



CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for
Environmental Law & Policy

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**IMPROVEMENTS IN THE QUAD CITIES WATER PERMIT CONDITIONS, GAINED
THROUGH THE SETTLEMENT AGREEMENT IN
CELP vs. ECOLOGY & THE QUAD CITIES; PCHB No. 02-216**

The newly negotiated water appropriation permit – S4-30976P - will contain stricter conservation requirements for the cities, including definite timelines for implementing programs and achieving certain targets – such as leak reduction goals, meter testing & replacement, large user water audits, developing a drought response plan, a residential retrofit program, and conservation education programs. These requirements will be in place for the life of the permit, and will apply to existing municipal water rights as well as future water rights obtained via this permit.

The cities may initially withdraw up to 10 cfs (cubic feet per second) or 7227 acre feet/year, and this amount will be deducted from the amount reserved for municipal purposes and set aside in 1980 in the John Day/McNary Pools Reservation of the Columbia River. (WAC 173-531A-50) There will be a cyclical six-year review process to allot additional water dispersals to meet projected demands through the year 2051 – up to a maximum of 178 cfs and 96,619 acre feet per year overall. Amounts allocated beyond the first 10 cfs will come from the McNary Pool reach of the river.

Replacement-water mitigation for the first dispersal of up to 10 cfs will come from water rights placed into trust status for this purpose, and from within the McNary Pool of the Columbia River. Consumptive use estimates for purposes of determining appropriate amounts of mitigation will be adjusted over the life of the permit based upon contemporaneous data, to assure continuously sufficient replacement-water mitigation.

Mitigation standards are tightened to assure direct benefits to the river and its fish. Mitigation for incremental diversions beyond the first 10 cfs must involve at least 50% water-for-water-offset during low flow periods. The remainder of mitigation, if not water-for-water, must be shown to directly benefit fish in the Columbia River system. Ecology must consult with the Washington Department of Fish & Wildlife (WDFW) and the Columbia-Snake River Tribes (Yakama, Nez Perce, Confederated Tribes of the Umatilla Indian Reservation and Confederated Tribes of the Warm Springs Reservation), and give the Tribes and WDFW high deference in deciding whether mitigation plans will provide sufficient benefits.

Cities must undergo more rigid planning and processing requirements in order to obtain dispersals beyond the first 10 cfs. And, mitigation plans for such future dispersals will be subject to appeal under the same procedures that would apply to any other appealable administrative order governing water resource decision-making.

**GAINS FOR THE COLUMBIA RIVER AND STATE WATER RESOURCE POLICIES
RESULTING FROM THE SETTLEMENT AGREEMENT IN
CELP VS. ECOLOGY & THE QUAD CITIES, PCHB 02-216**

Cities will abandon four pending water right applications - two for surface water and two for ground water – totaling over 28 cfs from the Columbia River, and 2750 gpm from nearby wells.

Cities will amend five remaining ground water applications (three for Richland, two for West Richland) to clarify that the applications are intended for alternate places of withdrawal only, that any future water permits issued for these applications should be considered as supplemental to (deducted from) the maximum annual quantity allowed under the master Quad Cities permit S4-30976P. Any water received will be subject to the same conditions imposed under that mater permit.

Cities agree not to seek court orders compelling Ecology to process any application for a new water right from the Columbia River during the pendency of the Columbia River Initiative and before rules related to that process become effective, or until January 1, 2005, whichever date is earlier.

Language that CELP found objectionable regarding Ecology's "economic benefits" analysis is considered stricken from the permit's Report of Examination, and Ecology agrees that the language and content has no precedential effect.

Ecology commits to work with the Department of Health to develop more stringent conservation requirements for all municipal water suppliers state-wide.

Ecology commits to meet with CELP at least bi-monthly and work cooperatively with CELP and other interested parties to develop, by 4/30/2004, a guidance document describing how and when it will perform a "maximum net benefits analysis" in the context of water resource rule-making.

Ecology agrees to postpone formal rule-making on the Columbia River Initiative (CRI) until after it has received the final scientific report from the National Academy of Sciences panel. (A CR-102 containing draft rule language must await publication of the NAS report, due in March 2004.)

Ecology agrees not to process new Columbia River water rights before new rules are adopted through the Columbia River Initiative, or January 1, 2005, whichever comes first, except for certain emergencies, a court order compelling otherwise, or for a non-consumptive use that would substantially enhance or protect the quality of the natural environment.