

APPENDIX A
GRANT COUNTY
OPT-OUT LETTER



Grant County
Office of The
Board of County Commissioners
P O Box 37
Ephrata WA 98823
(509) 754-2011

June 3, 2008

Mimi Wainwright, Watershed Lead
Washington State Department of Ecology-ERO
4601 North Monroe Street
Spokane, WA 99205

Jim DeGraffenreid, Planning Services Director
Lincoln County Public Works
27234 State Route 25 North
Davenport, WA 99122

Re: Water Resource Inventory Area 53 – Lower Lake Roosevelt Watershed

Dear Ms. Wainwright and Mr. DeGraffenreid:

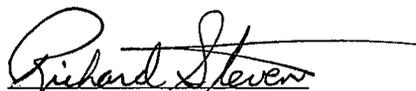
Please accept this letter as formal notification, pursuant to Chapter 90.82.130 RCW, that Grant County is opting out of the watershed planning process in Water Resource Inventory Area (WRIA) 53, the Lower Lake Roosevelt Watershed. We are opting out of this watershed planning effort due to the limited land area of Grant County (less than 0.5%) within the WRIA, and due to the limited resources we have to participate.

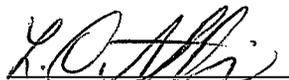
We encourage the WRIA 53 Planning Unit to move forward with this important planning effort, and remain committed to providing information specific to Grant County to support the watershed planning in WRIA 53. Best wishes as you continue your important watershed planning activities in WRIA 53.

Should you have any questions, please contact our office at 509-754-2011 extension 428.

Sincerely,

BOARD OF COUNTY COMMISSIONERS


Richard Stevens, Chair


LeRoy Allison


Cindy Carter

Cc: Gene St. Goddard, Water and Natural Resource Group

Richard Stevens
District 1

LeRoy Allison
District 2

Cindy Carter
District 3

"To meet current and future needs, serving together with public and private entities, while fostering a respectful and successful work environment."

APPENDIX B
WRIA 53 VOTING &
OPERATING PROCEDURES

LOWER LAKE ROOSEVELT WATERSHED PLANNING UNIT

OPERATING PROCEDURES

I. Project Area

Lower Lake Roosevelt Water Resource Inventory Area (WRIA) # 53 includes land surrounding Lake Roosevelt from Grand Coulee Dam upstream to the confluence with the Spokane River. The water resources in the watershed include this portion of the Columbia River and its tributaries from the town of Grand Coulee, east to Fort Spokane and southerly to the town of Davenport. Hawk Creek and its tributaries are the main water body other than Lake Roosevelt. The Lower Lake Roosevelt watershed covers approximately 326,164 acres and is found within Lincoln, Grant, Ferry, and Okanogan Counties.

II. Mission and Goals

a. Mission Statement

“To develop a plan to manage and protect the water and related resources in an environmentally and economically sound manner that is in the interest of the residents and landowners of the Lower Lake Roosevelt Watershed”

b. Goals

- i. *To document the historic and existing status of water resources in the Lower Lake Roosevelt Watershed and plan for the future needs of the citizens of the watershed to promote proper water management with economic growth.*
- ii. *To develop a Plan for the people of the Lower Lake Roosevelt Watershed which represents the local community’s water resource planning goals.*
- iii. *To implement the Plan and monitor its effectiveness in meeting the intent of the Mission Statement.*
- iv. *To work in a cooperative framework with the Regulatory Agencies to develop a local Plan that recommends viable water resource management alternatives.*

III. Representation

a. Initiating Governments

All of the counties within the watershed (Lincoln, Grant, Okanogan, and Ferry) along with the largest city (City of Davenport) and largest water purveyor (Seven Bays Water Association) comprise the initiating governments.

i. Lead Agency

Lincoln County has been designated as the Lead Agency by the Initiating Governments. The Lincoln County Planning Department has been designated by the Lead Agency to facilitate the WRIA 53 Watershed Planning process.

b. Membership

The Lower Lake Roosevelt Watershed Planning Unit includes a diverse group of resident and/or landowner interests, such as agriculture groups, businesses, recreational and environmental groups, private property owners, water associations, initiating governments, cities, and local, state and federal agencies.

i. Voting Membership

Each member in good standing will have one vote on issues decided by the Planning Unit. Membership in good standing is discussed in IV-b.ii.

ii. Alternates

Members may choose an alternate if they are unable to attend a meeting. Alternates attending a meeting must state whom they are representing on the Sign In sheet.

IV. Rules and Responsibilities of the Planning Unit

a. Meetings

i. Times and Location

Planning Unit meetings will be held the 3rd Wednesday of every month, but is subject to change. Times may vary in the day or evening as determined by the Planning Unit at the previous meeting. Any future changes will be discussed at the previous meeting, and posted on the project web page:

<http://www.co.lincoln.wa.us/planning/wria53/default.htm>.

ii. Duration

The meetings will typically last two hours, and the agenda will be structured by time in order to accomplish all agenda items.

iii. Public Participation

All planning unit meetings will be open to the public. Any one who does not want to be a voting member may send in written comments to the Lincoln County Planning Department, or may address the planning unit during the last fifteen minutes of every planning unit meeting when an open public comment period will be scheduled at every meeting.

b. Decision Making

i. Quorum

A quorum will be achieved when 25 percent of the voting members are present. A quorum will be required to hold an official Lower Lake Roosevelt Watershed Planning Unit meeting. If a quorum is not present, attending members can continue to meet and informally discuss topics. The discussed topics can be brought up at the next meeting and be ratified when a quorum is present.

A quorum will be required to complete substantive business, as determined by the WRIA 53 Coordinator and Initiating Government representatives.

A quorum will not be required in order to complete normal administrative business, as determined by the WRIA 53 Coordinator and Initiating Government representatives.

ii. Obtaining Voting Rights

Members who attend at least one meeting though the April 16th, 2008 meeting will obtain voting rights. Voting rights for new members will be obtained by attending 3 of 4 consecutive meetings.

Once voting membership is obtained, a member must attend at least three meetings in the past consecutive year to maintain voting membership status.

Appointed members of a city council and the initiating governments will have standing membership and will be eligible to vote.

Federal agencies are encouraged to participate in an advisory role, but will not have a standing voting status.

iii. Voting

To be a voting member, a person must meet voting membership criteria (as defined in IV.b.ii)

Each member eligible to vote, or their alternate, will receive one vote. Members in attendance who are also acting as an alternate for another member will receive only one vote.

A member with voting status may vote by absentee ballot if the voting member contacts the Planning Unit Coordinator and/or the Lead Agency representative 48-hours prior to the scheduled meeting at which the vote is to occur. A written absentee ballot must then be submitted to the Planning Unit Coordinator and/or Lead Agency representative prior to calling the meeting to order in which the vote is to occur.

iv. Decisions

If consensus is not achieved, then a role call vote will be used to make decisions. Passage of a role call vote will require 51% of voting members present and consensus of government entities present. However, any decision resulting from the role call vote would not apply if it creates an obligation for any unit of government that disagreed with the decision or is not present for the meeting.

Voting members during a role call vote will record a: 1) Yes, 2) No, or 3) Abstain vote. On a passing vote, the final vote with persons dissenting and abstaining members will then be recorded.

Other rules regarding decisions are stated in the Guide to Watershed Planning and Management by the Department of Ecology. Section 8 (Watershed Plan Approval and Adoption) of the Guide has been attached as Appendix B.

c. Planning Unit Responsibilities

All members will adhere to the Lower Lake Roosevelt Planning Unit Ground Rules, attached as Appendix A.

V. Procedural Order of Meetings

- a.** Facilitator shall call the meeting to order and pass around the sign-in sheet.
- b.** Facilitator shall call for approval of previous meeting minutes, summaries and/or amendments.
- c.** The facilitator will conduct the meeting in accordance with the approved agenda. The facilitator has the obligation to keep the meeting on schedule and Planning Unit members shall respect the facilitator's obligation to limit discussion once the time limit has been reached. The facilitator can call for a vote to extend discussions or table the discussion for the next meeting.
- d.** The facilitator will open the meeting for fifteen minutes toward the end of each meeting for a public comment period or for other issues.
- e.** The facilitator shall wrap up the meeting:
 - i.** Set the agenda items for the next meeting, which may include:
 1. Business not concluded (old business).
 2. Proposed new business.
 - ii.** Remind the members about the next meeting.
- f.** The facilitator shall adjourn the meeting on time.

VI. Rules of Conduct

Rules of conduct have been stated in Appendix A: Lower Lake Roosevelt Planning Unit Ground Rules.

Appendix A

LOWER LAKE ROOSEVELT WATERSHED PLANNING UNIT GROUND RULES

- 1) To show respect and courtesy to others, I will listen while someone is speaking without interrupting or talking to other members. I will not personally attack individuals and/or organizations.
- 2) I will wait to be recognized by the facilitator/chair before speaking, and will not speak out of turn. I will state needs, problems, and opportunities.
- 3) I will make a committed effort to resolve all differences, and help the watershed planning process is successful. Every member is responsible for the planning unit's progress, success, and quality of work.
- 4) I will call the facilitator if I have questions or problems with the watershed planning process, and before acting on misinformation.
- 5) Decisions will be based upon the needs of the entire watershed.
- 6) It is the responsibility of the member and alternate to keep each other informed of progress made at planning unit meetings. Members/alternates are also responsible for informing those they represent about issues, progress, and decisions.
- 7) Members of the WRIA 53 Planning Unit agree that all official communications with the news media representing the Lower Lake Roosevelt Watershed Planning Unit will be periodic, planning unit approved press releases, and through presentations provided by approved representatives of the planning unit such as the WRIA 53 Watershed Coordinator and/or the representative of the lead agency.

In addition, the WRIS 53 planning unit recognizes that Ecology may periodically develop and distribute information, including news releases, regarding the progress and actions of the Watershed Planning Unit.

Watershed Plan Approval and Adoption

In order for a watershed plan to draw on the authority granted by the Watershed Management Act, it must be approved by county legislative authorities, using a specific process described in the law. This Section describes the process. Additional information on plan implementation is included in Section 9.

The process outlined in the law is presented in Exhibit 8-1.

8.1 Planning Unit Approval and Submittal of Plan to Counties

8.1.1 Planning Unit Approval and Submittal to Counties

The law prescribes that the planning unit may approve the watershed plan, using either of the following procedures:

- Consensus of all of the members of the planning unit; or
- Consensus among the members of the planning unit appointed to represent units of government and a majority vote of the nongovernmental members of the planning unit.

The law does not define the term “consensus.” It appears that the planning unit itself can determine how “consensus” is defined and achieved. Consensus is generally understood as meaning that the members of a group either concur or can “live with and support” a decision. However the planning unit chooses to define the term, it is important for all to agree on the definition early on in the process. The material in Appendix J is presented to assist planning units develop a consensus procedure. The law also does not define what constitutes a “unit of government” for the purposes of the approval process. Here again, it appears the planning unit itself may determine how to answer this question. As a starting point, the types of organizations defined as “initiating governments” in the law would appear to fall into this category. These include counties, cities, tribes, and water utilities (including special districts such as irrigation districts, public utility districts, water districts, etc. as defined in the law). It would be valuable to make this determination at the outset of the planning process, so all members of the planning unit understand what their role will be in the approval process.

If approval of the entire watershed plan cannot be achieved in the manner described above, the planning unit has two options:

- Approval of components of the plan (with or without a commitment to continue discussion of those elements that are not approved); or
- Termination of the planning process.

The same procedure described above is applicable to approving components of the plan.

The Watershed Management Act states that:

The planning unit shall not add an element to its watershed plan that creates an obligation unless each of the governments to be obligated has at least one representative on the planning unit and the respective members appointed to represent those governments agree to adding the element that creates the obligation. A member's agreeing to add an element shall be evidenced by a recorded vote of all members of the planning unit in which the members record support for adding the element.

Once the planning unit has approved either the entire watershed plan, or components of the plan, it may submit the plan to each of the counties with territory in the management area (i.e., the counties represented among the initiating governments). In order for a watershed plan to draw on the full legal authority granted by the Watershed Management Act, this submittal must occur within four years of the date the planning unit first received funding for planning activities beyond the initial \$50,000 grant (the law does not directly address cases in which a multi-WRIA management area receives a \$75,000 grant for Phase 1; however the intent appears to be that the four-year period begins when the first state funds are disbursed for Phase 2 activities, or Phase 3 activities if there is no Phase 2 grant).

8.1.2 Special Procedure for Planning Unit Approval of Minimum Instream Flows

If Instream Flows are within the scope of planning designated by the initiating governments, the law prescribes a decision procedure for the planning unit to recommend new or modified minimum instream flows for adoption by the Department of Ecology (Ecology). These are:

- In order to recommend modification of existing minimum instream flows on streams that have such flows already adopted by rule, the members of the local governments and tribes on the planning unit must vote unanimously to modify such flows, using a recorded vote;
- In order to recommend adoption of new minimum instream flows on streams where they have not been adopted by rule, the members of all governments and tribes on the planning unit present for a recorded vote must unanimously vote to support the proposed minimum instream flows, *and* a majority of the nongovernmental members of the planning unit present for the recorded vote must vote to support the proposed minimum instream flows.

8.1.3 County Public Hearing

The legislative authority of each county with territory in the management area is required to hold at least one public hearing on the watershed plan (for purposes of the following discussion, the “watershed plan” means the entire original plan, or those components approved by the planning unit). The counties are required to provide

appropriate public notice in advance of the hearing(s).

8.1.4 Joint Approval by County Legislative Authorities

Following the public hearings in the respective counties, the law requires the legislative authorities of all of these counties to hold a joint session to consider the watershed plan. The counties have two options in this joint session:

- Approval of the watershed plan, by a majority vote in the joint session;
- Return of the watershed plan to the planning units with recommendations for revisions.

The county legislative authorities convened in the joint session may not amend the plan itself, but must return it to the planning unit if it is not approved. In this case, the same procedure for planning unit approval, followed by the county hearings, and joint session of county legislative authorities is required. If the planning unit approves a revised plan, and the joint session again declines to approve it, the planning process terminates.

8.2 Adoption of Implementing Rules and Ordinances

8.2.1 Counties and State Agencies

Following approval of the Watershed Plan by the joint session of county legislative authorities, the law requires each county in the management area and each State agency that accepted obligations under the plan to undertake implementing actions. For State agencies, these actions include:

- Adoption by rule of the obligations of both State and county governments;
- Adoption of rules implementing the state obligations; and,
- Other actions to fulfill agency obligations as soon as possible.

For counties, these actions include:

- Adoption of any necessary implementing ordinances; and,
- Other actions to fulfill county obligations as soon as possible.

As indicated in Section 1.6.2, the law prohibits the watershed plan from creating any obligations unless the government to be obligated is represented on the planning unit and approves the element creating the obligation, in a formal voting procedure.

For both counties and State agencies, additional hearings and procedures may be required to comply with State laws on administrative procedures. However, the hearing and county approval discussed in Sections 8.1.3 and 8.1.4 may permit streamlining of adoption procedures at such time as individual rules and ordinances are adopted. Each agency or government should review applicable administrative law in this regard.

8.2.2 Ecology Adoption of Minimum Instream Flow Rules

The law provides additional guidance for the Ecology in adopting or modifying minimum instream flows as recommended by the watershed plan. First, Ecology “must attempt to achieve consensus and approval among the members of the planning unit regarding the minimum flows to be adopted.” The planning unit approval process is described in Section 8.1.2.

If the planning unit approves modification of previously-adopted minimum instream flows, or setting of new minimum instream flows, the law directs Ecology to undertake rule making to adopt the recommended flows. In this case, three options are provided for Ecology’s rule-making procedure:

- The regular rules adoption process provided in RCW 34.05 (Administrative Procedure Act);
- The expedited rules adoption process as set forth in RCW 34.05.230 (Administrative Procedure Act); or
- A rules adoption process that uses public hearings and notice provided by the county legislative authority to the greatest extent possible.

The law is ambiguous in terms of whether Ecology may proceed with rule-making on minimum instream flows on the strength of planning unit approval, or whether the joint session of county legislative authorities must approve minimum instream flows, as is required for the remainder of the plan.

The law also states that rules to adopt or modify minimum instream flows using the procedures described above “do not constitute significant legislative rules as defined in RCW 34.05.328,” and do not require small business impact statements.

Finally, the law gives Ecology the authority to unilaterally adopt rules setting Minimum Instream flows on streams that do not have them, if planning unit approval of minimum instream flows is not obtained within four years of the date the planning unit first receives Phase 2 grant funds. In this case, Ecology has two additional years to adopt such rules.

Under any of the rulemaking procedures described for minimum instream flows, Ecology is required to undertake “government-to-government consultation” with “affected tribes in the management area,” regarding setting such flows. The term “affected tribes” is not defined in the law. It would appear to include any tribes with either water rights or claims or fishing rights in streams contributing to their usual and accustomed fishing areas under consideration for Minimum Instream Flows.

8.2.3 Adoption of Plan or Ordinances by Other Governments

The watershed planning and management statute does not require other governments besides counties and State agencies to adopt the plan, rules, or ordinances regarding the

plan. However, this manual recommends formal adoption of each government entity's obligations, in order to promote implementation. In addition, the planning unit may consider the use of formal agreements binding the implementing organizations to undertake specific actions (see Section 9.1).

8.3 Integration with SEPA

Section 11.2 addresses integration of watershed planning with the State Environmental Policy Act (SEPA).

APPENDIX D
WRIA 53 PUBLIC
PARTICIPATION PLAN

**Lower Lake Roosevelt Watershed
(WRIA 53)
Public Involvement Plan**

INTRODUCTION:

This Public Involvement Plan was developed to focus the WRIA 53 Watershed Planning Unit (PU) in its public outreach strategy. The WRIA 53 PU believes that in order to produce a definable and defensible Watershed Plan, input must be received from various water users, landowners, and agencies throughout the watershed. A proactive Public Involvement program should minimize the probability that the Watershed Plan will fail to address water resource concerns that are a priority to the local citizens, landowners, and local agencies.

The Public Involvement Plan was developed recognizing that there is a diversity of stakeholders to which it must be directed, and those stakeholders have widely differing levels of understanding regarding the water resources issues, and differing needs for content, delivery form, and timing of information on those issues.

GOALS:

The main goals of the Public Participation Plan are to:

1. Raise the community's awareness on the watershed planning process and the water related issues within the Lower Lake Roosevelt Watershed;
2. Gain community involvement and input into the planning processes through implementation of water resource management recommendations;
3. Facilitate the exchange of information between the community and the WRIA 53 – Lower Lake Roosevelt Planning Unit; and
4. Facilitate and disseminate information on other water related issues which are occurring within the watershed by other entities and/or agencies.

TARGET AUDIENCES:

The target audiences for the watershed planning process are diverse with differing levels of understanding, interest, and investment in the Lower Lake Roosevelt planning process. Communication with each of the target audiences should result in, at a minimum, a basic understanding of the goals, objectives, and progress of the WRIA 53 Planning Unit. Audiences identified within the WRIA 53 watershed include:

1. Lower Lake Roosevelt Planning Unit Members;
2. Residents of the Watershed which can not actively participate in the planning process;
3. Elected Officials and agency decision makes;
4. Water purveyors within the watershed;
5. Entities conducting regional studies in the watershed;
6. Media; and
7. General Public.

LEVELS OF INVOLVEMENT:

Each of the target audiences above can choose to be involved in one of four basic ways:

1. Active participation at Planning Unit meetings (voting members);
2. Mailing list to receive meeting notes, agendas, and announcements;
3. Peripheral involvement through participation at various public outreach programs such as web page, newspaper articles, or special public meetings/presentations; and
4. Direct communication with Planning Unit members and lead entity staff.

PUBLIC INVOLVEMENT OBJECTIVES & METHODS:

The following are objectives necessary to meet the goals of the Public Participation Plan.

Objective 1:

Raise level of awareness and understanding of all audiences on the issues surrounding water quantity and water storage in order to contribute practical and useful input to the planning process.

Methods:

- Continue active and consistent participation from the Planning Unit members at meetings and workshops.
- Ensure that information generated by this process is presented in an organized and easy to understand manner.
- Have documents and materials available prior to meetings where they are to be presented, reviewed and/or discussed.
- Sustained media campaign aimed at sparking interest of the general public and informing them of the group's progress.

Measurable Outcomes:

- A minimum of eight watershed planning unit meetings per year for the duration of the project.
- Participation by at least 50% of the Planning Unit members at meetings.
- One to two public outreach meetings per year to attempt to bring more concerned citizens into the Planning process.
- Semi-annual press releases per year.

Objective 2:

Provide adequate access to information about the Lower Lake Roosevelt Watershed Planning process to all audiences.

Methods:

- Maintain a WRIA 53 web site that hosts the information developed by the Planning Unit.
- Develop power-point presentation for public outreach activities and special meetings.
- Prepare articles for local distribution in local papers and/or Conservation District newsletters.

- Attend local government meetings (County Commissioners, City Councils, etc.) to provide updates on the Planning process to the elected officials.
- Utilize local and/or regional events and conferences to distribute information on WRIA 53.

Measurable Outcomes:

- WRIA 53 web site hosted by Lincoln County Planning.
- Annual presentations to local elected officials.
- Two to four articles developed and published in local newspapers.
- One presentation at a local and/or regional water resource conference.

Objective 3:

Provide ample opportunities for constructive public participation.

Methods:

- Provide for 15 minute open public comment period at the end of each Planning Unit meeting.
- Host several public information workshops and/or monthly Planning Unit meetings at various locations around the watershed.
- Provide contact information and web address at all outreach efforts.

Measurable Outcomes:

- WRIA 53 web site hosted by Lincoln County Planning.
- Meetings held at various locations around watershed.

Objective 4:

Members of the community will have opportunities for learning how their comments have been considered during the Planning process.

Methods:

- Develop FAQ section in power point presentation and on web site.
- Record input in minutes at meetings.
- Prepare comment response table for documents provided for public review and comment.

Measurable Outcomes:

- Public comments recorded in meeting minutes.
- Requested changes and comments recorded in documents.

APPENDIX E
WAC-173-563
COLUMBIA RIVER ISF RULE

Chapter 173-563 WAC

INSTREAM RESOURCES PROTECTION PROGRAM FOR THE MAIN STEM COLUMBIA RIVER IN WASHINGTON STATE

WAC

- 173-563-010 Background and purpose.
- 173-563-020 Applicability.
- 173-563-030 Authority.
- 173-563-040 Establishment of instream flows for instream uses.
- 173-563-050 Critical flow adjustment to, and waivers of, minimum instantaneous and average weekly flows.
- 173-563-052 Establishment of instream flows for out-of-stream uses.
- 173-563-056 Application of minimum average weekly flows to out-of-stream uses.
- 173-563-060 Establishment of conservation and efficiency fundamentals.
- 173-563-070 Enforcement.
- 173-563-075 Regulation review.
- 173-563-080 Overriding considerations.
- 173-563-090 Regulation review.
- 173-563-100 Implementation.
- 173-563-900 Critical flow adjustment—Minimum instantaneous and weekly average flows—Columbia River.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 173-563-015 Withdrawal of unappropriated waters. [Statutory Authority: Chapter 173-500 WAC, chapters 34.05, 43.21A, 43.27A, 90.03, 90.44 and 90.54 RCW. 95-02-066 (Order 94-18), § 173-563-015, filed 1/3/95, effective 2/3/95. Statutory Authority: Chapters 34.05, 43.21A, 43.27A, 90.03, 90.44 and 90.54 RCW and chapter 173-500 WAC and WAC 173-563-075. 93-01-009 (Order 92-20), § 173-563-015, filed 12/3/92, effective 1/3/93.] Repealed by 98-08-062 (Order 97-15), filed 3/30/98, effective 4/30/98. Statutory Authority: Chapter 90.54 RCW, WAC 173-563-090 and ESHB 1110 (1997).

WAC 173-563-010 Background and purpose. The Columbia River is an international as well as an interstate river with its waters subject to laws of seven western states, the Province of British Columbia, Canada and the federal governments of the United States and Canada. The flows and levels of the river are in a state of continuous change through the operation of numerous federally owned or federally licensed dams located within the river. The waters of the Columbia River are operated to support extensive irrigation development, inland navigation, municipal and industrial uses, and hydroelectric power development. Among all these uses, the anadromous fisheries of the Columbia River, which are dependent on clean flowing water, require for their survival the establishment of minimum flows of water and special actions by all agencies sharing in the management of the Columbia River.

The provisions of this chapter apply, as a matter of state law, to water right permits issued pursuant to the state's water rights code. The provisions hereof shall provide the department of ecology the basic state policy relating to minimum flows and levels for the Columbia River, for submission to various federal, interstate and state agencies having jurisdiction over the river. Further, the department of ecology of the state of Washington recognizes that, under our federal constitutional system, regulatory powers over the river are shared powers between the United States and the state of Washington and that by various federal actions the state's powers may, and in some cases have been superseded through the mandates of the Supremacy Clause of the United States Constitution.

This chapter is adopted under state legislation, to promote the proper utilization of the water resources of the Columbia River and to protect and insure the viability of the instream resource values associated with the main stem of the Columbia River in the future through (1) the establishment of minimum flows on the main stem Columbia River in Washington state, and (2) the establishment of conservation and efficiency fundamentals relating to out-of-stream and instream uses and values.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-010, filed 6/24/80.]

WAC 173-563-020 Applicability. (1) This chapter applies to public surface waters of the main stem Columbia River in Washington state and to any ground water the withdrawal of which is determined by the department of ecology to have a significant and direct impact on the surface waters of the main stem Columbia River.

The extent of the "main stem" Columbia River shall be the Columbia River from the upstream extent of tidal influence (Bonneville Dam-River Mile 146.1) upstream to the United States-Canada border (River Mile 745) and including those areas inundated by impounded waters at full pool elevations.

(2) Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program mandated by RCW 90.54.040, applies to this chapter.

(3) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter, including existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir, or related facilities. This exemption includes rights embodied in all water right permits and certificates existing on the effective date of this chapter.

(4) 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.

(5) Waters withdrawn by the United States pursuant to RCW 90.40.030 prior to the effective date of this rule relating to the second half of the Columbia basin project, and water right permits and certificates hereafter issued by the department of ecology pertaining to such withdrawn waters, are not subject to the provisions of this chapter.

(6) For the purposes of this chapter, average weekly flows shall be the average of the daily average flows reported in the Columbia River operational hydromet and management system (CROHMS) for a seven-day period beginning at 12:01 a.m. Monday and ending at midnight on Sunday. When the beginning of the seven-day period defined in this section does not correspond to the dates on which flows are established in WAC 173-563-040, the flow requirements for that week shall be the arithmetic average of the required flows listed in WAC 173-563-040 for each of the seven days, rounded to the nearest 1,000 cfs.

[Statutory Authority: Chapter 90.54 RCW, WAC 173-563-090 and ESHB 1110 (1997). 98-08-062 (Order 97-15), § 173-563-020, filed 3/30/98, effective 4/30/98. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-020, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-020, filed 6/24/80.]

WAC 173-563-030 Authority. These rules are adopted under the authority of chapters 90.54, 90.22, and 90.03 RCW, and in relation to chapter 173-500 WAC.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-030, filed 6/24/80.]

WAC 173-563-040 Establishment of instream flows for instream uses. (1) In order to protect the quality of the natural environment and provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values, minimum instantaneous flows and minimum average weekly flows are established for instream uses at the following project locations on the main stem Columbia River in Washington state:

CONTROL STATION	RIVER MILE	MANAGEMENT UNIT
The Dalles Dam	191.5	John Day Dam to Bonneville Dam (Lake Bonneville and Celilo Lake) (River Mile 146.1-215.6)
John Day Dam	215.6	John Day Dam to McNary Dam (Umatilla Lake) (River Mile 215.6-292.0)

CONTROL STATION	RIVER MILE	MANAGEMENT UNIT
McNary Dam	292.0	McNary Dam to Priest Rapids Dam (Lake Wallula and the Hanford Reach) (River Mile 292.0-397.1)
Priest Rapids Dam and upstream (Wanapum, Rock Island, Rocky Reach, Wells, Chief Joseph, and Grand Coulee Dam)	397.1+	Priest Rapids Dam upstream to Canadian Border (River Mile 397.1-745.0)

(2) Minimum instantaneous flows at the locations listed in WAC 173-563-040(1) are established for instream uses as follows:

MINIMUM INSTANTANEOUS FLOWS - COLUMBIA RIVER PROJECTS
(1,000 cubic feet/second)

	Chief* Joseph	Wells & Rocky Reach Rock Island & Wanapum*	Priest Rapids	McNary & John Day	The Dalles
Jan	10	10	50	20	20
Feb	10	10	50	20	20
Mar	10	10	50	50	50
Apr 1-15	20	20	50	50	70
16-25	20	30	50	70	70
26-30	20	50	50	70	70
May	20	50	50	70	70
June 1-15	20	50	50	70	70
16-30	10	20	50	50	50
Jul 1-15	10	20	50	50	50
16-31	10	50	50	50	50
Aug	10	50	50	50	50
Sep	10	20	36	50	50
Oct 1-15	10	20	36	50	50
16-31	10	20	50	50	50
Nov	10	10	50	50	50
Dec	10	10	50	20	20

*As provided in WAC 173-563-050(1), the minimum instantaneous flows set forth in this subsection are subject to a reduction of up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs. For the reach from Grand Coulee through Wanapum, minimum instantaneous flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff adjustment) at Priest Rapids, whichever is higher.

(3) Minimum average weekly flows for instream uses are established at the locations listed in WAC 173-563-040(1) as follows:

MINIMUM AVERAGE WEEKLY FLOWS - COLUMBIA RIVER PROJECTS
(1,000 cubic feet/second)

	Chief* Joseph	Wells & Rocky Reach*	Rock Island & Wanapum*	Priest Rapids	McNary	John Day	The Dalles
Jan	30	30	30	70	60	60	60
Feb	30	30	30	70	60	60	60
Mar	30	30	30	70	60	60	60
Apr 1-15	50	50	60	70	100	100	120
16-25	60	60	60	70	150	150	160
26-30	90	100	110	110	200	200	200

	Chief Joseph*	Rocky Reach*	Wells & Rocky Wanapum*	Rock Island & Priest Rapids	McNary	John Day	The Dalles
May	100	115	130	130	220	220	220
Jun 1-15	80	110	110	110	200	200	200
16-30	60	80	80	80	120	120	120
Jul 1-15	60	80	80	80	120	120	120
16-31	90	100	110	110	140	140	140
Aug	85	90	95	95	120	120	120
Sep	40	40	40	40	60	85	90
Oct 1-15	30	35	40	40	60	85	90
16-31	30	35	40	70	60	85	90
Nov	30	30	30	70	60	60	60
Dec	30	30	30	70	60	60	60

*For the reach from Grand Coulee through Wanapum, minimum average weekly flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff adjustment) at Priest Rapids, whichever is higher. As provided in WAC 173-563-050(1), the minimum average weekly flows set forth in this subsection are subject to a reduction of up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-040, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-040, filed 6/24/80.]

WAC 173-563-050 Critical flow adjustment to, and waivers of, minimum instantaneous and average weekly flows. (1) The director of the department of ecology, when he deems it to be an overriding public interest requirement, may reduce the minimum instantaneous and/or average weekly flows for the Columbia River established in this chapter up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids be less than 36,000 cfs. The amount of the reduction (from zero to twenty-five percent) shall be: (a) Based on the March 1 forecast for April through September runoff at The Dalles, Oregon, as published by the National Weather Service in Water Supply Outlook for the Western United States, and (b) determined from Figure 1 in WAC 173-563-900.

(2) Prior to implementing the critical flow adjustment to minimum flows in a low water year, the department of ecology shall conduct a public hearing to announce its intentions and to solicit public and agency comment on the proposed action.

(3) The department has determined that some damage to instream values may be incurred at flow values equivalent to eighty-eight million acre-feet or less. Therefore, the reduced flows shall be referred to as critical flows and shall be authorized by the director of the department of ecology under the critical flow adjustment only when the March 1 forecast of April through September flow at The Dalles is below eighty-eight million acre-feet (MAF). The critical flows shall, in no case, provide less than 39.4 MAF (seventy-five percent of 52.5 MAF for the April through September period).

(4) The director of the department of ecology may waive the state's minimum flow requirements delineated in this chapter for a defined period of time for the purpose of studying the impacts of various flow levels on the river system and its operation when such studies are to be conducted in consultation with the Washington departments of fisheries and/or wildlife and when said exemption is requested by the departments of fisheries and/or wildlife. Such a request shall be made by letter to the director of the department of ecology. This waiver may include the Federal Energy Regulatory Commission studies to be conducted under Docket No. E-9569 and any operational change which does not allow the flows under this chapter to be met, but which, in the opinion of the director, still provides a commensurate level of protection for instream resources.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-050, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-050, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-050, filed 6/24/80.]

WAC 173-563-052 Establishment of instream flows for out-of-stream uses. In order to protect the quality of the natural environment and provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values, the minimum average weekly flows listed in WAC 173-563-040(3) are established for out-of-stream uses.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-052, filed 10/7/82 and 10/8/82.]

WAC 173-563-056 Application of minimum average weekly flows to out-of-stream uses. (1) For the first 4,500 cfs of water rights issued subject to this program, the following conditions shall apply:

(a) When the March 1 forecast of April-September runoff at The Dalles, Oregon (as published by the National Weather Service in Water Supply Outlook for the Western United States) is equal to or greater than 88 million acre-feet (MAF), no regulation of out-of-stream diverters shall occur, regardless of the gaged flow of the Columbia River.

(b) When the flow forecast is less than 88 MAF but greater than 60 MAF, the department shall encourage voluntary water conservation through appropriate notification of water users in an attempt to foster efficient resource use.

(c) When the flow forecast is 60 MAF or less, the department shall regulate out-of-stream diverters on the basis of first-in-time is first-in-right whenever it is predicted that gaged flows will fall below the minimum average weekly flows as established by this chapter.

(2) For any water allocations issued in excess of the first 4,500 cfs defined in WAC 173-563-056(1), the following conditions shall apply:

(a) When the March 1 forecast of April-September runoff at The Dalles, Oregon (as published by the National Weather Service in Water Supply Outlook for the Western United States) is equal to or greater than 88 million acre-feet (MAF), no regulation of out-of-stream diverters shall occur, regardless of the gaged flow of the Columbia River.

(b) When the flow forecast is less than 88 MAF, the department shall regulate out-of-stream diverters on the basis of first-in-time is first-in-right whenever it is predicted that gaged flows will fall below the CRIRPP minimum average weekly flows as established by this chapter.

(3) The department shall utilize the Bonneville Power Administration (BPA) 30-day power operation plan in predicting specific periods of anticipated flow conditions.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-056, filed 10/7/82 and 10/8/82.]

WAC 173-563-060 Establishment of conservation and efficiency fundamentals. (1) The department, having determined that public water is available from the main stem of the Columbia River in Washington and that continued issuance of water right permits and certificates therefrom is in the public interest, does acknowledge and is concerned that, cumulatively, the projected future diversions from the main stem Columbia River in Washington state may, under certain flow conditions, have a detrimental effect on instream values.

(2) Also, it is in the public interest that the state's water resources be conserved and that the burden of water shortages in low water years should be shared by the various users to the greatest extent practicable.

(3) Notwithstanding the constraints on prorata water-sharing under existing state water laws, the department shall, in projected low water years, utilize all reasonable measures of influence to achieve the goal of this section.

(4) During proof of appropriation of water under RCW 90.03.330 and before issuing a certificate of water right, the department shall assure that the quantities of water shown on the certificate accurately reflect the perfected usage consistent with up-to-date water conservation practices and water delivery system efficiencies.

(5) The department shall continue to seek effective methods to better achieve the goal of this section.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-060, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-060, filed 6/24/80.]

WAC 173-563-070 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under the authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-070, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-070, filed 6/24/80.]

WAC 173-563-075 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-075, filed 6/9/88.]

WAC 173-563-080 Overriding considerations. Future authorizations for the use of water which would conflict with the provisions of this chapter shall be authorized by the director only in those situations when it is clear that overriding considerations of the public interest will be served. Such decisions shall be made in consultation with the directors of the Washington state department of fisheries, the Washington state department of wildlife, the Washington state department of agriculture, and the Washington state commissioner of public lands.

Consideration of the public interest by the director of the department of ecology shall include an evaluation of all uses of the river and its impact on the state of Washington. The uses to be considered include, but are not limited to, uses of water for domestic, stockwatering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, and preservation of environmental and aesthetic values and all other uses compatible with the enjoyment of the public waters of the state.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-080, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-080, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-080, filed 6/24/80.]

WAC 173-563-090 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-090, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-090, filed 6/24/80.]

WAC 173-563-100 Implementation. (1) All water right permits and certificates subject to this chapter or issued subject to chapter 173-531A WAC shall be issued subject to the department's minimum flow requirements. (The minimum average weekly flows established in WAC 173-563-040 and 173-563-052 are equivalent to a flow of 52.5 MAF at The Dalles for the April through September period.)

(2) All water rights for instream uses subject to the minimum flows established in this chapter shall contain the following provision:

This permit/certificate is subject to the minimum flow provisions contained in chapter 173-563 WAC and is subject to regulation by the department of ecology to insure protection of instream resources.

(3) All water rights for out-of-stream uses subject to the flows established in this chapter shall contain the following provisions:

(a) This permit/certificate is subject to the minimum flow provisions contained in chapter 173-563 WAC and is subject to regulation by the department of ecology to insure protection of instream resources.

(b) Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities.[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-100, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-100, filed 6/24/80.]

WAC 173-563-900 Critical flow adjustment—Minimum instantaneous and weekly average flows—Columbia River.

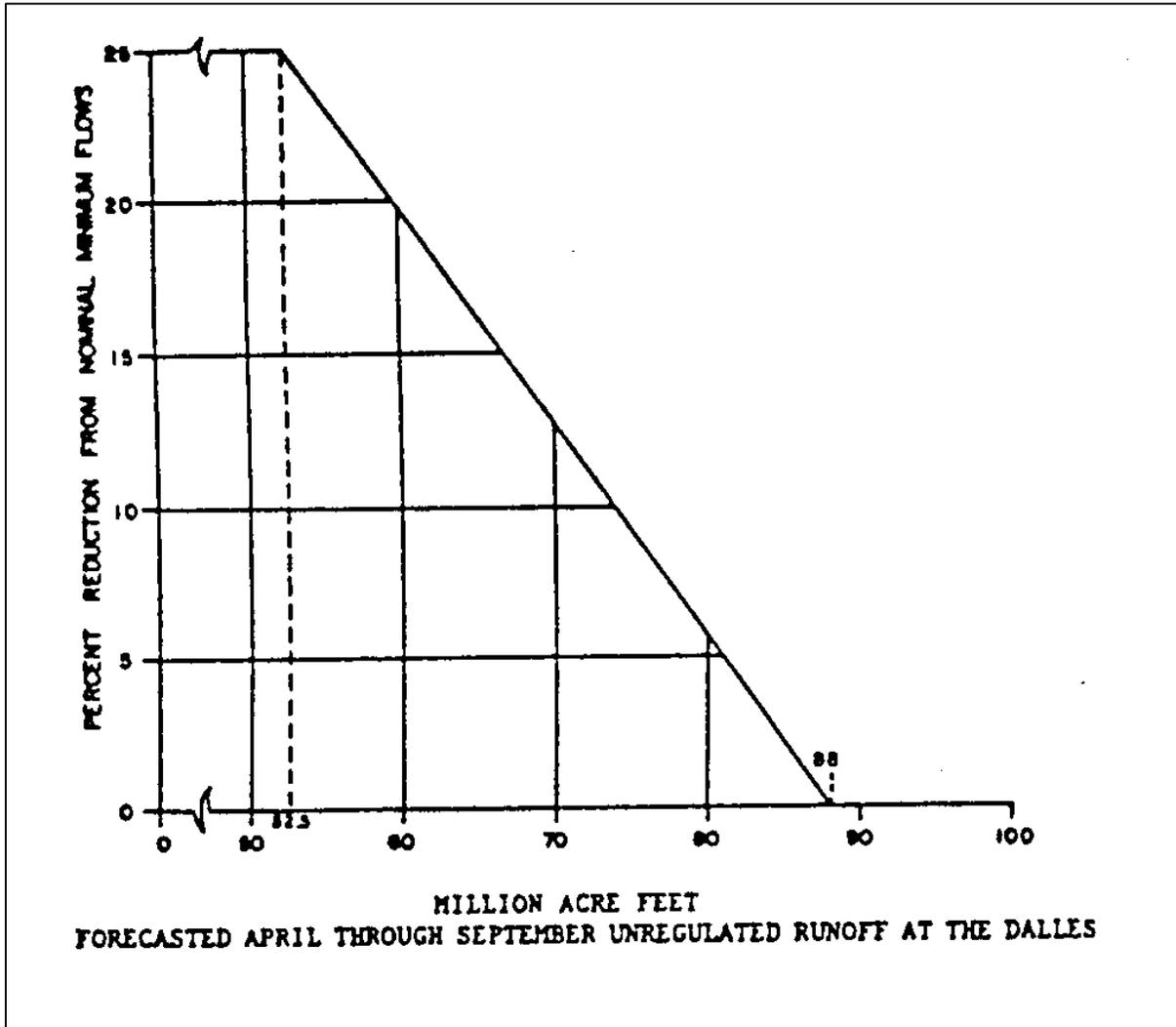
FIGURE 1
CRITICAL FLOW ADJUSTMENT MINIMUM INSTANTANEOUS
AND WEEKLY AVERAGE FLOWS COLUMBIA RIVER

See illustration below.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-900, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-900, filed 6/24/80.]

WAC 173-563-900 Critical flow adjustment--Minimum instantaneous and weekly average flows--Columbia River.

FIGURE 1
CRITICAL FLOW ADJUSTMENT MINIMUM INSTANTANEOUS AND WEEKLY AVERAGE FLOWS COLUMBIA RIVER



(WAC 173-563-900, Illus. 1)