



State of Washington
 Department of Ecology
 Office Of Columbia River
 Report of Examination for Lake Roosevelt
 Incremental Storage Releases

File NR G3-30683
 WR Doc ID 5645252

PRIORITY DATE
 2/19/2013

APPLICATION NUMBER
 G3-30683

MAILING ADDRESS
 MARCELLA YEATES
 2800 SCOTTSDALE ROAD
 RENO, NV 89512

SITE ADDRESS (IF DIFFERENT)
 2300 Northport Flat Creek Road
 Kettle Falls, WA

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
62.5	GPM	35

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Municipal	62.5		GPM	35		01/01 - 12/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
STEVENS	GROUNDWATER		61-UPPER LAKE ROOSEVELT

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
A well	1743000	BCN953	38N	37E.W.M.	35	SENE	48.74773	-118.06463

Datum: NAD83/WGS84

Place of Use (See Attached Map and Attached)

PARCELS (NOT LISTED FOR SERVICE AREAS)
 1743000

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
 S½NE¼ of Section 35, T. 38 N., R. 37E.W.M.

Proposed Works

To be determined

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
July 1, 2016	July 1, 2019	July 1, 2020

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Upon Request by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or 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 Lake Roosevelt Incremental Storage Releases Program. Failure to comply with the terms of the water service contract will result in cancellation of the permit or revocation of the certificate.

Wells, Well Logs and Well Construction Standards

All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.

All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. All water measuring reports submitted to Ecology must reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must 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.

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.

Schedule and Inspections

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.

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.

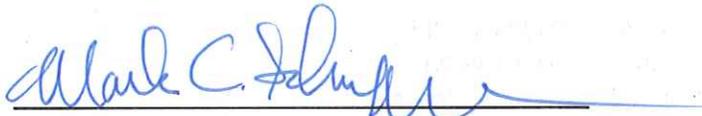
File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- 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 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 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>

Signed at Yakima, Washington, this 4th day of February 2014.


Mark C. Schuppe, Operations Manager
Office of Columbia River

INVESTIGATOR'S REPORT

Application for Water Right – Marcella Yeates

Water Right Control Number G3-30683

Kevin Brown, Department of Ecology

BACKGROUND

Description and Purpose of Proposed Application

The Washington State Department of Ecology (Ecology) accepted Water Right Application Number G3-30683 submitted by Marcella Yeates. Attributes of the application are presented below in Table 1.

Table 1 Application Summary

Name	Yeates
Priority Date	2/19/2013
Instantaneous Rate	62.5 gpm
Annual Quantity	35 af/yr
Purpose(s) of Use	Municipal
Period of Use	continuous
Place(s) of Use	S½NE¼ of Section 35

Table 2 Proposed Sources of Withdrawal

Source Name	Parcel	WellTag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well	1743000	BCN953	38N	37E.W.M.	35	SE NE	48.74773	-118.06463

Table 3 Existing Municipal System Summary

Department of Health Water System Database	TBD
Water System ID	TBD
Residential Population	TBD
Non-Residential Population	TBD
Total DOH Approved Connections	TBD
Distribution Capacity	TBD

The applicant proposes to construct a large educational facility for a non-profit educational/recreational camp housed in a sustainable building complex using medieval castle design elements. The facility will include maintenance staff, some stock and non-agricultural irrigation around the structures. Maintenance staff may reside on site along with fluctuations of people for educational purposes. The facility proposes to house more than 25 people 60 days per year.

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 RCW 90.03.250 through 90.03.340 and RCW 90.44.050. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for a water right to be approved:

- Water must be available
- There must be no impairment of existing rights
- The water use must be beneficial
- The water use must not be detrimental to the public interest

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 published in the Statesman Examiner during the weeks of June 26 and July 3, 2013 and no protests were received.

Consultation under WAC 173-563-020

Under WAC 173-563-020(4), consultation is required before issuance of new Columbia River water right permits:

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 determined on a case-by-case basis through the evaluation conducted with the agencies and tribes.

On December 14, 2009, Ecology contacted local, state, and federal agencies and Indian tribes requesting consultation and comments on issuing new municipal and industrial permits from the Columbia River mitigated by 13,527 acre-feet of water under the Program. On November 5, 2010, Ecology consulted with local, state, and federal agencies and Indian tribes again to update the quantity of water released, to 37,500 acre-feet for municipal/industrial uses and associated instream releases.

From these consultations, Ecology received written responses from the WDFW, Bonneville Power Administration, U.S. Fish and Wildlife Service, Confederated Tribes of the Colville Reservation, the Confederated Tribes of the Umatilla Indian Reservation, and the United States Forest Service. Ecology also had several meetings with stakeholders, including the Columbia River Policy Advisory Group (PAG) where it received oral comments.

Copies of the written comments received are available in the file and PAG meeting notes are available on-line at: http://www.ecy.wa.gov/programs/wr/cwp/cr_pag.html. The comments generally identified that the Program was adequate mitigation for up to 25,000 acre-feet of water for new municipal, multiple domestic, and industrial permits.

State Environmental Policy Act (SEPA)

Pursuant to the State Environmental Policy Act (SEPA) (Chapter 43.21C RCW) and the SEPA Rules (Chapter 197-11 WAC), the Program was addressed in the Final Programmatic Environmental Impact Statement (FPEIS) for the Columbia River Management Plan. A Final Supplemental Environmental Impact Statement (FSEIS) was released on August 29, 2008 and an Addendum to the FSEIS was released on December 29, 2009; both documents address the Program in detail. On June 12, 2009, the United States Bureau of Reclamation (Reclamation) issued an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the project under the National Environmental Policy Act (NEPA).

The above described SEPA Documents are available online:

FPEIS - <http://www.ecy.wa.gov/programs/wr/cwp/eis.html>

FSEIS & FSEIS Addendum - http://www.ecy.wa.gov/programs/wr/cwp/cr_lkroos.html

EA & FONSI - http://www.ecy.wa.gov/programs/wr/cwp/cr_lkroos_envirostudies.html.

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.

The application was reviewed by Stevens County. They determined the application would be exempt from local SEPA review under WAC 197-11-800(4). Stevens County adopted this portion by reference in Section 3.80.125 of their development regulations.

INVESTIGATION

Water Availability

For water to be available for appropriation, it must be both physically and legally available.

Legal Availability

The Program involves releases of water stored in Lake Roosevelt under Reclamation's 1938 storage right (Reservoir Certificate Number 11793) to provide municipal, domestic and industrial water supply; provide water to replace some groundwater in the Odessa Subarea; enhance stream flows in the Columbia River to benefit fish; and provide drought relief for interruptible water right holders.

Surface Water Permit Number S3-30556 was issued on December 1, 2008 to the USBR, authorizing a maximum of 305 cfs, 37,500 acre-feet per year for instream purposes in Lake Roosevelt and below Grand Coulee Dam with a priority date of May 16, 1938. Surface Water Permit Number S3-30556 is considered the "secondary" water use permit authorizing use of water stored under Reservoir Certificate Number 11793.

On December 21, 2010, Ecology issued Superseding Certificate of Trust Water Right S3-30556, accepting 305 cfs, 37,500 acre-feet per year to the Washington State Trust Water Right Program (TWRP) for the purpose of instream flow. Under Superseding Certificate of Trust Water Right S3-30556, water is held in the TWRP to mitigate the impacts of 25,000 acre-feet of new state water rights issued under the Program's municipal and industrial water right permitting; the remaining 12,500 acre-feet is reserved exclusively for instream flows. In June 2011, Ecology provided notice under RCW 90.42.040(5) that it would modify Superseding Certificate of Trust Water Right S3-30556 to allow for mitigation of domestic uses as well as municipal and industrial uses. No comments from this notification were received, and Ecology issued a second Superseding Certificate of Trust Water Right S3-30556 on August 17, 2011.

Physical Availability

Municipal, domestic, and industrial water uses associated with the Program will divert or withdraw water from the Columbia River or tributary groundwater on a continuous, year-round basis. In the preferred Alternative 1C, identified in the SEIS, mitigation releases from Lake Roosevelt will occur during time periods that will provide the greatest benefit to fish populations. These releases will occur during the months in which increased flow in the Columbia River will benefit fish the most, generally during April through September. The exact quantities and timing of the mitigation releases will be determined annually by the Fish Flow Releases Advisory Group (FFRAG). The membership of the FFRAG agrees that mitigation releases should be scheduled to help restore normative flows in the Columbia River. Since flows in October through March are higher than normative, mitigation for diversions and withdrawals under the Program during this time period are not seen as critical by FFRAG, leaving water available for release during the critical April through September period. This strategy was also supported in the consultations for the Program.

The subject application is being investigated under the mitigation framework established under the Program. In order to mitigate the impacts of any new appropriation of water on the Columbia River, hydrologic evidence must indicate that impacts on the Columbia River associated with the proposed water use would be successfully mitigated by the Lake Roosevelt mitigation releases. Additionally, it must be possible to manage the impacts on the Columbia River of proposed pumping in a manner that avoids carry-over of impacts across mitigation cycles.

A Preliminary Permit was issued March 4, 2013 that allowed for the construction of a well and to evaluate the well to be considered to meet the CRWMP Allocation Objective and Requirements. The applicant drilled a well within the SE¼NE¼ of Section 35, T. 38 N., R. 37E.W.M. in Stevens County in May 2013. The six inch well was drilled to a depth of 260'. It drilled through 83 feet of unconsolidated sediments and then into a limestone bedrock. Water was reported in fractures within the bedrock. The well log reports the static water level at 100 feet on May 10, 2013. The wellhead elevation was surveyed and reported as 1349'. This puts the static water level at an elevation of 1249' on May 10, 2013. The Lake Roosevelt pool elevation on that date was 1254'. On June 10, 2013, Kevin Brown from our office visited the site and reported a static water level of 66 feet below land surface. This puts the static water level at an elevation of 1283'. The Lake Roosevelt pool elevation for June 10, 2013 was 1286'. From these measurements, it appears the water level in the well is responding to Lake Roosevelt pool elevation changes and is in bank storage within the mainstream. This would ensure that pumping effects on the river can be successfully mitigated by releases from Lake Roosevelt during a single mitigation release cycle, avoiding carry-over of impacts across mitigation cycles.

Impairment Considerations

Columbia River Water Rights

An investigation of a water right application includes an analysis of whether the proposed water use will impair other existing water rights. The impairment analysis involves identifying how the proposed water use may impact the current water rights regime.

In considering impacts to existing water right holders and the instream flow rule, an analysis must consider actual river operation, particularly in drought years when water availability issues are most acute. In the context of this application, there are four classes of water uses that must be considered:

- Water right holders with priority dates senior to May 16, 1938.¹
- Uninterruptible water rights with priority dates junior to May 16, 1938.
- Interruptible water rights with priority dates junior to May 16, 1938.
- The June 24, 1980 Instream Flow Rule (WAC 173-563).

A detailed analysis of the current water rights regime on the Columbia River was issued in the Report of Examination (ROE) for S3-30556.

Under the Program, 37,500 acre feet per year of mitigation water is held in the TWRP for instream purposes under Superseding Trust Water Certificate S3-30556 with a priority date of May 16, 1938, 25,000 acre-feet of which may be used for mitigation of new out-of-stream uses. Under the State's priority system, the mitigation water is senior to all water rights issued after May 16, 1938. The mitigation water rights are specifically exempted from the Columbia River instream flow rule (WAC 173-563-020(5)). Additionally, the mitigation water is protected under the TWRP from diversion by junior water right holders who may be curtailed during low-flow years. These junior users total approximately 379 interruptibles who are curtailed based on a forecast methodology outlined in WAC 173-563. Although junior to the mitigation that is available for this application, no conflict is expected between the applicant's diversions or withdrawals and interruptible water users because of the mitigation provided by the Program.

Water Rights in the Vicinity

There are no other water rights in the area.

Beneficial Use

The use of water for municipal water supply purposes is defined in statute as a beneficial use (RCW 90.54.020(1)). Beneficial use encompasses two principal elements of a water right:

1. Beneficial use refers to the purpose for which water may be used.
2. Beneficial use determines the measure of a water right. The owner of a water right is entitled to the amount of water necessary for the purpose to which it has been used. To determine the amount of water necessary for a beneficial use, courts have developed the principle of "reasonable use". Reasonable use of water is determined by analysis of the factors of water duty and waste.

The quantity of water requested is appropriate for the proposed municipal water system, including potable water for occupants, maintenance staff, stockwater and non-agricultural irrigation around the facility. The facility will include approximately 10 full time living quarters for full time staff, 50 seasonal staff and it is anticipated to have between 7000-10,000 visitors each year for lodging, events and conferences. The facility will include up to 5-7 acres of non-agricultural irrigation.

¹ Although the priority date of this application is February 19, 2013 based on the date of filing with Ecology, the application is backed by mitigation with a priority date of May 16, 1938, which is how it will be managed if regulation of Columbia River water rights is required.

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 welfare, involves 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 Chapter 90.90 RCW titled "Columbia River Basin Water Supply".

An analysis of the public interest considerations for the Program is contained in the Report of Examination for Application Number S3-30556, the "secondary use" permit for the Lake Roosevelt releases.

The public interests associated with the Program's municipal, domestic and industrial 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".
- RCW 90.90.060(3) states that Lake Roosevelt releases "will bolster the state economy and will meet the following critical needs" including "new water supplies for municipalities with pending water right applications".

The Program's municipal, domestic and industrial 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:

- The provision of additional water supplies for cities, towns, and municipal water suppliers accommodates the projected population growth in the region, allowing for increased economic and social opportunities.
- The use of water for municipal water supply 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.

Consideration of Protests and Comments

On September 22, 1997, The Center for Environmental Law & Policy (CELP) submitted written comment to Ecology requesting that Ecology "either deny or continue in hold status all applications for new water rights from the Columbia River, its tributaries and from any ground water source in continuity with them." Major concerns cited by CELP include impacts to Endangered Species Act listed fish stocks, water availability, and reduced revenue from hydropower facilities as a result of increased diversions. CELP asserted that issuance of new water rights would violate the four statutory criteria for issuance of a water right because water is not available, and issuance of new rights would lead to impairment of existing rights and would not be in the public interest.

The Office of Columbia River has addressed these concerns in the Final Supplemental Environmental Impact Statement for the Lake Roosevelt Incremental Storage Releases Program² (FSEIS) and the Addendum to the FSEIS³ (Addendum). Under the Program, issuance of new water rights for pending applications is mitigated by existing water rights held by Reclamation for water releases from Grand Coulee Dam. Ecology has placed this water into the TWRP to supply water for out-of-stream and in-stream purposes as outlined in the FSEIS.

This Program will have a beneficial impact on ESA-listed fish by providing additional instream flow in the quantities of 37,500 acre-feet each year and an additional 17,000 acre-feet per year during drought years. Water will be released from Lake Roosevelt to maximize fish benefits on a schedule as agreed upon each year by the FFRAG (FSEIS 2.3.2.3 and FSEIS 2.3.3.2.). The timing of the releases would be constrained by the instantaneous flow limit of Reclamation's secondary water use permit as described in FSEIS section 2.3.

Program water will be released from storage in Lake Roosevelt in addition to water that is currently released. The Program is designed so no diminishment of water available to other appropriators throughout the Columbia River system will occur. Program water will only be used to supply water to surface water users or groundwater users who are capable of directly capturing water released from Lake Roosevelt or those groundwater users who can demonstrate that their withdrawals, if pumping ceased, would be fully attenuated within a single mitigation cycle (Addendum section II).

Under the Program, water is allocated to supply industrial and domestic/municipal development. As described in the public interest section, the project will generate new jobs, revenue and other economic benefits to individuals and communities throughout the Columbia River Basin, while providing mitigation for fisheries.

Conclusions

Beneficial Use

The proposed use of water for municipal water supply purposes is considered to be a beneficial use. Therefore this application meets the first criterion of RCW 90.03.290 that the requested water be put to beneficial use.

Water Availability

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

² http://www.ecy.wa.gov/programs/wr/cwp/images/pdf/finalseis/seis_final.pdf

³ http://www.ecy.wa.gov/programs/wr/cwp/images/pdf/lkroos_seis_adden.pdf

Impairment

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

Public Interest

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

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved and a permit be issued 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:

62.5 gpm
35 acre-feet per year
Municipal water supply purposes

Point of Withdrawal

SE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 35, Township 38 North, Range 37E.W.M.

Place of Use

S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 35, T. 38 N., R. 37E.W.M.

Kevin Brown 2/4/2014
Report Writer Date

If you need this document in a format for the visually impaired, call the Water Resources Program at (509) 575-2490. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call (877)-833-6341.