SE Rowe Six, Bldg 2 Lacey WA 98503

2. To serve your appeal on the Department of Ecology:

Mail appeal to:	OR	Deliver your appeal in person to:
Department of Ecology Appeals Coordinator PO Box 47608 Olympia WA 98504-7608		Department of Ecology Appeals Coordinator 300 Desmond Dr SE Lacey WA 98503

3. And send a copy of your appeal packet to:

   G. Thomas Tebb, L.E.G.
   Department of Ecology
   15 W Yakima Ave Ste 200
   Yakima WA 98902-3452

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

Sincerely,

G. Thomas Tebb, L.E.G.
Section Manager
Water Resources Program

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Enclosures: Your Right to Be Heard
Water Measurement Requirements
Fish Screening Criteria

cc: Yakama Nation
Colville Confederated Tribes