

WAC 173-539A-060 Expedited processing of trust water applications, and new water right applications or requests for a determination of water budget neutrality associated with trust water rights.

(1) RCW 90.42.100 authorizes ecology to use the trust water right program for water banking purposes within the Yakima River Basin.

(2) Ecology may expedite the processing of an application for a new water right or a request for a determination of water budget neutrality under Water Resources Program Procedures PRO-1000, Chapter One, including any amendments thereof, if the following requirements are met:

(a) The application or request must identify an existing trust water right or pending application to place a water right in trust, and such trust water right would have an equal or greater contribution to flow during the irrigation season, as measured on the Yakima River at Parker that would serve to mitigate the proposed use. This trust water right must have priority earlier than May 10, 1905, and be eligible to be used for instream flow protection and mitigation of out-of-priority uses.

(b) The proposed use on the new application or request must be for domestic, group domestic, lawn or noncommercial garden, municipal water supply, stock watering, or industrial purposes within the Yakima River Basin. The proposed use must be consistent with any agreement governing the use of the trust water right.

(3) If an application for a new water right or a request for a determination of water budget neutrality is eligible for expedited processing under subsection (2) of this section and is based upon one or more pending applications to place one or more water rights in trust, processing of the pending trust water right application(s) shall also be expedited.

(4) Upon determining that the application or request is eligible for expedited processing, ecology will do the following:

(a) Review the application or request to withdraw groundwater to ensure that groundwater is available from the aquifer without detriment or injury to existing rights, considering the mitigation offered.

(b) Condition the permit or determination to ensure that existing water rights, including instream flow water rights, are not impaired if the trust water right is from a different source or located downstream of the proposed diversion or withdrawal. The applicant or requestor also has the option to change their application to prevent the impairment. If impairment cannot be prevented, ecology must deny the permit or determination.

(c) Condition each permit or determination to ensure that the tie to the trust water right is clear, and to accurately reflect any limitations or constraints in the trust water right.

(d) Condition or otherwise require that the trust water right will serve as mitigation for impacts to "total water supply available."

[Statutory Authority: RCW 90.54.050 and chapter 43.27A RCW. WSR 11-01-163 (Order 08-12), § 173-539A-060, filed 12/22/10, effective 1/22/11.]