



File NR: S3-30929
WR Doc ID: 6804396

State of Washington
Department of Ecology
Office Of Columbia River
Report of Examination for
Sullivan Lake Water Supply Project

PRIORITY DATE February 2, 2022	APPLICATION NUMBER S3-30929
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MAILING ADDRESS Robert Anderson 68 Martin Creek Dr. Kettle Falls, WA 99141	SITE ADDRESS (IF DIFFERENT)
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Quantity Authorized for Diversion

WITHDRAWAL RATE 0.055	UNITS cfs	ANNUAL QUANTITY (AF/YR) 8.2
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gpm = Gallons per Minute; ac-ft/yr = Acre-feet per Year

Purpose

PURPOSE	DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Non-agricultural irrigation Fire protection*	0.055		cfs	8.2		4/1-10/31

*Water may be used to fight wildfires as needed.

Source Location

COUNTY Ferry	WATERBODY Columbia River	TRIBUTARY TO Pacific	WATER RESOURCE INVENTORY AREA 58 Upper Lake Roosevelt
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SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
pump	3537165000003800		35	37	17	GL3	48.52500	118.17440

Place of Use (See Attached Map)

PARCELS

73517500005000

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lot 5 of the Plat of Martin Creek Tree Farm, Section 17, T. 35 N, R. 37 E.W.M.

Proposed Works

1.5 HP pump in the lake

Development Schedule		
BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
June 1, 2023	June 1, 2025	June 1, 2027

Measurement of Water Use (WAC 173-173-060)

How often must water use be measured?	monthly
How often must water use data be reported to Ecology?	Annually during the development
What volume should be reported?	Instantaneous/annual
What rate should be reported?	cfs

Provisions

Water Service Contract

Use of water under this permit or certificate is contingent upon the applicant’s compliance with a water service contract with Ecology for recovery of costs associated with the Sullivan Lake Water Supply Project. Failure to comply with the terms of the water service contract will result in cancellation of the permit or revocation of the certificate.

Ties to releases at Sullivan Lake

Water authorized under this Permit is tied to releases of water stored in Sullivan Lake under Pend Oreille PUD’s 1907 storage right claim (Water Right Claim 300245 and Certificate of Change S3-CV2P817 Vol. 2 Page 817). The releases are authorized under Water Right No. S3-30635 in order to benefit fish and provide mitigation water for out-of-stream uses. Water used under this permit is contingent upon the releases from Sullivan Lake occurring under S3-30635.

Limits on Changes/Transfers

Any future change or transfer proposed under this authorization is limited in geography and purpose of use pursuant to RCW 90.90.110.

Metering

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,” Chapter 173-173 WAC, 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.

Recorded water use data may be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.

Water Use Efficiency

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.

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). If you have questions about screening criteria contact:

Department of Fish and Wildlife Phone: (360) 902-2534
Attention: Habitat Program Website: <http://wdfw.wa.gov/about/contact/>
600 Capitol Way N.
Olympia, WA 98501-1091

Easement and 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 change 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.

Proof of Appropriation

Consistent with the development schedule given in this report (unless extended by Ecology), the water right holder must file a Notice of Proof of Appropriation (PA) of Water with Ecology. The PA asserts the project is complete and all the water needed has been put to full beneficial use. In order to verify the extent of water use under this permit, an inspection of water use is typically required, known as a “proof exam”. After filing the PA, the water right holder’s next step is to hire a Certified Water Rights Examiner (CWRE) to conduct this proof exam. A list of CWREs is provided to the water right holder upon filing the PA with Ecology. The final water right document, a water right certificate, then may issue based upon the findings of the CWRE. Statutory county and state filing fees may apply prior to certificate issuance.

Schedule and Inspections

Upon presentation of proper credentials and at reasonable times, Department of Ecology personnel shall have access to the project location and to inspect records of water use, wells, diversions, measuring devices, and associated distribution systems for compliance with water law.

Findings of Fact

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. S3-30929, 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 Chapters 43.21B RCW and 371-08 WAC.

ADDRESS AND LOCATION INFORMATION	
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 1111 Israel RD SW, Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

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>.

Authorizing Signature

Signed at Union Gap, Washington, this 10th day of May, 2022.



Scott Turner, Operations Section Manager
 Office of Columbia River
 Central Regional Office

INVESTIGATOR'S REPORT
Application for Water Right S3-30929
Department of Ecology

BACKGROUND

Description and Purpose of Proposed Application

On February 2, 2022 Robert Anderson submitted an application for water right to the Washington State Department of Ecology (Ecology). Ecology accepted the application and assigned it Water Right Control Number S3-30929.

Ecology's Office of Columbia River (OCR) is processing this water right permit application to make use of water made available by the Sullivan Lake Water Supply Project (Project). Sullivan Lake is located north of Spokane in the far northeast part of Washington State, near the town of Lone, Washington. Dammed in the early 1900s, storage releases were primarily managed for summer recreation and hydropower, among other uses, with large releases occurring in the fall. Under the Project, water previously released in the fall will instead be released during summer months, enhancing instream flows and providing mitigation for new out-of-stream water uses.

Public Utility District No. 1 of Pend Oreille County (PUD) operates the dam and is signatory to an Agreement that controls how water is to be released under the Project (Sullivan Lake Hydroelectric Project Settlement Agreement, dated March 26, 2010, hereafter referred to as the 2010 Settlement Agreement). Other signatories to this Agreement were Ecology, the Washington Department of Fish and Wildlife, the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Indian Affairs, Seattle City Light, the Kalispel Tribe of Indians, the Selkirk Conservation Alliance, the Lands Council, American Whitewater, the Town of Cusick, and certain citizens-at-large. The PUD and OCR are also signatories to a separate Memorandum of Agreement (MOA) for the Project. On January 12, 2012, Ecology issued a secondary use permit, Permit No. S3-30635P, authorizing the use of water stored in Sullivan Lake for mitigation of new out-of-stream uses, among other purposes. RCW 90.90.110 limits the allocation of water for out-of-stream uses under the Project to six counties in northeastern Washington State: Douglas, Ferry, Lincoln, Okanogan, Pend Oreille, and Stevens. This application proposes a use in Stevens County.

The applicant was notified of the potential availability of Project water as mitigation for this application. The applicant indicated the intent to participate in the Project.

Attributes of the subject application are presented below in Table 1 and 2.

Table 1: Application Summary

Name	Robert Anderson
Priority Date	February 2, 2022
Instantaneous Rate	0.1
Annual Quantity	16.38
Purpose(s) of Use	Non-agricultural irrigation, fire protection
Period of Use	4/1 – 10/31
Place(s) of Use	Lot 5 Plat of Martin Tree Fam

Table 2: Proposed Source

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Lake Roosevelt	N/A		35	37	17	GL3	48.5250	118.1744

Legal Requirements for Approval of Appropriation of Water

Chapters 90.03 and 90.44 RCW authorize the appropriation of public water for beneficial use and describe the process for obtaining water rights. Laws governing the water right permitting process are contained in RCWs 90.03.250 through 90.03.340 and RCW 90.44.050. Under Washington State law (RCW 90.03.290), the following four criteria must be met for a new appropriation to be approved:

- Water must be available
- Water use must be beneficial
- Water use must not cause impairment of existing rights
- Water use must not be detrimental to the public welfare

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 originally published in The Ferry County View during the weeks of the March 16 and 23, 2022. No protests were received.

Consultation with the Washington Department of Fish and Wildlife

Ecology must notify the Department of Fish and Wildlife (WDFW) of any permit applications to store or divert water (RCW 77.57.020 and RCW 90.03.280). The Department of Fish and Wildlife was provided a draft of this report on March 23, 2022. The Department does not object to the issuance of the permit.

Consultation under WAC 173-563-020

Chapter 173-563 WAC establishes minimum instream flow rules for the main stem of the Columbia River and requires consultation with local, state, federal and tribal governments for issuing new water rights. However, RCW 90.90.020(2) gives Ecology authority to issue new water rights with water developed under the Project without the consultation required under WAC 173-563-020(4). Even though it was not legally required, Ecology proceeded with the consultation for the water developed under the Project.

On November 7, 2012, Ecology contacted local, state, and federal agencies and Indian tribes requesting consultation and comments on issuing new permits from the Columbia River mitigated by 14,000 acre-feet of water under the Project.

From these consultations, Ecology received a written response from WDFW, which supports the development of new water supplies under the Project. WDFW also encouraged Ecology to consult with fish managers on the timing of releases. This consideration has been addressed previously in the planning process for the MOA for the Project, which included input from WDFW; the PUD will release water in a manner consistent with the terms set forth in the MOA.

State Environmental Policy Act (SEPA)

The following is excerpted from the Report of Examination for the secondary use permit S3-30635P:

On April 8, 2011, in compliance with the National Environmental Policy Act (NEPA), the Federal Energy Regulatory Commission (FERC) published a Draft Environmental Impact Statement (EIS) for two related projects: 1) a relicense application of Boundary Dam on the Pend Oreille River

by Seattle City Light, and 2) a license surrender application for Sullivan Dam by the PUD. The applications were causally linked by mitigation measures that Seattle City Light proposed for its relicensing that were located at Sullivan Lake. Ecology offered comments to FERC on the project, both during scoping of the EIS and on the draft EIS, which were generally incorporated by FERC into the EIS. On September 21, 2011, Seattle City Light and the PUD, each acting as lead agencies for their respective project actions, adopted the FERC EIS via a SEPA Notice of Adoption.

Secondary use permit S3-30635P is a component of the overall project considered under the FERC EIS, which was adopted under SEPA. As such, Ecology relied on the FERC EIS in its SEPA determination for S3-30635P. The FERC EIS considered all the possible effects on Sullivan Lake as a result of the relicensing effort, including reoperation of the lake to accommodate downstream releases under the 2010 Settlement Agreement. The FERC EIS also considered downstream impacts and cumulative impacts associated with permitting water mitigated by Sullivan Lake releases. Specific impacts associated with proposed out-of-stream uses under the subject application may require additional SEPA review.

Project Specific SEPA Compliance

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- It is a surface water right application for more than 1 cubic foot per second (cfs). If the project is for agricultural irrigation, the threshold is increased to 50 cfs, so long as the project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gallons per minute (gpm);
- It is an application combined with other water right applications for the same project and exceeds the amounts above;
- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, considered together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

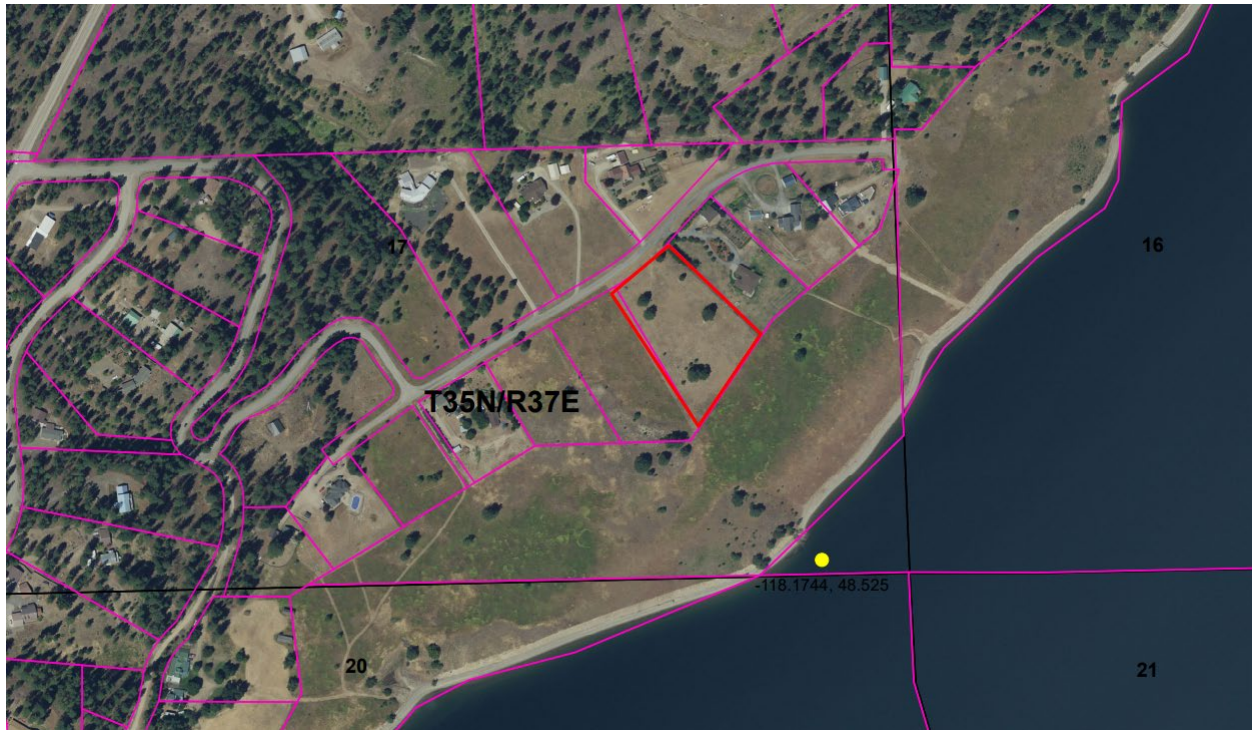
INVESTIGATION

Kevin Brown of the Washington State Department of Ecology's Office of Columbia River (OCR) conducted an examination of Water Right Application Number S3-30929, submitted by applicant. Additional information was obtained from correspondence with the applicant and Water Rights Tracking System, and a review of water right documents at Ecology's Eastern Regional Office.

Site Description and Field Visit

The property lies on the west bank of Lake Roosevelt south of Kettle Falls. The applicant was notified for the need to obtain right of way from the Park Service prior to construction. The applicant is responsible for obtaining the appropriate right of way authorizations if needed.

The applicant proposes to pump directly from Lake Roosevelt for non-agricultural irrigation of lawn and landscaping. The municipal water supply water system for this subdivision does not have capacity to serve lawn and landscaping on the subject property.



Water Rights in the Vicinity

The applicant is part of the Martin Creek Community Association (MCCA). The MCCA has one certificate, one permit and one application on file with Ecology. The permit and certificate together authorize 101 gallons per minute, 50 acre-feet per year for municipal water supply purposes within the Plat of Martin Creek Tree Farm. Four wells have been drilled and they are continuing to pursue developing the allocation authorized. The wells are up slope from the river and do not produce significant amounts of water. The water system is currently limited on its service to the platted lands and has difficulty to serve outside irrigation.

The applicant proposes to divert water from Lake Roosevelt for lawn and landscaping irrigation on the lot within the service area of the municipal water system. At this time the municipal system cannot supply sufficient water to satisfy their requests due to well capacity and an existing quantification of one acre-foot per residence within the plat.

The pending water right application for MCCA, G3-30165 requests an additional 200 gallons per minute for domestic supply for the 49 lots and irrigation of up to 75 acres within their service area. They are still evaluating the proposed well locations and other options to see if they can qualify for additional water under one of the OCR Programs.

Water Use Calculations

The applicant has requested water for 2.73 acres of lawn.

Typically 0.02 cfs (10 gpm/acre) is reasonable. $2.73 \times 0.02 = 0.055$ cfs

The Washington State Irrigation Guide recommends a consumptive requirement of 2.2 acre-feet per year. With reasonable efficiency, 3 acre-feet per acres should be adequate for these purposes.

$3.0 \times 2.73 = 8.2$ acre-feet.

Water Availability

For any new appropriation, water must be both physically and legally available.

Physical Availability

Within the six northeastern counties identified, water uses associated with the Project will divert water from the Pend Oreille River downstream of river mile 26 and the Columbia River downstream of its confluence with the Pend Oreille and upstream of Douglas County's southern boundary, or withdraw associated groundwater in close hydraulic connection with these two river reaches on a continuous, year-round basis. Mitigation releases from Sullivan Lake will occur during time periods that will provide a greater benefit to fish populations. These releases will occur during the months in which increased flow in the rivers will benefit fish the most, generally during June through September. The exact quantities and timing of the mitigation releases depend on a complex set of objectives and directives outlined in the 2010 Settlement Agreement and in the Memorandum of Agreement between the PUD and OCR (executed in October 2010; amended in June 2013). Generally, 5,000 ac-ft are released during the period June 1 to August 31, and 9,000 ac-ft are released during September.

Legal Availability

The Project involves releases of 14,000 acre-feet (ac-ft) of water stored in Sullivan Lake under the PUD's 1907 claim to a storage right (Water Right Claim 300245 and Certificate of Change S3-CV2P817 Vol. 2 Page 817). These releases are divided up such that one-third (4,667 ac-ft) remains instream for stream flow enhancement to benefit aquatic life and are not subject to further appropriation or mitigation. Pursuant to RCW 90.90.110, the remaining two-thirds (9,333 ac-ft) supply or offset out-of-stream uses to the six northern counties identified. At least one-half of the out-of-stream water is reserved for municipal, domestic, and industrial uses.

Ecology issued Secondary use permit S3-30635P to the PUD on January 12, 2012, authorizing a maximum of 225 cfs and 31,209 ac-ft per year for in-lake and out-of-lake uses, with a priority date of March 4, 2011. In-lake uses include fisheries, recreation, and aesthetics, while out-of-lake uses include instream flow, power, and mitigation from Sullivan Lake discharges. The out-of-lake uses relevant to the Project extend through the Pend Oreille River, into the Columbia River, and either (1) continue to Douglas County's southern border as mitigation, or (2) continue along the length of the Columbia River as instream flow, discharging to the Pacific Ocean. From the 2010 Settlement Agreement, Project water used as mitigation is to be used outside the Sullivan Creek drainage, which is defined as "*...downstream (in the Pend Oreille River / Columbia River system) of the calculated range of thermal mixing of Sullivan Creek water into the Pend Oreille River or presumptively, river mile 26 on the Pend Oreille River.*" River mile 26 on the Pend Oreille River is located approximately one mile downstream (north) from the confluence of Sullivan Creek and the Pend Oreille River, near Deadman's Eddy. The Pend Oreille flows north across the border into British Columbia (BC), turns to the west, and discharges into the Columbia River just inside BC. BC Hydro operates Seven Mile Dam, the first of two hydropower dams that the Pend Oreille River encounters while in Canada. This 1970s era dam stands about 215 feet tall and pools water back into Washington, to the toe of Seattle City Light's Boundary Dam. The second, Waneta Dam, was built in 1954 and is located immediately upstream from the confluence with the Columbia River. It is privately owned and generates hydropower for metallurgical operations at Trail, BC. Neither BC Hydro nor any other BC entity is a party to any agreement directly related to the Project.

Secondary use permit S3-30635P authorizes the release of water from Sullivan Lake according to the minimum discharge flow regime described above. In general, this flow regime shifts the hydrograph towards a more normative state, consistent with the fisheries objectives within NOAA Fisheries 2008

Biological Opinion¹. In 2011, the PUD and OCR provided notice of the creation of a Trust water right under RCW 90.42.040 and met the public notice requirements under RCW 90.03.280. Responses were discussed in the ROE for Application S3-30635.

Pursuant to RCW 90.90.110, two-thirds of the 14,000 ac-ft of water held in Trust is subject to appropriation under the Project and must be used to mitigate out-of-stream uses. In November 2014, the PUD submitted a Proof of Appropriation form indicating that the initial 5,000 ac-ft had been released according to the new flow regime. Also in December 2014, the PUD conveyed these 5,000 ac-ft to the State's Trust Water Rights Program (Trust) by quit claim deed. In January 2015, OCR issued Trust Water Certificate S3-30635(B)C documenting the perfection of 5,000 ac-ft as instream flow and the conveyance to Trust. Additionally, OCR issued a Superseding Permit in January 2015, to account for the future releases of the remaining 9,000 ac-ft following the construction of the Sullivan Lake Dam as well as other not-yet-perfected uses. A certificate for the remaining 9,000 ac-ft is expected to be issued in 2018.

Any permitted quantity resulting from the subject application would be mitigated by the available 5,000 ac-ft of instream flow under the Project at a ratio of one-to-one and is therefore legally available.

Beneficial Use

The proposed appropriation must be for a beneficial use of water. Beneficial use refers to the purpose for which water may be used and also determines the measure and limit of a water right.

The use of water for non-agricultural irrigation is defined as a beneficial use under RCW 90.54.020(1).

As the proposed water use is for non-agricultural irrigation and as the calculated quantity is reasonable, the water use proposed by the applicant is considered beneficial.

Impairment Considerations

The Sullivan Lake Project provides mitigation for out-of-stream water uses for surface water appropriations from the Pend Oreille or Columbia Rivers and groundwater appropriations with hydraulic continuity to the Pend Oreille or Columbia Rivers. The quantity of mitigation water obligated will be equal to the quantity allocated in the permit.

Columbia River Water Rights

Chapter 173-563 WAC, the water management rule for the Columbia River, established minimum instream flows for the main stem Columbia River when the rule was adopted in 1980 (WAC 173-563-040). In 1998, the rule was amended to add the following provision:

The instream flows established and implemented by this chapter for instream and out-of-stream uses, and the average weekly flows applied by this chapter to out-of-stream uses do not apply to any application for water from the main stem Columbia River on which a decision is made by the department of ecology on or after July 27, 1997. Any water right application considered for approval or denial after that date will be evaluated for possible impacts on fish and existing water rights. The department will consult with appropriate local, state, and federal agencies and Indian tribes in making this evaluation. Any permit which is then approved for the use of such waters will be, if deemed necessary, subjected to instream flow protection or mitigation conditions

¹ http://www.westcoast.fisheries.noaa.gov/fish_passage/fcrps_opinion/federal_columbia_river_power_system.html

determined on a case-by-case basis through the evaluation conducted with the agencies and tribes (WAC 173-563-020(4)).

However, under RCW 90.90.020, applications for permits associated with the Project, including this application, are not subject to either the instream flows specified under WAC 173-563-040 or the consultation process required for applications processed after 1997, under WAC 173-563-020(4).

RCW 90.90.020 states, in relevant part, that:

(1)(a) Water supplies secured through the development of new storage facilities made possible with funding from the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, and the Columbia river basin water supply revenue recovery account shall be allocated as follows:

(i) Two-thirds of active storage shall be available for appropriation for out-of-stream uses; and

(ii) One-third of active storage shall be available to augment instream flows and shall be managed by the department of ecology. The timing of releases of this water shall be determined by the department of ecology, in cooperation with the department of fish and wildlife and fisheries co-managers, to maximize benefits to salmon and steelhead populations.

(b) Water available for appropriation under (a)(i) of this subsection but not yet appropriated shall be temporarily available to augment instream flows to the extent that it does not impair existing water rights.

(2) Water developed under the provisions of this section to offset out-of-stream uses and for instream flows is deemed adequate mitigation for the issuance of new water rights provided for in subsection (1)(a) of this section and satisfies all consultation requirements under state law related to the issuance of new water rights.

The water supply developed under the Project qualifies as “Water supplies secured through the development of new storage facilities made possible with [OCR] funding” under RCW 90.90.020(1)(a). Further, under RCW 90.90.020(2), this water supply is being utilized “to offset out-of-stream uses” authorized under new permits for Columbia River water, including the applicant’s, and is “deemed adequate mitigation for the issuance of new [Columbia River] water rights . . . and satisfies all consultation requirements under state law related to the issuance of new [Columbia River] water rights.” Therefore, in evaluating this application, Ecology was not required to go through the consultation process prescribed under WAC 173-563-020(4) and, if mitigated, approval of this application will not cause impairment of the instream flows prescribed under WAC 173-563-040.

Public Interest Considerations

Analysis of whether this application meets the requirements of RCW 90.03.290, that the proposed use of water will not be detrimental to the public interest, involves an investigation of how the approval of the proposed use of water will affect the range of values that are encompassed by the public interest.

Several sections of statute list the legislative policies that guide the consideration of the public interest during the allocation of water, including sections of the 1971 Water Resources Act (Chapter 90.54 RCW) and Columbia River Basin Water Supply Act (Chapter 90.90 RCW).

An analysis of the public interest considerations for the Program is contained in the Report of Examination for the secondary use permit for Sullivan Lake releases, S3-30635P.

The public interests associated with the Program’s permitting are specifically cited in several sections of Chapter 90.90 RCW:

- RCW 90.90.005(1) states “*The legislature finds that a key priority of water resource management in the Columbia river basin is the development of new water supplies that includes storage and conservation in order to meet the economic and community development needs of people and the instream flow needs of fish*”.
- RCW 90.90.005(2) directs Ecology to “*aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses*”.
- RCW 90.90.020(3)(b) instructs Ecology to focus on “*Sources of water supply for pending water right applications*”.
- RCW 90.90.020(3)(d) instructs Ecology to focus on “*New municipal, domestic, industrial, and irrigation water needs within the Columbia river basin*”.

The Project’s permitting achieves the statutorily mandated public interest requirements by allowing new state water rights to be issued while mitigating the impacts to fish.

If the subject application is approved, the public welfare may be affected in several ways:

- Economic activity is likely to result from the use of water for irrigation purposes, as the associated construction and operation activities generate increased economic opportunities.
- The use of water for irrigation purposes is not expected to affect local cultural, recreational, or environmental resources.
- The adaptive management strategy for mitigation releases will ensure releases occur at times that are most beneficial for Endangered Species Act-listed salmon and steelhead species in the Columbia River, thus assuring effective mitigation for this appropriation of water.

Conclusions

Water Availability

The analysis above demonstrates that water is physically and legally available for the proposed use of water.

Beneficial Use

The proposed use of water for non-agricultural irrigation is considered to be a beneficial use.

Impairment

The proposed use of water will not impair existing water rights.

Public Interest

The proposed use of water will not be detrimental to the public welfare.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend this request for a water right be **APPROVED** in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

Maximum Instantaneous Rate: 0.055 CFS

Maximum Annual Quantity: 8.19 acre-feet per year

Non agricultural irrigation of 2.73 acres and fire protection as needed.

Period of Use: 4/1 to 10/31

Point of Diversion

Govt Lot 3, Section 17, T. 35 N., R. 37 E.W.M.

Place of Use

Lot 5 of the Plat of Martin Creek Tree Farm, Section 17, T. 35 N., R. 37 E.W.M.



*Kevin Brown, Columbia Basin Water Master
Office of Columbia River
Easter Regional Office*

May 10, 2022

Date