

WAC 173-527-110 Reservation of surface and groundwater for future uses. (1) Ecology has weighed the public interest that supports the reservation of a limited amount of water for future consumptive uses against the potential for negative impact to instream resources. Ecology finds that the public interest advanced by a limited reservation clearly overrides the small potential for negative impacts on instream resources.

Based on this finding, ecology hereby allocates an amount and rate of use of water for specific water users and subbasins, as indicated under the subtitle "Net streamflow depletion" in Table V. The reservations are a one time, finite resource. When and if water is fully appropriated from the reservation, all remaining waters in closed areas are hereby appropriated for instream flow use.

This reservation is available to a user only if the conditions set forth in subsection (2) or (6) of this section are met, as well as any applicable requirements of law, including but not limited to all water resource laws and regulations.

(2) Ecology may approve a water right application for water from the reservation if all of the following conditions in (a), (b), (c), and (d) of this subsection are met:

Alternatives analysis

(a) The applicant demonstrates that no practicable supply alternatives to the reservation are available. In order to satisfy this condition, an applicant must demonstrate consideration of other regional water sources to supply water for the same use now being proposed, including:

(i) Existing public water system supply;

(ii) Water from a ground or surface water source, which may be withdrawn without affecting any of the surface waters closed in WAC 173-527-070, such as water from a hydraulically disconnected deep aquifer source;

(iii) Supply options from surface and groundwater storage;

(iv) Water savings from conservation techniques, such as reuse of waste water; and

(v) Mitigation and minimization considerations to the extent required in (d) of this subsection, impact analysis.

Water-related offset

(b) The applicant demonstrates it will offset the overall streamflow depletion(s) through water-related actions to the maximum extent practicable. Applicants should offset at least one-half of the overall streamflow depletion(s) through water-related actions.

(i) In evaluating the adequacy of water-related actions to offset depletions, ecology will evaluate the action based on the degree of aquatic benefit it would provide. A water-related offset may have a greater or lesser benefit due to the seasonality, location, or quality of water provided. The level of benefit will be used to determine if any additional offsets will be required of the applicant.

(ii) Ecology will consider water-related offsets only to the extent that reasonable assurance exists that such offsets will be successfully delivered or donated to the trust water right program under chapter 90.42 RCW where delivery is legally guaranteed.

Habitat-related offset

(c) After satisfying the water-related offset requirement in (b) of this subsection, an applicant must offset any remaining streamflow depletion through habitat-related actions that create or enhance habitat. Habitat-related offsets must compensate for the habitat loss or degradation that will result from the net streamflow depletion.

An applicant must provide adequate assurances that a habitat-related action in fact occurs. Ecology, as appropriate, shall condition use of the reservation with performance standards and monitoring requirements, or require financial assurance mechanisms prior to reservation use.

Impact analysis

(d) In keeping with the findings of the watershed plan, ecology finds that the public interest supports avoidance and minimizing impacts to tributaries. The applicant must demonstrate one of the following:

(i) The proposed withdrawal does not impact tributaries to subbasin mainstems; or

(ii) An impact to a tributary to a subbasin mainstem is unavoidable, as demonstrated by an impact analysis, included as part of the alternatives analysis under (a) of this subsection. In addition to demonstrating the necessary considerations under (a) of this subsection, the impact analysis must demonstrate consideration of water supply options that avoid the impact to the tributary as well as supply options that may minimize such impact.

Ecology, in consultation with the department of fish and wildlife, may require an applicant to monitor affects of a groundwater withdrawal as a condition of water use.

Application review and permitting

(3) In determining practicability in subsection (2) of this section, ecology will consider both economic and logistic considerations, as well as guidance from the watershed plan.

(4) Ecology, in consultation with the department of fish and wildlife, will evaluate the adequacy of proposed offsets and alternatives analysis in subsection (2) of this section. The evaluation shall be consistent with the watershed plan and guidance documents approved by ecology. Ecology will also consider recommendations and technical advice received from the planning unit or by an advisory committee, formally designated by the planning unit.

(5) Ecology will issue a permit for use of water equal to the amount it determines appropriate to allocate from the reservation, and such amount will be debited from the total reservation amount. The total quantity of water appropriated shall not exceed the amount and rate listed under the subtitle "Net streamflow depletion" in Table V. However, ecology will issue a permit for a quantity beyond the amount debited from the reservation for the following:

(a) Water-related offsets to the extent such offsets are water-for-water, to the satisfaction of RCW 90.03.380 or 90.44.100, any other applicable laws, and terms of an approved mitigation plan under WAC 173-527-080(4); and

(b) Water use to the extent closed water sources are not affected and to the satisfaction of applicable requirements of law, including but not limited to all water resource laws and regulations.

Permit-exempt groundwater use

(6) The requirements in subsection (2) of this section do not apply to permit-exempt withdrawals. However, permit-exempt withdrawals under RCW 90.44.050 are subject to both of the following conditions in order to occur under the reservation:

(a) Future permit-exempt well use may not occur where connection to an existing community water supplier can be provided in a timely and reasonable manner. Determinations of timely and reasonable shall be consistent with public water system plans, local laws, and state

laws, including but not limited to Clark County Code 40.370.020 and chapter 246-290 WAC.

(b) Water use from a permit-exempt groundwater well must be consistent with the allocation limits of this reservation and the Clark, Cowlitz, and Skamania County code and other applicable laws, including the statute on permit exemptions, RCW 90.44.050. Single or group domestic uses under the permit exemption shall not exceed five thousand gallons per day. Irrigation of lawn and noncommercial garden under the permit exemption shall not exceed one-half acre.

**Table V
Allocation of Reservation**

Subbasin Name*	Water User**	Expected Streamflow Depletion without Offset (overall depletion) cubic feet per second (cfs)	Expected Water-related Offset Requirement (cfs)	Net Streamflow Depletion*** (cfs)
Kalama River	City of Kalama	1.92	0.00	1.92
	Other public water systems	0.37	0.19	0.19
	Permit-exempt groundwater wells	0.16	0.00	0.16
Lower Lewis River, Middle Lewis, and Upper Lewis Rivers	Public water systems in Cowlitz County	0.37	0.19	0.19
	Public water systems in Clark County	0.75	0.37	0.37
	Public water systems in Skamania County	0.40	0.00	0.40
	Permit-exempt groundwater wells in Cowlitz County	0.07	0.00	0.07
	Permit-exempt groundwater wells in Clark County	0.12	0.00	0.12
	Permit-exempt groundwater wells in Skamania County	0.40	0.00	0.40
	Commercial use in Skamania County****	0.21	0.00	0.21
East Fork Lewis River Subbasin	Clark Public Utility, City of Battle Ground and Ridgefield	4.40	2.20	2.20
	Other public water systems in Clark County	0.37	0.19	0.19
	Permit-exempt groundwater wells in Clark County	0.47	0.00	0.47
	Permit-exempt groundwater wells in Skamania County	0.02	0.00	0.02

*Subbasin boundaries are shown in WAC 173-527-030, and are consistent with the boundary descriptions used in the watershed plan.

**In the watershed plan, the term "domestic wells" has the same meaning as "permit-exempt groundwater wells" and the term "small community water systems" has the same meaning as "public water systems."

*** If conditions in subsections (2) and (6) of this section are satisfied, the net depletion of a closed water source, set in WAC 173-527-070, shall not exceed the quantities listed for specific users.

Subbasin Name*	Water User**	Expected Streamflow Depletion without Offset (overall depletion) cubic feet per second (cfs)	Expected Water-related Offset Requirement (cfs)	Net Streamflow Depletion*** (cfs)
<p>****Withdrawal impacts shall be limited to segments of the mainstem North Fork Lewis River that are located upstream of the Forest Road 90 bridge crossing (46°1'13"N, 122°1'13"W).</p>				

[Statutory Authority: Chapters 90.82, 90.54, 90.22, 90.03, and 90.44 RCW. WSR 09-01-126 (Order 08-02), § 173-527-110, filed 12/19/08, effective 1/19/09.]