



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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February 19, 2021

Greg Snow
Community Development Director
Pend Oreille County
PO Box 5066
Newport, WA 99156

RE: Crown Columbia Area-Wide Consultation for Water Right Permit S4-33265

Dear Greg Snow:

The purpose of this letter is to request your input regarding the Crown Columbia Area-Wide Water Right Permit project. Over the coming months, the Department of Ecology (Ecology) plans on issuing permitting decisions related to this project, including:

- New area-wide permit for water banking

WAC 173-563-020(4) requires Ecology to consult before issuing a new water right from the Columbia River:

“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.”

Ecology would appreciate your comments and input on these decisions. **Please provide your comments by 5:00pm on March 19, 2021.** Additional detail on the scope of each of these decisions is provided below.

Background

Crown Columbia Water Resources (Crown) of Spokane, WA, on October 2, 2020, under Application No. S4-33265 applied to appropriate public waters from all surface water and ground water in hydraulic continuity with surface water, within the mainstem or tributary of the Columbia River within Washington State at the instantaneous rate of 49.9 cubic feet per second, for the purposes of irrigation, domestic, and municipal water supply.

Crown is proposing a new area-wide water right permit to allow the addition or transfer of additional water rights in the State Trust Water Rights Program (Trust) to be used as mitigation covering the entire river basin and its tributaries, mitigated by water from a new water bank. The bank includes both a current and future portfolio of water rights. Crown's proposal specifically contemplates both initial 'seeding' of the water bank with existing water rights in Trust, and future 'deposits' to the water bank made by Crown. Beneficial use of water under the proposed area-wide permit will only be authorized where suitable mitigation has been placed into Trust.

Place of Use

The place of use for the proposed water right is the Columbia River Basin within Washington State. Crown is requesting a place of use of the entire basin as a means of contemplating future water right acquisitions into the proposed water bank; the permit would only allow for water use in areas where suitable mitigation in the state trust program. Potentially suitable rights include Columbia River surface water rights and groundwater rights determined to be in direct hydraulic continuity with the Columbia River mainstem or tributary.

Mitigating Rights

In order to 'seed' the bank and provide mitigation for the area-wide permit, Crown is proposing to use the following water rights as initial mitigating quantities available for consumptive use on the Columbia River:

- CG3-21909C(A)@7 is a water right with an October 9, 1973 priority date, for instream flows of 431.7 gpm, 487.5 acre-feet/year.
- G4-31432(B) is a water right with a September 1, 1992 priority date, for instream flows of 65 gpm, 60 acre-feet/year.
- S4-022119CL(A)@2 is a water right with a March 1, 1896 priority date, for instream flows of 3,579.6 gpm, 830 acre-feet/year.

The area-wide permit will allow the applicant Crown Columbia to add or transfer additional water rights into Trust, enabling authorization and to be used as additional mitigation under the area-wide permit.

Management and Reporting of Trust Water Rights

Ecology's management of the Mitigating Rights held in Trust includes the following considerations:

- In order to develop and confirm performance standards of all new mitigated permittees set forth in any respective reports of examination, Crown shall provide information to reasonably show or estimate that the new mitigated permits, when offset by the Mitigating Rights, and any other proposed mitigation measures, will cause no impacts to other existing water rights, and instream flows.
- At any time Ecology may conduct a review of assignments of the Mitigating Rights based on telemetered metering records, an up-to-date reporting spreadsheet submitted by Crown to evaluate whether the adequate mitigation has exceeded assigned mitigation quantities.
- To ensure there is no impairment and to encourage conservation, Crown shall not assign more than 90% of any individual Mitigating Right's consumptive use, nor the aggregate of the total consumptive quantity for all Mitigating Rights unless either of following conditions are met:
 1. All new permittees under this Agreement have installed telemetered meters, and the meters are reporting water use to Ecology.
 2. The total authorized quantities of the new mitigated permits do not exceed the total consumptive quantities of the Mitigated Rights.
- Crown will provide a spreadsheet to Ecology on a quarterly basis to ensure compliance with RCW 90.42.170. The spreadsheet will include an up-to-date accounting of the current beneficial use authorized by the permit, the Trust water right to which the water is assigned, and any information to show Crown is complying with all provisions associated with new mitigated permits and area-wide permits. The specific method used to calculate consumptive use, for both mitigating rights and new mitigated permits, will be provided in the spreadsheet. Reports submitted to Ecology are public record and regularly posted on Ecology's water banking website.
- Crown shall manage its portfolio of water rights to facilitate the preservation of water rights to the county from which the rights originate by:
 1. Working with counties to conduct outreach for existing water rights within their counties of origin to identify county demand.
 2. Coordinate with the county where water right is appurtenant to land to determine if a public-private partnership is of interest by:
 - a. Marketing its portion of the acquisition within the county of origin by notifying the county of water rights that could meet county demands.
 - b. Offering up to 25% of the proposed acquisition to the county of origin at the same total cost incurred by Crown for its acquisition, which shall be deemed to be Crown's cost to obtain the same portion of the entire water right.

How to Comment


Ecology is currently conducting an investigation on the above application and requests your input and comments. You may provide comments in written form to me electronically at tyler.roberts@ecy.wa.gov with "Crown Columbia Area-Wide Water Right Permit" in the subject line or by mail to:

Washington State Department of Ecology
Office of Columbia River
ATTN: Tyler Roberts
1250 West Alder Street
Union Gap, WA 98903-0009

Alternatively, you may contact Tyler Roberts at (509) 571-0633 to discuss this project or schedule a meeting.

Thank you in advance for your comments.

Sincerely,



G. Thomas Tebb, L.Hg., L.E.G.
Director
Office of Columbia River

GTT:TR:cc (210205)

cc: Mark Peterson, Attorney