

DROUGHT RELIEF GRANT APPLICATION

Ecology Use Only

Application Number				
D2015	06	-CR	0	
Date				
Rec'd 7/20/2015				

The information provided in this application will be used to determine general eligibility for funding from the Drought Relief Program, and the priority or ranking of the proposal amongst other competing proposals.

Separate application must be made for any needed emergency drought authorization. Before final approval of grant funding, the applicant must submit copies of all required permits and other authorizations needed for the proposal to Ecology for our review.

1. Applicant Name(Public Body): Lower Stemilt Irrigation Districts			
Address: 221 Palouse Street	City: Wenatchee	State: WA	Zip: 98801
(a) Authority (State Law): RCW 87.03			
(b) Date Organized:			

2. Contact Person: Marc Marquis			Title: LSID General Counsel
Address: Peterson & Marquis 1227 1 st Street	City: WA	State: WA	Zip: 98801
Email: marcm@nwi.net		Phone #: (509) 679-0337	

3. PROJECT(S) DESCRIPTION	<p>Provide a description of the proposed project(s) and a detailed scope of work. Attach additional sheet(s) if necessary. Attach a map (U.S.G.S. Quad or comparable) showing the geographic location of the proposed project(s).</p> <p>Lower Stemilt Irrigation District conveys irrigation water throughout the Stemilt basin to support existing commercial agricultural operations consisting primarily of orchard crops. The district administers a portfolio of water rights which are authorized for diversion from Stemilt Creek and/or the Columbia River. Stemilt Creek is tributary to the Columbia River. To mitigate drought conditions in Stemilt Creek, the applicant requests grant funding to install additional diversion pumps at currently authorized locations along the Columbia River and booster pumps as required to deliver supplemental water volumes throughout existing waterlines and canal. Water use authority for proposed diversions shall be provided via a companion emergency drought application pursuant to water certificates S4-SWC-9231, G4-01203C, SWC2532, CS4-04590C@1, CS4-05182@1, CS4-09550@5, CS4-09551C(A), and CS4-30542P(B)@1.</p>
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4. DESCRIPTION OF NEED

Describe what would occur without the benefit of the proposed project(s), including: the nature of the actual hardship, both short-term and long-term impacts, the expected loss of normal water supply by percentage, and the estimated potential financial losses. Explain why these circumstances constitute a water supply emergency resulting from natural-caused drought conditions, rather than a pre-existing condition during a normal water year.

Due to declared drought conditions throughout Washington State, streamflows within Stemilt Creek are less than 75% of normal seasonal flows. The Stemilt Basin contains approximately 4600 acres of orchard. A least 900 acres of this orchard is completely reliant upon Stemilt Creek Flows. The proposed project is expected to prevent losses on more than 220 acres which would otherwise result in approximately \$4.4 million in this year's crop loss. These acres will cost \$1 million to replace and the production of replaced acres will take over 6 years to recover. During those 6 years, production will average 25% of normal so the damages to the trees and resulting future crop losses would add \$7.6 million to the \$4.4 million crop loss for a total potential loss of \$12 million. LSID members consist of some of the largest and most productive orchard crop producers in Washington State. As such, they are major contributors to both the local and state economy. If unmitigated, drought damage will result in significant economic hardship to agricultural workers, growers, and associated ag industry businesses.

5. EXPECTED OUTCOME(S)

Describe how the projects would reduce or avoid harm or hardships and any measures planned to assure the capability and reliability of the proposed project(s) to provide an emergency water supply to the applicant.

If approved, this project would increase the capacity of existing pipelines by about 1100 gallons per minute which is expected to salvage at least 220 acres of orchard. If the project is completed quickly more water can be pumped which would save more acres.

6. WATER SHORTAGE RESPONSE ACTIONS ALREADY TAKEN

Describe the measures taken by the applicant to plan for or mitigate the effects of drought (e.g., conservation, irrigation efficiency measures, leakage, elimination of non-essential uses).

LSID has piped nearly all of its canals, charges consumption based rates, and rigorously controls leaks. Its water is used exclusively for commercial agricultural production. LSID customers have purchased 800 acre feet of water to mitigate the issuance of new water applications that are intended to supplement available water and improve water reliability. These applications have been in process with DOE for two years. It is hoped that DOE will allocate sufficient permitting time to process the applications and/or temporarily permit the mitigation water to be pumped along with other rights to mitigate drought impacts.

7. WATER RIGHTS

- (a) Describe whether you have or will be submitting an application for an emergency drought authorization and or have other pending water right applications

In addition to administering an existing portfolio of water rights, LSID (via Kyle Mathison & Steven Shiftlett) has acquired water rights S4-SWC-9231, G4-01203C, SWC2532, CS4-04590@1, CS4-05182@1, CS4-09550@5, CS4-09551C(A)@1, and CS4-30542P(B)@1 to support pending permits S4-29956 and S4-31083. The applicant has been working with DOE and the Office of Columbia River to for 2 years to complete trust transfers of the subject water rights for the purposes in-stream flows AND mitigation for LSID's pending water permits. To date, Ecology has approved the trust transfer of SWC-9231 and G4-01203C. DOE/OCR staff has advised trust approval of SWC2532 is imminent. The balance of identified water rights remain under review. For the purposes of mitigating emergent drought conditions, LSID has submitted drought application(s) for these water rights to provide temporary authority for additional Columbia River Diversions.

- (b) List the applicant's legal water rights to divert or withdraw water for use on land within the applicant's legal boundaries, and attach copies.

See attached Clousing Report

8. INTERGOVERNMENTAL COORDINATION

Provide a summary of how the applicant has and/or will consult with affected agencies and/or Indian Tribes prior to and during implementation of the proposed project(s). Include a list of the affected agencies and Indian Tribes and a summary of impacts/approvals if known. (Attach an additional sheet if necessary.)

As previously described, the applicant has been working with DOE/OCR to facilitate the trust transfer of water rights for in-stream flow purposes AND mitigation for pending water permits. This effort has required extensive intergovernmental coordination with Ecology, OCR, WDFW, Bear Mountain Water District, Tribes, Columbia River Consultation, and County Governments. Project impacts have been thoroughly evaluated, change notices have been published, and all parties have had ample opportunities to comment.

9. PROJECT(S) SCHEDULE/DURATION

(a) When do you expect to have all the required permitting, approvals, and funding?

A drought change application was received by Ecology on 7/17. Ecology has 15 days to act on this application. New pumps will be installed at existing locations. No other permits or approvals are required. Applicants matching funds are available upon demand.

(b) Approximately how long will the proposed project(s) take to complete?

30 days

(c) Expected project(s) schedule, including start date, completion date, and significant intermediary steps:

Start date: 7/31 (approval deadline for drought change application)

Finish date: 8/31

Note: Diversion station and waterlines are in place. Just need to install additional pumps.

10. PROJECT COMPONENTS

Check appropriate box or boxes and complete estimated cost for proposed activities under this grant.

- (a) Engineering design and report \$ _____
- (b) Project(s) plans and specifications \$ _____
- (c) Purchase of land, rights-of-way, easements \$ _____
- (d) Construction \$ _____
- (e) Construction engineering \$ _____
- (f) Education and outreach \$ _____
- (g) Other Install pumps and electrical \$ 594,695

11. FUND SOURCES	Estimated total project cost		Estimated eligible project cost	
(a) Total estimated project(s) cost	100 %	\$ 594,695	100 %	\$ 594,695
(b) Total estimated eligible project(s) cost	100 %	\$ 594,695	100 %	\$ 594,695
(c) Ecology grant share	50 %	\$ 297,348	50 %	\$ 297,348
(d) Match fund source(s): (specify)	50 %	\$ 297,348	50 %	\$ 297,348
(e) cash	50 %	\$ 297,348	50 %	\$ 297,348
(f)	%	\$	%	\$
(g)	%	\$	%	\$

Applicant may be exempt under WAC 173-167-040(3) from the fund match requirement

12. CERTIFICATION

I certify to the best of my knowledge that the information in this application is true, complete, and correct and that I am legally authorized to sign and submit this information on behalf of the applicant.

MARC MARQUIS
PRINT NAME


SIGNATURE

LSID GENERAL COUNSEL
TITLE

7/16/2015
DATE

13. Send original, including attached sheets, maps, copies of water rights, and other supporting documents, to:

**Department of Ecology
Water Resources Program
PO Box 47600
Olympia, WA 98504-7600
ATTN: Rebecca Inman**

Peterson & Marquis Law Office

1227 First Street
Wenatchee, WA 98801

h2oattorneys.com

July 16, 2015

Department of Ecology
Water Resources Program
P.O. Box 476000
Olympia, WA 98504-7600
Attn: Rebecca Inman

Re: Lower Stemilt Irrigation District Grant Application

Dear Ms. Inman:

Please see enclosed grant application and supporting documents submitted on behalf of Lower Stemilt Irrigation District (LSID). A concurrent drought change application was filed with the Central Regional Office on 7/17/2013. LSID administers water rights on behalf of numerous commercial water users located within the Stemilt Basin. Water rights are primarily sourced from Stemilt Creek which is tributary to the Columbia River. Due to state-wide drought conditions, Stemilt Creek is experiencing flows which are less than 75% of seasonal norms. Decreased creek flows will result in hardship and loss to existing agricultural operations consisting primarily of orchard crops.

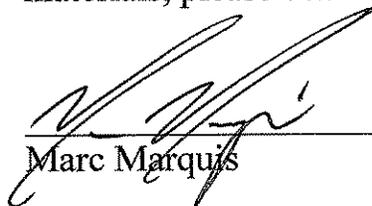
The enclosed grant application seeks funds to offset costs associated with the purchase and installation of an additional Columbia River diversion pump and associated booster pumps as required to supplement water rights normally sourced from Stemilt Creek. LSID has authority for an existing Columbia River diversion and sufficient water system infra-structure to convey additional quantities.

Authority for additional water quantities is available pursuant to water rights S4-SWC-9231, G4-01203C, SWC2532, CS4-04590@1, CS4-05182@1, CS4-09550@5, CS4-09551C(A)@1, and CS4-30542P(B)@1. These water

Mark Peterson:	Cell # 509.264.1882	email: markp@nwi.net
Marc Marquis:	Cell # 509.679.0337	email: marcm@nwi.net

rights have been acquired by principals of LSID and are pending change pursuant to surface water application S4-29956 and S4-31083. The applicant has worked extensively with Ecology and the Office of Columbia River for the past 2 years to consummate the trust transfer of these water rights for in-stream flow purposes AND mitigation for the two referenced pending surface water applications. To date, Ecology has approved trust applications for S4-SWC-9231 and G4-01203C. Whereas DOE staff has recently advised that the trust application for Water right SWC2532 is pending imminent approval. The balance of the referenced water rights are all identified and described within the enclosed Extent and Validity Memorandum developed for the described mitigated trust transfer project. Copies of published Notices of Change and related documents are provided for all water rights pending review and approval. To avoid drought related crop loss and damage to mature trees, the applicant request an expedited review of pending trust applications as necessary to authorize requested quantities.

Your assistance is greatly appreciated. If you have questions regarding these materials, please contact me directly @ (509) 679-0337.



Marc Marquis

Mark Peterson:

Cell # 509.264.1882

email: markp@nwi.net

Marc Marquis:

Cell # 509.679.0337

email: marcm@nwi.net



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

ORDER AND DETERMINATION BY THE DIRECTOR

Washington State is experiencing a drought emergency. We have record-low snowpack in the mountains, and snowmelt through the spring and summer is what traditionally keeps rivers flowing, crops watered, and fish alive. We are starting to feel the pain from this snowpack drought. Impacts are already severe in several areas of the state.

More than 70 percent of the state's snow monitoring stations have record-low snowpack. As a result, many of our major rivers are forecasted to have record-low flows – the lowest in the past 64 years – between April and September. This shortfall is a serious threat to municipal and domestic water supplies, irrigated agriculture, and fisheries throughout Washington.

With the concurrence of Governor Inslee and following consultation with affected Indian Tribes, I hereby expand the drought emergency to include all of Washington State.

Snowpack conditions across the state have continued to decline since the initial regional drought declaration on March 13, 2015. Dozens of major rivers are at record-low flows for this date. The longer-term weather forecast is for warmer and drier-than-normal conditions for this spring and summer. Conditions are likely to get worse.

Reduced snowpack creates risks to municipal and domestic water supplies. The Department of Health has identified numerous water systems throughout the state that draw water from shallow alluvial aquifers, which are dependent on groundwater recharge from snowmelt.

Agriculture faces a risk of crop loss throughout the state. Farmers in the Yakima and the Walla Walla basins are being curtailed, which could have devastating impacts on orchards and vineyards. Curtailment is likely to occur in the Little Spokane, Nooksack, and Chehalis basins, and could occur for the first time ever in the Colville Basin. Loss to perennial crops in these regions would be a significant hardship to individual farmers and agricultural communities.

Throughout the state, there is a high risk that fish populations will experience hardship from extremely low flowing rivers this year. Hatcheries will face warmer water, increased risk of disease, and potential loss of water supply. Tributaries and smaller streams may drop to levels where stream channels become impassible to fish. Pools of water will become disconnected from other pools, isolating fish and increasing the risks of predation and harassment.

Therefore, in accordance with the provisions of RCW 43.83B.405, IT IS ORDERED that all of Washington state is hereby under a drought emergency. This order is effective immediately and shall remain in effect through December 31, 2015, unless terminated prior to that date.

In accordance with the provisions of WAC 173-166-060, the Department of Ecology may, under the terms of this order, take the following emergency actions:

1. Issue emergency permits for water.
2. Approve temporary transfers of water rights.
3. Provide funding assistance to public agencies to alleviate drought conditions.
4. Take other actions depending on future developments.

Other state and local agencies with authority to issue permits or authorizations related to the drought emergency actions must provide a decision to an applicant within fifteen (15) calendar days of the date of application.

In accordance with the proclamation of the Washington Governor, dated January 3, 1989, (Centennial Accord), nothing herein shall impair or infringe upon the treaty reserved rights or governmental authority of any federally recognized Indian tribe nor shall this order be deemed an assertion of state authority over Indian reservation lands. The Department of Ecology intends to work cooperatively, on a government-to-government basis, with all affected tribes.

Further details about this order or the actions available under it, may be obtained by contacting:

Jeff Marti, Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
360-407-6627
Jeff.marti@ecy.wa.gov

Applications for emergency water permits or temporary transfers of water rights are available by contacting one of the Department of Ecology's regional offices:

Northwest Regional Office Bellevue, WA Office: 425-649-7020 Email: arha461@ecy.wa.gov	Central Region Office Yakima, WA Office: 509-575-2597 Email: sueb461@ecy.wa.gov
Southwest Regional Office Lacey, WA Office: 360-407-6859 Email: oday461@ecy.wa.gov	Eastern Regional Office Spokane, WA Office: 509-329-3541 Email: awat461@ecy.wa.gov

DATED this 21st day of May, 2015.


Maia D. Bellon, Director
Department of Ecology

Marc Marquis

From: Mark Peterson <markp@nwi.net>
Sent: Thursday, July 09, 2015 8:46 AM
To: Marc Marquis
Subject: FW: estimated costs for future pumps

See below. I think we can use this for the application. Probably better add in a 20% contingency amount?

Mark Peterson 509.264.1882 markp@nwi.net
Peterson & Marquis
1227 First Street
Wenatchee, WA 98801
<http://h2oattorneys.com>

From: Steve Shiflett [<mailto:steve.s@nwi.net>]
Sent: Wednesday, July 8, 2015 12:20 PM
To: josh@irrigationtech.net
Cc: Mark Peterson; kyle.mathison@stemilt.com; ssi@nwi.net
Subject: FW: estimated costs for future pumps

Josh;
The total for your pumps and electrical panels installed would be about \$450,000 plus tax. Does this include any pipe work that we will have to do at the station below. What about having to pull more wires in to the panels from the PUD side?

Kyle ;
I looked at the pumps at the White Dirt and you have 2-250 HP

1. 1-300 HP at the River \$130,000
2. 1-300 HP at the White Dirt \$130,000
3. 1-300 HP below Stemilt warehouse \$60,000
4. 1-300 HP at the Blair Slack Rd \$130,000

Thx Steve

From: Josh Walker [<mailto:josh@irrigationtech.net>]
Sent: Wednesday, July 08, 2015 12:03 PM
To: steve.s@nwi.net
Subject: estimated costs for future pumps

Steve,
The estimated costs for the 300hp pumps is approx.. \$ 130,000 for each site.
The 100hp below the warehouse estimated cost would be approx.. \$ 60,000
thanks

Josh Walker
Irrigation Technology & Control, Inc

Marc Marquis

From: Steve Shiflett <steve.s@nwi.net>
Sent: Thursday, July 16, 2015 8:55 AM
To: Mark Peterson; Marc Marquis
Cc: kyle.mathison@stemilt.com
Subject: FW: additional pump estimates

From: Fisher, Tammy [<mailto:Tammy.Fisher@chelanpud.org>]
Sent: Thursday, July 16, 2015 8:16 AM
To: 'Steve Shiflett'
Subject: RE: additional pump estimates

Blair Slack Rd - \$13,091 + connections fees @ 480v (200amp = \$4100)

Station 1850 (above warehouse) - \$2665 + connection fee (if CT's are not big enough)

White Dirt - \$5900 + connection fee (if CT's are not big enough)

Sincerely,

Tammy L Fisher
Customer Service Engineer

Public Utility District No. 1 of Chelan County
PO Box 1231
Wenatchee, WA 98807
(509)661-4617 Office
(509)668-4900 Cell
(509)661-8148 Fax

Extent and Validity Memorandum

To: DOE OCR

From: Mark Peterson, Attorney for Lower Stemilt Irrigation District

Re: New Applications for water DOE tracking #: S4-29956 and S4-31083

Background:

A prior memorandum entitled "Procedure Memorandum" anticipated that the applicant would assemble and summarize the data sets necessary to support a tentative determination of each right proposed for mitigation for its pending applications. The intent of this memorandum is to fulfill that expectation. Each right will be identified with its attributes as currently documented. This will also include a description of any relationship that it may have to any other water right. Following the identification will be a summary of the facts supporting the extent and validity right and its eligibility for use as mitigation. The memorandum will then calculate explain mitigation values as they support the issuance of the permits.

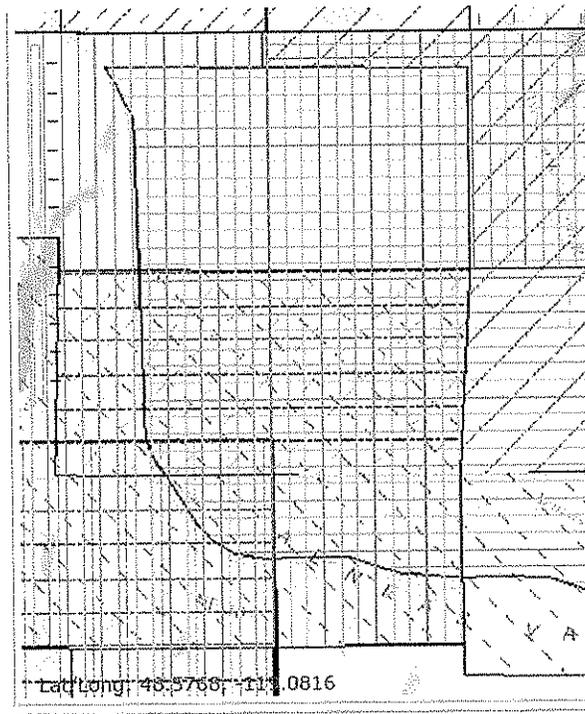
Extent and Validity of Water Rights Proposed for Mitigation:

Hart/ Boyd Farm rights:

The first rights perfected within the Boyd Farm parcels are represented by claims filed largely by Ralph Hart. The claims assert priority dates as early as 1900 and describe diversions from Aeneas Creek to gravity fed irrigation systems serving 150 acres of low lands adjacent to the creek. In 1958 Hart applied for a new permit to irrigate 104 acres. The application contains language that suggests that he hoped to pipe and pressurize the system so it could be used for sprinklers. In 1961 he applied to change the diversion point of this diversion to lower on the creek and this was granted and is reflected in the certificate. This shift indicates a decision to implement a system pressurized by a pump rather than gravity because a down creek move would otherwise decrease the available head to pressurize the system. It is theorized that there was insufficient head at the original location for sprinklers and the new location afforded a closer proximity to electrical power. The ROE supporting the ground certificate confirms that Hart asserted a claim to 104 acres of irrigation at that time so the new permit was called "supplemental" to the claim and does not appear to be additive as to the quantities authorized.

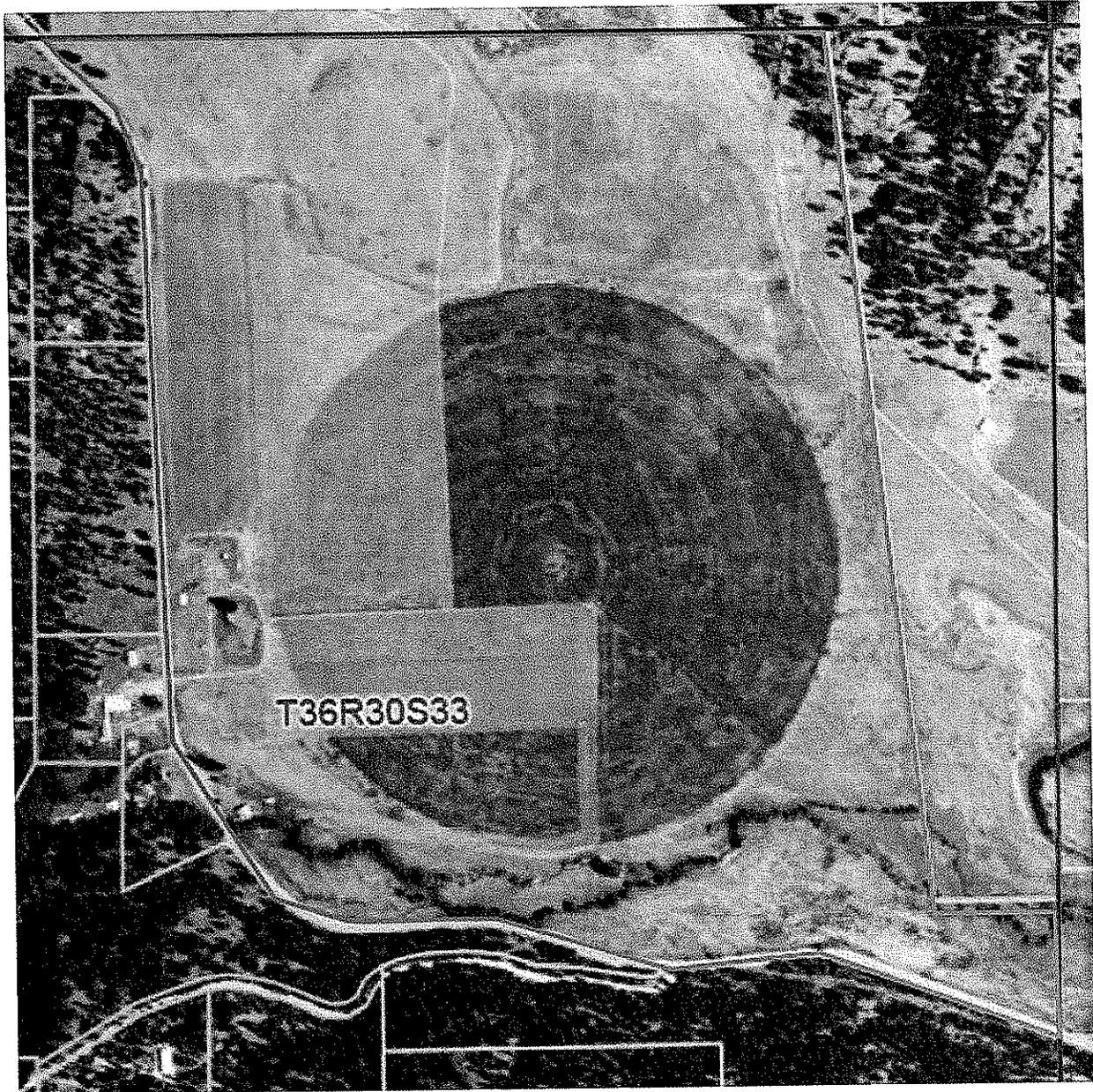
Hart then applied for a ground water right for 150 acres in 1971 and filed the claim for 150 acres in 1974. The ground water right utilizes a 30 horsepower pump from a 14 inch casing. The ground water right record of examination indicates that the 150 acres includes and is not additive to the certificated 104 acres, which was the same as the claimed quantity at that time, but is primary and additive for the additional 46 acres authorized. Though there appears to be a disconnect between the amount of acres asserted as irrigated by Hart and DOE the record seems to have settled upon 150 acres authorized.

The remaining water rights that overlap this place of use appear to be ground water claims asserting quantities consistent with exempt well uses. These claims are consistent with the apparent effort to subdivide parcels surrounding the farm for domestic and recreational use development. As is often the case, the place of use (POU) descriptions on water rights are larger and more general in area than the subsequent parcel lines and the actual acres irrigated. Current Department of Ecology mapping of the POUs overlapping the farm parcels demonstrate this phenomenon:



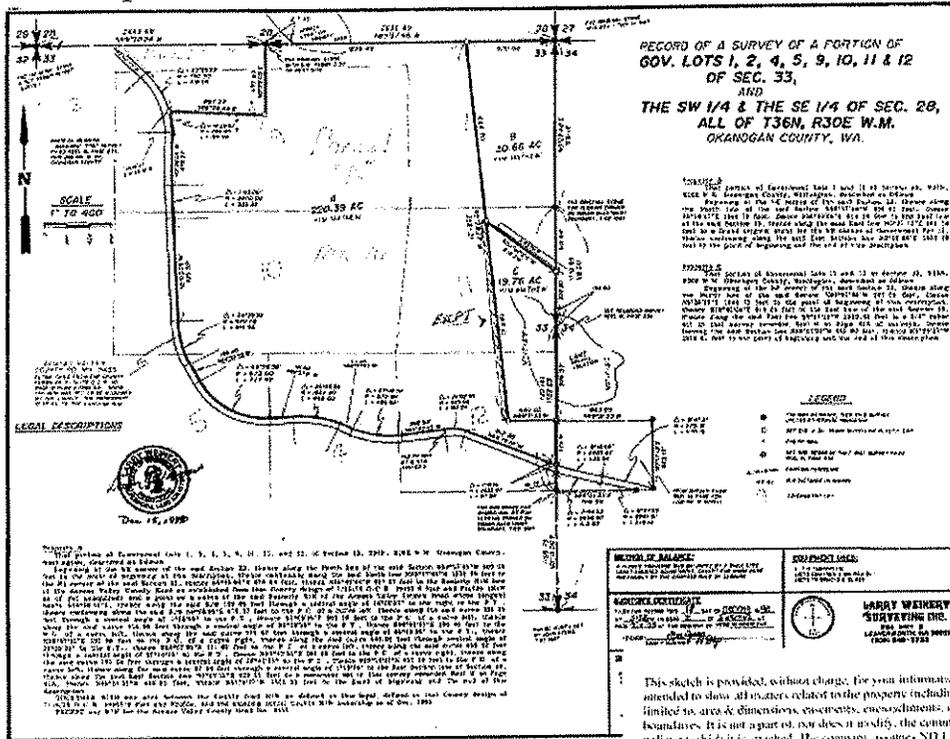
The water right proposed for mitigation quantities from this farm are currently appurtenant to two farm parcels in Section 33, 36N, R 30 E.W.M. adjacent to Aeneas Creek which is a tributary to the West Fork of the San Poil River which is

a tributary of the Columbia River. Ralph Hart is the person named on nearly every water right for the farm and the surrounding parcels in Section 33.

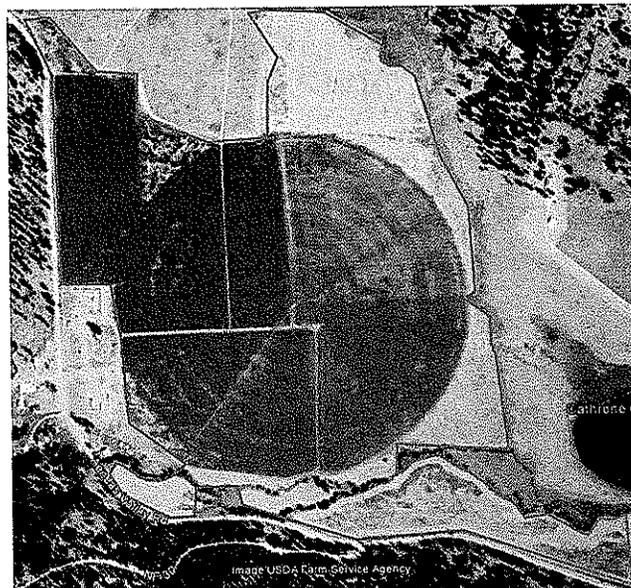


The above picture from Okanogan County's mapping tool shows a parcel layer over a September 2009 aerial photo. The farm parcels outlined in red that total approximately 230 acres. Mr. Montanye's declaration (attached) confirms that the farming was all contained within the two farm parcels. This layer does not show that the upper left (NW) corner of the parcel depicted has since been subdivided

into an approximately 10 acre parcel. The applicant now owns both of the farm parcels shown as parcels "A" and "B" below:



An August 2011 photo shows that the cultivated portions of the property, outlined in red, are much closer to 200 acres in size even not including the stockyard area on the west edge:



The aerial photo record includes photos from 1964, 1974, 1975, 1983, 1988, 1991, 1995, 1998, 2001, 2005, 2009 and 2011 (all attached). These photos confirm Mantanye's statement by showing that the farming was confined to the farm parcels and typically exceeded the 150 acres authorized. This record somewhat vindicates Hart's assertions. The farm parcel boundaries were likely defined by the arable land most susceptible to cultivation as the property was subdivided by Hart. The surrounding parcels are used for stock and domestic uses and are configured accordingly. The other smaller claims filed have POU descriptions that generally encircle the farm parcels in a manner consistent with this pattern of development.

The irrigation piping on the property delivers the water from the G4-01203C well to points only within the farm parcels. These facts allow a conclusion that the only beneficial use of G4-01203C was confined to the farm parcels and such must be the limit of the POU of that right. Within that POU is a circle 90 acres in size. There are also four fields in the corners of the farm parcels that easily add another 60 acres of irrigated ground to the total attributable to the right. There are wheel lines in place to irrigate the northern corner fields and hand lines and other wheel line components are on site for the southern corner fields. Montanye also cites the use of "big gun" type sprinklers utilized in other portions.

The irrigation requirement for the crop together with the sizing and configuration of the installed system appear consistent with what was anticipated by DOE calculations in its decision to certify the water right. All of these factors amply support the conclusion that this entire right appears to be consistently utilized in full with no five year gaps or reductions. The right is therefore valid and exercisable at this time.

The specific quantities of the farm rights are as follows:

Claim 69422 by Ralph Hart asserts a diversion on Aeneas Creek at 600 gpm and 600 acre feet for stock and 150 acres of irrigation.

S4-15113 (Cert 9321) this surface water certificate from Aeneas Creek was issued to Ralph Hart with a priority date of September 29, 1958 authorizing 1.2 cubic feet per second (cfs), equal to 538 gpm and 416 af per year for the irrigation of 104 acres.

G4-01203C: This ground water certificate was issued to Ralph Hart with a priority date of 7/30/1971 and authorizes 800 gallons per minute (gpm) and 640 acre feet (af) per year from a well for the irrigation of 150 acres from April 15 to October 15.

Historic consumptive use of these rights is estimated at 85% using average efficiencies and evaporation estimates from the Department of Ecology's Guidance Document 1210.

The applicant deeding these three rights into the State Trust Program should effectively convey all quantities both attributable to these rights and appurtenant to the farm parcels, other than maybe a few claims for exempt quantities. Thus these rights provide the following mitigation values:

DOE Tracking #	Acre Feet	Consumptive Use (af)	Gallons Per Minute
G4-01203C	640	544	800
S4-15133	not additive		
<u>69422 CL</u>	<u>not additive</u>		
Total Boyd	640	544	800

Bear Mountain Water District:

Bear Mountain Water District has seen rapid expansion over the last several years. This expansion has been characterized by new development that is expected to rely upon inchoate water right permits and redevelopment of land previously developed as orchards that have perfected water right certificates. The BMWD service area has been hard hit by the recent recession. As the result of this BMWD understands that some of the development plans have been scaled back somewhat such that a better allocation of BMWD assets would emphasize planning and infrastructure investments in place of retaining water resource authority that would take much longer to fully utilize.

As previously authorized per CHEL-12-04 and DOE Modification Letter dated 11/30/12, the following narrative and Table 1 describes the BMWD systems, its portfolio of water rights (many of which are undergoing or have recently undergone

tentative determinations), and their interrelationships. This table has since been amended to include the recently changed S4-30542(A) right.

BMWD has an upper system that depends on a well which is the authorized source of Ground Water Certificate 30959, which is not additive to the annual quantities in Surface Water Certificate 30541 and therefore must be deducted from the annual quantities in Surface Water Certificate 30541 to the extent it is utilized from the well. This upper system is not currently connected with the lower system, but will be intertied at some point in the future.

The lower system is sourced from two main points of diversion. Most, but not all, of its rights are authorized to be diverted at both of these points. Certificates numbered 27562, 22540 and 148 are sourced from the two main points of diversion discussed above, but also retain their original diversion points for non-potable purposes. Each of the rights, their diversion points and quantities are set forth in the second part of Table one

Table 1: Table of water rights purveyed by the Bear Mountain Water District:

<u>Diversion/Withdrawal Points</u>	<u>gallons per minute</u>	<u>acre feet per year</u>
A= Westerly Diversion	8162.9*	899.5*
B= Easterly Diversion	9463.9*	1752.3*, **
C= BMWD well	192.6	109.3
D= 120592 original diversion	157	46
E= 146 original diversion	108	46.8
F= 27562 original diversion	170	17.1
G=22540 original diversion	54	66.5

* includes amounts from S4-30542(A)P

** (B diversion amounts must subtract amounts diverted at A, C, D, E, F, G)

Water Right	Qi (gpm)	Qa (acre feet)	Points of Diversion /Withdrawal Authorized
5182	341	272.5	A,B
30501	148	140	A,B
30502	193	67.4	A,B
9551	49	22	A,B
9550	161.5	96.7	A,B
4590	17.5	8.2	A,B
120592	157	46	A,B, D
27562	170	17.1	A,B, F
22540	54	66.5	A,B, G
148	108	46.8	A,B, E
30541	507	214.3	B
30277	794	638.5	B
30959	192.6	109.3	C
30542(A)	6728.4	119	A,B

To prevent the authorized instant demand rates of these rights from being exceeded at any time the installed capacity of the diversion/withdrawal points must be no greater than the total authorized from each point and the points must be administrated such that any combined demand does not exceed the combined total authorization. Since all of the rights are related to the easterly diversion point this means that after confirming the quantities diverted at all other points is within their respective authorizations these quantities are totaled and then subtracted from the easterly diversion total to determine the remaining authorization at that point.

Lastly, as is the case for most municipal water suppliers, there are a number of other claims and rights within the District's service area. BMWD owns or purveys those listed above pursuant to express agreements. There may be others that are purveyed by BMWD as the result of defacto changes. From these rights the following are proposed for mitigation:

CS4-30502C was authorized for change by the Department of Ecology on 10/25/2011 confirming the extent and validity of the amounts stated above as vesting with BMWD. Less than five years has elapsed since that time so there could have been no relinquishment of the right. The balance of the right was transferred to J. Kirk Bromiley. The BMWD quantities were transferred pursuant to a lease to accommodate concerns that the right might be interpreted as a family

farm right. The lessor supports this right being used as permanent mitigation. Permanent trust donation for instream flows and mitigation for out of stream use is allowed for family farm rights.

CS4-04590C was authorized for change by the Department of Ecology on 3/23/2012 confirming the extent and validity of the amounts stated above as vesting with BMWD. Less than five years has elapsed since that time so there could have been no relinquishment of the right. The change documents did not estimate consumptive use so the figure above is based on the 70% efficiency used in the ROE along with a 10% evaporation rate to arrive at 80% CU.

CS4-09551C was authorized for change by the Department of Ecology on 7/5/2012 confirming the extent and validity of the amounts stated above as vesting with BMWD. Less than five years has elapsed since that time so there could have been no relinquishment of the right. The balance of the right was transferred to Tom Reynolds.

CS4-09550C was authorized for change by the Department of Ecology on 7/5/2012 confirming the extent and validity at 93.2 acre feet, 131.9 gallons per minute, 57.4 af CU as vesting with BMWD. Less than five years has elapsed since that time so there could have been no relinquishment of the right. The balance of the right was transferred to third parties. A portion of this right was preserved from relinquishment by a Determined Future Development. This portion has since been perfected because the developer has transferred the right to a Water District for municipal purposes. Municipal purposes include instream flows. To the extent that the municipal purveyor has not pumped the water it would have been used for instream flows thus perfecting the DFD.

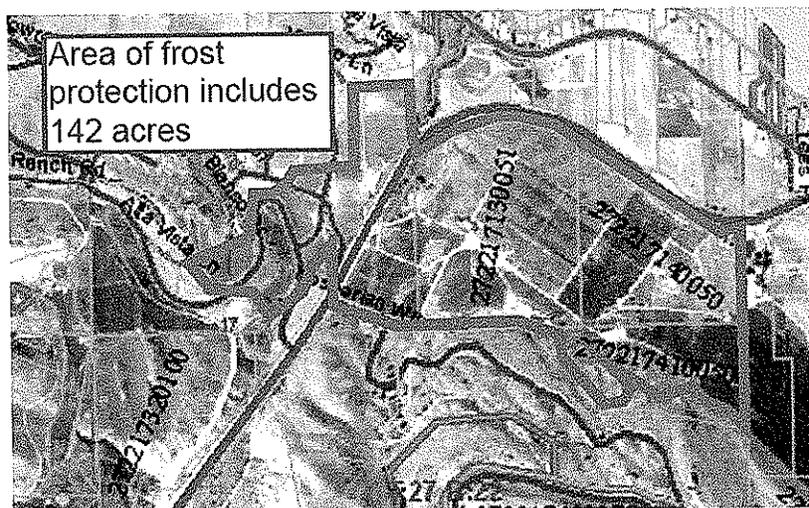
S4-30542(A) has been administratively divided such that the frost water portion of the right is now exclusively owned by the Bear Mountain Water District. Only this portion is being considered for mitigation water. The right has little consumptive use associated with it, but it does authorize large amounts of instant demand rate. The instant demand rate is divided between the District and the mitigation quantities to rebalance those portfolios' ratio between instant demand rate and annual demand rate. Commercial agricultural rights are typically used on a 24/7 application schedule where municipal rights tend to have higher peak demand rates relative to annual quantities. The instant demand rate from this right being retained by the District is intended to have the effect of increasing the demand

rates of the other water rights within the District's portfolio without increasing the annual quantities of those same rights.

Beneficial use of this right has been perfected so it is eligible for changes. S4-30542 was originally issued to Apples and Coconuts AND Bear Mountain Ranch, Inc. with a priority date of 01/09/1991 authorizing 0.5cfs and 75afy for irrigation of 25 acres of orchard from April 1st to October 31st and 15cfs and 119afy for frost protection as required on up to 142 acres sourced from two Lake Chelan points of diversion located at Government Lot 4, Sec. 16, T27N, R22E and Government Lot 3, Sec. 7, T27N, R22EWM for use within portions of Section 17, 18, and 20, T27N, R22EWM all in Chelan County, Washington. Pursuant to an administrative division Bear Mountain Water District owns the frost protection attributes of the right.

The applicant now proposes to change the right to allow for a portion of its higher instant demand rate to be associated with the District's other municipal water rights and to utilize the rest for mitigation in support of the subject applications.

The perfected place of use for the frost water portions of the water permit consist of an area equal to 142ac. Since that time, orchards within the place of use have gradually transitioned to apples and grapes which are less susceptible to frost damage and the irrigation system currently utilizes high efficiency under-tree applicators. The resulting efficiency improvements in farming practices and technologies have rendered the frost water portions of the permit as surplus and now available for transfer.



The Report of Examination issued in support of the original S4-30542P includes a detailed analysis regarding the application rate of water for frost protection purposes. The report states that the perfected instantaneous water quantities will be dependent upon whether the applicant installs either over-tree or under-tree applicators. Under-tree applicators are currently in use within subject area. The Report of Examination concludes an application rate of 15cfs and 119af is appropriate when utilizing under-tree applicators for an area equal to 142ac. The place of use includes a perfected area of use equal to 142ac. Therefore, the Board tentatively determines water quantities in the amounts of 15cfs and 119af as required to provide for frost protection to 142acres.

A consumptive use analysis is required when an additional use is proposed. GUID 1210 advises 10% of the Total Irrigation Requirement calculated is consumed by evaporation as applied. Consumptive use would then be equal to $119af \times (.10)$ which results in 11.9af. and would be expected to have remained approximately the same during the last five years of beneficial use. Since the annual quantities of the right are being utilized for mitigation, subsequent use of the right will need to be provisioned to prevent an increase in this consumptive quantity.

CS4-05182 was authorized for change by the Department of Ecology on 7/15/2011 confirming the extent and validity at 272.5 acre feet, 341 gallons per minute, 218.3 af CU as vesting with BMWD. Less than five years has elapsed since that time so there could have been no relinquishment of the right. The balance of the right was transferred to third parties. A portion of this right was preserved from relinquishment by a Determined Future Development. This portion has since been perfected because the developer has transferred the right to a Water District for municipal purposes. Municipal purposes include instream flows. To the extent that the municipal purveyor has not pumped the water it would have been used for instream flows thus perfecting the DFD. 103.5 acre feet of which 90.3 acre feet are consumptive are proposed as mitigation water to support this application. No instant demand rate needs to accompany these quantities as that is being supplied by other rights. All other quantities are being retained by the District.

In summary BMWWD proposes to contribute the following rights:

DOE Tracking #	Acre Feet	Consumptive Use (af)	Gallons Per Minute
CS4-30502C	67.4	54.7	184
CS4-04590C	8.2	6.56	17.5
CS4-09551C	20.5	16.2	39.37
CS4-09550C	93.2	57.4	131.9
CS4-30542(A)	119	10	3000
<u>CS4-05182C</u>	<u>103.5</u>	<u>90.3</u>	<u>0</u>
Total BMWWD	411.8	235.16	3,372.77

Burnett

The last set of water rights proposed for mitigation come from property owned by Tom Burnett. It is served by three water rights. Historic uses were authorized pursuant to Surface Water Certificates 2532 and 4525 which are partly non additive. The third right, S4-32352(A), is a newly perfected right with attributes that are all additive.

The Burnett property is located on a hillside above Lake Chelan a short distance down lake from where 25 Mile Creek empties into the Lake. This property is serviced by an irrigation canal which originates in the creek and gravity flows to the subject property along with several other parcels under Surface Water Certificate 2532 (hereinafter "2532"). Surface Water Certificate 4525 (hereinafter "4525") was obtained by only Burnett for the purpose of authorizing a secondary point of diversion from Lake Chelan along with additional instant demand rate. This water is usually cleaner than the water from Twenty Five Mile Creek and the secondary diversion was helpful in providing a reserve source in the event of disruptions in the Creek source from natural and manmade causes. This pattern of appropriation is similar to that implemented by the other users of 2532. Both of these rights specify the same place of use, but the number of acres authorized differs.

4525 authorizes the irrigation of 25 acres while 2532 authorizes the irrigation of 66.8 acres within the same legal description. DOE's 5/12/2008 decision found 60 acres within these legal descriptions were irrigated pursuant to these rights either

as commercial agriculture or domestic yards and gardens. At the time of the decision the domestic use on the applicant's property included 17 connections to dwellings together with miscellaneous uses in out buildings. According to the file associated with 4525 and technical assistance from the Department of Ecology it was determined that the interior domestic use for the 17 residential connections and other interior uses would be 7.2 acre feet. In total the annual beneficial use on the property attributed to these two rights is 245.58 acre feet. All of which can be attributed to 2532 and part of which can be attributed to 4525.

Surface Water Certificate 2532 serves the same place of use as Surface Water Certificate 4525 which was applied for to authorize what is in practice an additional point of diversion and additional instantaneous demand rate for a portion of the same water uses that existed under 2532. Annual quantities of 4525 are not additive to the annual quantities of 2532. 4525 authorizes the irrigation of 25 acres and domestic use. DOE found that beneficial use under 4525 would include 101 acre feet for irrigation and 7.2 acre feet for interior domestic uses for a total of 108.2 acre feet. To recognize this relationship 2532 and 4525 were conditioned not exceed 245.58 acre feet and the quantities available under 4525 should not exceed 93.05 acre feet. This last number, 93.05 acre feet, is consumptive use only in order to satisfy the enlargement analysis.

The applicant recently finished with the development of Surface Water Permit 32352 that allows the irrigation of 13 acres in an area east of the historic irrigated area. There is a claim numbered 88931 that is not providing water to the applicant's property nor the proposed place of use. The following is a summary of each right proposed for mitigation.

S4-32352(A) is a recently perfected right. Since it perfected within five years and during its authorized development schedule it has not relinquished. It irrigates 13 acres utilizing the 130 gallons per minute and 39 acre feet as authorized and set forth in its supporting ROE. Pursuant to GUID 1210 these quantities are expected to be 85% consumptive (33.15 acre feet). A permanent transfer of this right into trust for instream flows and mitigation purposes is consistent with its family farm provision.

(Need photo or some data showing proof of appropriation.)

CS4-SWC4525 was authorized for change by the Department of Ecology on 5/12/2008 confirming the extent and validity at 93.05 acre feet (all consumptive), 112.14 gallons per minute, as vesting with Tom Burnett. A portion of this right was preserved from relinquishment by a Determined Future Development. This portion has since been perfected because it was authorized for municipal purposes. Municipal purposes include instream flows. To the extent that the municipal purveyor has not pumped the water it would have been used for instream flows thus perfecting the DFD. Burnett proposes to retain the quantities under this right and transfer all but some of the instant demand rate of 2532 from the remaining quantities under the other two rights.

SWC2532, Burnett's portion, was found to be valid to the extent of 245.58 acre feet, 600 gallons per minute for the irrigation of 60 acres and domestic supply. The same decision found that 7.2 acre feet were all consumed as domestic supply and the remaining amount was 85% consumed such that the total consumed quantities for both 2532 and 4525 is 209.8 acre feet. If 238 gallons per minute are retained as additive to SWC 4525 along with the 90.3 consumptive acre feet then the remainder of this right, 152.53 acre feet (119.5 consumptive) and 362 gallons per minute, can be used for mitigation. A portion of this right is preserved from relinquishment by a Determined Future Development. This portion is valid and exercisable at this time. Transfers to trust are allowed pending the perfection of a DFD such that these quantities are available for permanent mitigation.

DOE Tracking #	Acre Feet	Consumptive Use (af)	Gallons Per Minute
SWC 2532	152.53	119.5	362
<u>S4-32352(A)</u>	<u>39</u>	<u>33.15</u>	<u>130</u>
Total Burnett	191.53	152.65	492

Mitigation Values Analysis:

The applicant proposes to mitigate the issuance of the new right so that it is water budget neutral. The mitigation subtotals detailed above are summed as follows:

Source	Acre	Consumptive	Gallons
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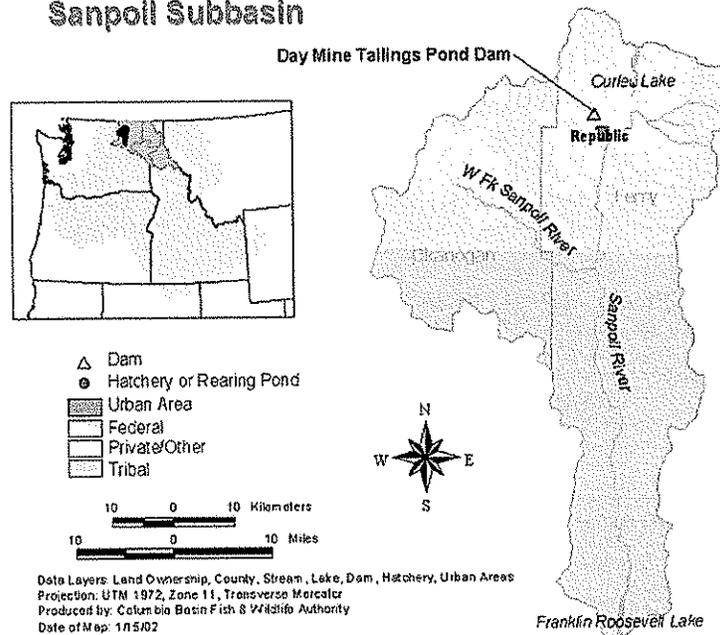
Identity	Feet	Use (af)	Per Minute
Boyd	640	544	800
BMWD	411.8	309.66	3,298.27
<u>Burnett</u>	<u>191.53</u>	<u>152.65</u>	<u>492</u>
Total Mitigation	1243.33	1006.31	4590.27

WAC 173-152-020(18) defines a water budget neutral project as one that exchanges water rights such that there is no diminishment of water at the source. In this case the proposed source of the new water right is located at the mouth of Stemilt Creek on the Columbia River, at approximately river mile 449. The total mitigation water quantities offset a like amount at that point.

Upstream of that point the proposed transfer of water will create additional mitigation values that can offset further appropriated amounts as well as other potential detriments to the public interest or impairment as anticipated by WAC 173-152-020(10). Since the proposed mitigation is water rights for water rights the exchange can be evaluated in part by comparing the relative quantitative benefits to the affected reaches. These benefits can be expressed in terms of a percentage of annual flows per river mile

The Boyd water enhances the full length, 20 miles, of the West Fork of the San Poil River. It also enhances 40 miles of the San Poil River from its confluence with the West Fork to the Columbia, and from that confluence at river mile 615.5 to river mile 449 where Stemilt Creek enters the Columbia an additional 166.5 miles. The BMWD and Burnett water benefits the four miles of the Chelan River and then 54 miles of the Columbia River from river mile 503 to the Columbia's confluence with Stemilt Creek at river mile 449.

Sanpoil Subbasin



The West Fork of the San Poil River averages 63 cubic feet per second and 45,630 acre feet per year. (USGS 2008 water data report). The Boyd Water right sources from near the mouth of Aeneas Creek where it forms the headwaters of the West Fork and, at 544 acre feet of consumptive use per year, it often represents substantially all of the available surface water flows at that point. Thus during an irrigation season of June through September on average it contributes 3.6% to the summer time instream flows or 1% of the annual instream flows of the West Fork of the San Poil River's 20 miles.

The San Poil River averages 16,000 acre feet per month during the irrigation season. (DOE supply forecast 2008) June- September would thus be 64,000 acre feet which 544 acre feet of consumptive use from the Boyd right would augment by 0.85% for 40 miles. USGS flow data shows that the River averages 122,800 acre feet annually such that 544 acre feet would enhance this flow by 0.44% annually.

The Columbia River at Rock Island has an average annual flow of 85,640,000 acre feet per year. The Boyd water would benefit the Columbia 166.5 miles at 0.00064% and the Chelan water would benefit it for 54 miles at 0.00053%.

The burden of appropriating permit annual quantities in excess of the exchanged quantities, 1031.77 acre feet, is 0.0012% of annual flows for 449 miles. If the length of river benefitted or burdened is multiplied by the percentage of such burden or

benefit then the resulting amounts when added together and compared should reveal the relative mitigation values. The above benefits and burdens data and mitigation calculation is tabled as follows:

Reach	length	% benefit	% burden	benefit factor	burden factor
West Fork	20	1.0		20	
San Poil	40	0.44		17.6	
Columbia	166.5	0.00064		0.1	
Columbia	54	0.00053		0.02	
Columbia	449		0.0012		.53
				37.72	.53

Thus the instream flow benefits produced upstream of the proposed point of diversion exceed the instream flow burdens of granting the remaining portions of the permits by a ratio of 70 to one. This calculation, while somewhat rough, is sufficient to demonstrate that if the quantity of instream flows alone were considered the proposed mitigation values amply to support the applications. However, increased instream flows' benefits to habitat also vary according to location and season. Even so, since the burdens all take place in the lower Columbia where the flows at any time of year make these amount negligible, it is hard to imagine circumstances where the measurable benefits to the San Poil River and its West Fork which are cited as important habitats in need of enhancement. (Truscott, Draft Report to NW Power Council 2008)

Conclusion:

The above rights provide 1243.33 acre feet of which 1006.31 acre feet are consumptive. They provide a total instant demand rate of 4590.27 gallons per minute. These amounts offset identical amounts at the proposed point of diversion for the subject new water applications. Upstream of the diversion point within tributaries with relatively small existing instream flows they also create mitigation value in excess of the water budget neutral offset sufficient to support the remainder of the permit quantities requested.

WATER RIGHT PURCHASE AND SALE AGREEMENT

This Water Right Purchase and Sale Agreement (the "Agreement") is entered into this date by and between Kyle Mathison ("Buyer") and Tom Burnett ("Seller"), sometimes collectively referred to as the "Parties", or individually, a "Party".

The Parties agree as follows:

- Description of Water Right – Background.** The Seller's water right is referenced by the Washington State Department of Ecology (DOE) Certificate Numbers 4525, 2532 and Permit number 32352 (the "Water Right").
- Purchase Price.** This agreement is conditioned upon obtaining the water right change authorization necessary to transfer the water right from its existing attributes to those desired by the Buyer. Because this process involves a determination as to the extent and validity of the right by the DOE the amount of water purchased shall ultimately be limited to such transfer authority. The water rights available for transfer shall be limited to those that can be attributed to the water rights in excess of any amount to be reserved by Seller from said water right. As of the date of this Agreement, Seller anticipates that that 90 acre feet and 350 gallons per minute for 20 acres of commercial irrigation and municipal use is a sufficient quantity of water to reserve and not sell to Buyer, and Seller hereby reserves this amount. Seller reserves the right to increase or decrease the amount of water to be ultimately sold to Buyer. The purchase price shall be \$1,700.00 dollars (One Thousand Seven Hundred and 00/100 Dollars) per acre foot successfully transferred. Transferred acre feet shall include those that served as adequate mitigation to support the issuance of a new right for Buyer. This transfer is expected to yield as much as 180 acre feet.
- Earnest Money; Minimum Transfer Amount.** Buyer shall pay \$15,300 as earnest money (the "Earnest Money") to Seller. In the event that the transfer anticipated by this Agreement yields less than 90 acre feet in total, then Buyer may, at Buyer's sole option, terminate this Agreement and receive a refund of the entire amount of the Earnest Money, without interest. If Buyer terminates this Agreement for reasons within his control then Seller shall retain the Earnest Money. At closing, the Earnest Money shall be applied towards the purchase price.
- Mutual Consideration.** The Parties acknowledge the significant time and expense incurred by one another in furtherance of this transaction, and in light of the commitments made herein, the Parties acknowledge and affirm the mutual consideration for this Agreement.
- Permits.** Buyers shall pay the expense of obtaining the water right transfer authority and shall promptly pay all fees and costs related to said transfer when incurred. Seller and Buyer shall each bear their own expenses related to any construction work they desire to conduct related to any new delivery system (including but not limited to, the decommissioning of any portion of the Seller's system, subject to Seller's written consent prior to any decommissioning by Buyer of any portion of Seller's system).

6. Representations and Warranties. Seller shall convey the right by deed pursuant to the terms of the water right transfer authorization.

7. Termination. Either Buyer or Seller shall have the right to terminate this Agreement for any reason in their sole discretion at any time prior to Closing by providing the other party a written notice of termination. However, the terminating party shall be required to reimburse the other party for all costs, fees and expenses incurred by the non-terminating party relative to entering into and performing on this Agreement as the sole remedy for termination. The earnest money provisions in paragraph 3 are in addition to the costs allocated in this paragraph.

8. Mutual Consideration. The Parties acknowledge the significant time and expense incurred by one another in furtherance of this transaction, and in light of the commitments made herein, the Parties acknowledge and affirm the mutual consideration for this Agreement.

9. Closing.

9.1 Peterson and Marquis shall act as closing agent for this agreement and shall collect and exchange all documents necessary to affect the transfer as contemplated herein. Closing shall take place on or before the expiration of two weeks after the transfer authority becomes final and no longer subject to appeal.

9.2 At Closing, the parties agree to sign all documents reasonably necessary to transfer the Water Right to the Buyer or Buyer's designee, including, but not limited to a Statutory Warranty Deed and real estate excise tax affidavit, prepared by Peterson and Marquis, identifying the Buyer or an entity designated by the Buyer as Grantee therein.

9.3 Buyer shall deliver to the closing agent a cashier's check or equivalent verified funds necessary to complete the purchase in accordance with this Agreement.

9.4 "Closing" shall mean the date on which all documents are recorded and the net sales proceeds are available for disbursement to Seller.

10. Assignment. The Buyer may not assign this Agreement without the advance written consent of the Seller, which consent shall not be unreasonably withheld. Seller may not assign this Agreement without the advance written consent of the Buyer, which consent shall not be unreasonably withheld.

11. Time is of the Essence. Time is of the essence in this Agreement.

12. Counterpart/Facsimile. This Agreement may be executed separately or independently in any number of counterparts and may be delivered by manually signed counterpart or facsimile. Each and all of these counterparts shall be deemed to have been executed simultaneously and for all purposes to be one document, binding as such on the parties. The facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either

party, or the closing agent, the parties will confirm facsimile transmitted signatures by signing an original document.

13. Attorney's Fees. If either Party should have to bring legal action to enforce any provision of this Agreement, neither party shall be entitled to recover their costs and attorney fees in such action or enforcement.

14. Representation. The Parties have requested that Peterson & Marquis draft this agreement and pursue the water transfer authorization contemplated herein. Each party has had the opportunity to have this agreement reviewed by their own counsel. This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

15. Governing Law and Venue. The laws of the State of Washington shall govern the validity, enforcement, and interpretation of this Agreement. The venue of any legal action shall be in Chelan County, Washington.

16. Binding Effect. This Agreement shall be binding upon and inure to the benefit of Seller and Buyer, and their respective heirs, personal representatives, successors and assigns.

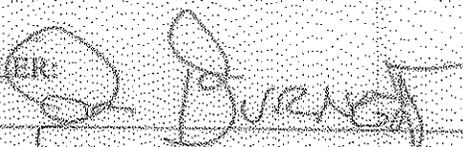
17. Entire Agreement. This Agreement contains the entire agreement and there are no other agreements, warranties, or understandings, written or oral between the Parties. Amendments to this Agreement shall be written and signed by both Parties.

18. Signature Authority. Each of the individuals signing below represent and warrant that they have the authority to sign this Agreement and that the Agreement is binding on the entity for which they are signing.

19. Memorandum of Agreement. The Seller agrees that the Buyer may unilaterally record a Memorandum of this Agreement with the Chelan County Auditor, at Buyer's cost and expense.

20. Effective Date. The effective date of this Agreement shall be the date of the last signature below.

BUYER:
By: 
Name: Kyle D. Mathison
Title: _____
Date: 5/6/13

SELLER:
By: 
Name: Tom Burnett
Title: _____
Date: 5/03/13

WATER RIGHT PURCHASE AND SALE AGREEMENT

This Water Right Purchase and Sale Agreement (the "Agreement") is entered into this date by and between Kyle Mathison ("Buyer") and Lakeview Utilities Company, Inc. ("Seller"), sometimes collectively referred to as the "Parties", or individually, a "Party".

The Parties agree as follows:

- Description of Water Right - Background.** The Seller's water right is referenced by the Washington State Department of Ecology (DOE) Tracking numbers 5182, 30501, 30502, 9551, 9550, 4590 and 30542 (the "Water Right") and is limited to its remaining interest in said rights.
- Purchase Price.** This agreement is conditioned upon obtaining the water right change authorization necessary to transfer the water right from its existing attributes to those desired by the Buyer. Because this process involves a determination as to the extent and validity of the right by the DOE the amount of water purchased shall ultimately be limited to such transfer authority. The water rights available for transfer shall be limited to those that can be attributed to the water rights in excess of any amount to be reserved by Seller from said water right. Said reserved amount is 30 acre feet and 600 gpm. The purchase price shall be Seventeen Hundred dollars (\$1,700.00) per acre foot successfully transferred. Transferred acre feet shall include those that serve as adequate mitigation to support the issuance of a new right for Buyer. It is expected that the transfer will yield approximately 300 acre feet.
- Earnest Money.** Buyer shall pay \$25,500 as earnest money to Seller. This money shall be refunded to Buyer if the transfer fails to yield at least half of the amount anticipated for reasons beyond the control of the Buyer causing Buyer to terminate the sale completely. If Buyer terminates this agreement for reasons within his control then Seller shall retain the earnest money. At closing the earnest money shall be applied towards the purchase price.
- Mutual Consideration.** The Parties acknowledge the significant time and expense incurred by one another in furtherance of this transaction, and in light of the commitments made herein, the Parties acknowledge and affirm the mutual consideration for this Agreement.
- Permits.** Buyers shall pay the expense of obtaining the water right transfer authority and shall promptly pay all fees and costs related to said transfer when incurred. Seller and Buyer shall each bear their own expenses related to any construction work they desire to conduct related to any new delivery system (including but not limited to, the decommissioning of any portion of the Seller's system).
- Representations and Warranties.** Seller shall convey the right by deed pursuant to the terms of the water right transfer authorization.
- Termination.** Either Buyer or Seller shall have the right to terminate this Agreement for any reason in their sole discretion at any time prior to Closing by providing the other party a written notice of termination. However, the terminating party shall be required to reimburse the

other party for all costs, fees and expenses incurred by the non-terminating party relative to entering into and performing on this agreement as the sole remedy for termination. The earnest money provisions in paragraph 3 are in addition to the costs allocated in this paragraph.

8. Closing.

8.1 Peterson and Marquis shall act as closing agent for this agreement and shall collect and exchange all documents necessary to affect the transfer as contemplated herein. Closing shall take place within two weeks of the transfer authority becoming final and no longer subject to appeal.

8.2 At Closing, the parties agree to sign all documents reasonably necessary to transfer the Water Right to the Buyer or Buyer's designee, including, but not limited to a Statutory Warranty Deed and real estate excise tax affidavit, prepared by Peterson and Marquis, identifying the Buyer or an entity designated by the Buyer as Grantee therein.

8.3 Buyer shall deliver to the closing agent a cashier's check or equivalent verified funds necessary to complete the purchase in accordance with this Agreement.

8.4 "Closing" shall mean the date on which all documents are recorded and the net sales proceeds are available for disbursement to Seller.

9. **Assignment.** The Buyer may not assign this Agreement without the advance written consent of the Seller, which consent shall not be unreasonably withheld. Seller may not assign this Agreement without the advance written consent of the Buyer.

10. **Time is of the Essence.** Time is of the essence in this Agreement.

11. **Counterpart/Facsimile.** This Agreement may be executed separately or independently in any number of counterparts and may be delivered by manually signed counterpart or facsimile. Each and all of these counterparts shall be deemed to have been executed simultaneously and for all purposes to be one document, binding as such on the parties. The facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the closing agent, the parties will confirm facsimile transmitted signatures by signing an original document.

12. **Attorney's Fees.** If either Party should have to bring legal action to enforce any provision of this Agreement, neither party shall be entitled to recover their costs and attorney fees in such action or enforcement.

13. **Representation.** The Parties have requested that Peterson & Marquis draft this agreement and pursue the water transfer authorization contemplated herein. Each party has had the opportunity to have this agreement reviewed by their own counsel. This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and

mutually drafted by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

14. **Governing Law and Venue.** The laws of the State of Washington shall govern the validity, enforcement, and interpretation of this Agreement. The venue of any legal action shall be in Chelan County, Washington.

15. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Seller and Buyer, and their respective heirs, personal representatives, successors and assigns.

16. **Entire Agreement.** This Agreement contains the entire agreement and there are no other agreements, warranties, or understandings, written or oral between the Parties. Amendments to this Agreement shall be written and signed by both Parties.

17. **Signature Authority.** Each of the individuals signing below represent and warrant that they have the authority to sign this Agreement and that the Agreement is binding on the entity for which they are signing.

18. **Memorandum of Agreement.** The Seller agrees that the Buyer may unilaterally record a Memorandum of this Agreement with the Chelan County Auditor, at Buyer's cost and expense.

19. **Effective Date.** The effective date of this Agreement shall be the date of the last signature below.

BUYER:

By: Kyle D. Mathison
Name: Kyle D. Mathison
Title: Individual
Date: _____

SELLER:

By: Lebanon Utilities Company Inc.
Name: Shannon Kollmeyer
Title: Pres.
Date: 4-8-13

WATER RIGHT LEASE AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this 7th day of Sept, 2011 by and between Bear Mountain Water District, hereafter referred to as "LESSOR"; and Lakeview Orchards, Inc. hereafter referred to as "LESSEE".

IN CONSIDERATION of the conditions stated herein, including but not limited to the mutual benefits to be obtained through cooperation to achieve the described change of water right; and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LESSOR and LESSEE agree as follows:

- 1. Agreement to Lease; Description of Water Rights.** Subject to the terms of this Agreement, LESSOR agrees to lease and temporarily transfer to LESSEE perfected (previously used) water rights in amounts approximating 67.4 acre feet per year and 184 gallons per minute. The Water Right is embodied within the portion of State of Washington Water Right No. SWC 30502 proposed for change to non potable municipal use (hereinafter "water right"). Any conditions of the transfer pertaining to the water right, should it be approved, shall be binding upon LESSEE.
- 2. Limited Term of Use.** The Water Right is to be requested for change to add source locations, change a purpose and add place of use, for the use of LESSEE temporarily during the term of this Agreement. The terms of this lease are intended to comply with RCW 90.66.065, and to allow LESSOR to retain control over the water right to engage in future farming activity. To the extent the LESSEE is not using the water the LESSOR may use the water so long as said use complies with the authority granted by the certificate as conditioned on transfer.
- 3. Lease Price; Payment.** The Lease Price shall be consistent with the relevant rates and charges of the Lessor which may be changed from time to time in Lessor's sole discretion.
- 4. Contingencies.** The obligations of the parties to this Agreement are contingent upon the following: LESSOR must be granted final approval that is not appealed from the Department of Ecology and/or through a County Water Conservancy Board for amendment of the Water Right to accommodate LESSEE'S use.
- 5. Cooperation; Costs.** LESSOR and LESSEE agree to cooperate fully to support the change of the Water Right; including performing any and all acts and executing any and all documents as may be necessary and proper to accomplish the purposes of this Agreement. LESSOR will prepare and file all necessary applications and paperwork to carry out the water right transfer and will bear all costs of the transfer applications. Each party shall be responsible for its own consultant and attorney fees.
- 6. Ownership.** Absolutely and without exception, LESSOR retains ownership of the Water Right notwithstanding any appurtenance principles of water law. LESSEE agrees to make no

claim whatsoever of appurtenance or ownership in the Water Right. Under this Agreement, LESSOR is temporarily granting LESSEE a use license (subject to approval by Washington Department of Ecology) and is not granting any ownership interest in the Water Right. Upon Termination of this lease all present possessory interest will revert to the LESSOR.

7. Closing. The date of Closing of the lease transaction shall be within 15 days from satisfaction of contingencies.

8. Termination. This Agreement shall remain in effect for a period of 10 years following the date of Closing. This agreement shall automatically renew for an additional 10 years unless either party elects to terminate the lease by communicating their intent to do so in writing two years in advance prior to the end of the 30 year period.

DATED this 7th day of September, 2011.

Mark Peterson acting in fact for Lessor *
Authorized Representative of LESSOR

Mark Peterson acting in fact for Lessee *
Authorized Representative of LESSEE

By: Mark Peterson
(print name)

By: Mark Peterson
(print name)

* per phone authorization

INDEX

<u>Pages</u>	<u>Subject</u>	<u>Adjudicated Certificate Number</u>
3-5	Water Law History and Study Purpose	
5-10	Class I, Lockwood Right and Associated Changes	319
10-17	Class II, Wood Right and Associated Changes	320
17-18	Class III and Change	321-323
18-20	Class IV, Holcomb Right and Associated Changes	324
20	Class V, Spring Hill and Associated Changes	325
20-21	Class VI, Lake Irrigation Company and Associated Changes	326
21	Class VII	327
21	Class VIII	328
21	Class IX and Change	329
21-22	Class X and Associated Changes	330
22	Class XI and Change	331
22	Class XII	332-337
22-23	Class XIII and Associated Changes	338-341
23	Class XIV	342
23	Class XV	343
23	Class XVI	344-345
24	Class XVII and Change	346
24	Class XVIII	347
24	Class XIX	348
24	Return Flow Spring Rights (Miscellaneous)	361
24-25	Galler Spring Rights and Associated Changes	362-369
25-43	Listing of Current Lands Served (By Class)	
43-45	Storage Rights & Associated Changes, Classes I through VIII	349-360
46-47	Listing of Current Reservoir Rights	
47-48	Surface Water Certificates (Under RCW 90.03.250)	
48-49	Surface Water Permits (Under RCW 90.03.250)	
49	Surface Water Applications (Under RCW 90.03.250)	

Index (Continued)

Because of the large number of changes included in this document and the fact that many of them affect more than one class of water, the following list is provided to index those changes.

<u>Pages</u>	<u>Certificate of Change Number</u>
16	12
6	63
15	65
14	67
16, 23, 24, 44	93
14	95
13	101
11, 18	102
16	103
22	104
7, 12, 44	117
20, 45	118
7, 12, 19	120
19	124
7, 12, 19, 45	129
16	131
13	144
8, 20, 45	166
15	204
22	218
25	235
8, 20, 45	379
10	394
20	407
21, 22	569
45	786
17	853
17	854
9	1123
9	1135
22	1151
18	1-3-2
44	1-3-5
17	1-3-11
44	1-3-66
23	1-3-77
10	1-4-133
19	1-4-207

As a final note, it should be kept in mind that subsequent to the adjudication, certificates of water right were issued to those claimants who were awarded rights. Those certificates are numbered from 319 through 369. The certificates of adjudicated water right were issued under RCW 90.03.240.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE MANAGEMENT)
OF THE SURFACE WATERS OF STEMILT)
CREEK, CHELAN COUNTY, WASHINGTON)

PROPOSED
FINDINGS

Basis for Determining Rights to Water

During the period of 1891 to 1917, the principal of prior appropriation, or first in time is first in right, was established as the basis of determining relative rights to water between the appropriation of the waters of the State of Washington. This principal was established by the State Legislature in 1891, (Ch. 142, Laws of 1891). The 1891 law provided for the posting of Notice of Intent to appropriate waters at the point the water was diverted from a stream, and for the "relation back" to the date of the notice provided the appropriation is, "...diligently and continuously prosecuted to completion..." (Laws of 1891, p. 328). The act also recognizes appropriations previously made, and provides that it shall not be construed to interfere with vested rights to water (Laws of 1891 §§ 2 and 4, pp. 327-28).

Prior to enactment of the 1891 laws dealing with water, a water right could be established, in addition to riparian use, through diversion and beneficial use of water under the laws or customs recognized in the locality at the time. This procedure did not provide for posting a notice of diversion of water. However, notices were often posted and filings made with the county clerk, or auditor, to insure recognizance of the intent to use water. Measure of the right was beneficial use of the water and the priority related back to the date steps were first taken to divert and beneficially use the water.

Riparian water rights derive from ownership of land which abuts or is contiguous to natural, non-navigable lakes or water courses. Riparian water rights are a part of common law, which was adopted as the rule of decision by the Washington Territorial Legislature prior to the Enabling Act that created the State of Washington in 1889. Thus, riparian water rights have existed in Washington State since territorial days. Laws of 1865-1866, and Laws of 1862-1863. The distinguishing feature and foundation of the riparian water right doctrine is: equality of rights and reasonable use of all riparians.

The position of the Department of Ecology is that the 1917 Water Code statement that, "Nothing contained in this chapter shall be construed to lessen, enlarge, or modify the existing rights of any riparian owner..." (RCW 90.03.010, in part) and the statement, "...shall be hereafter acquired only by appropriation for a beneficial use and in the manner provided and not otherwise..." (RCW 90.03.010, in part) intended that further expansion of riparian usage of water be halted and that all future expansion of water usage be in compliance with the code. However, the ambiguous nature of the term, "...existing rights of any riparian owner..." (RCW 90.03.010, in part) creates an uncertainty as to the protection afforded unused or prospective riparian rights. The Supreme Court of the State of Washington found in *Brown v. Chase*, 125 Wash. 542, 553 (1923) that: "Waters of non-navigable streams in excess of the amount which can be beneficially used, either directly or prospectively, within a reasonable time, on or in connection with the riparian land, are subject to appropriation for use on non-riparian lands." *Brown v. Chase, supra*, did not define "reasonable time" for initiation of a riparian water right, nor was a date designated from which to measure the "reasonable time". However, *Corker and Roe, in Washington's New Water Right Law--Improvements Needed*, 44 Wash. L. Rev. (1968), contains an excellent discussion on the "reasonable time" concept at pages 113 and 128. In *U.S. v. Ahtanum Irrigation District*, 330 F. 2d 897 (9th Cir. 1964), the Court found that the existence and continuation of riparian rights in the State of Washington, like appropriative rights, are dependent upon beneficial use, and that riparian rights must be exercised within "two to three years." No date was stated from which the two- or three-year period began. In *State v. American Fruit Growers*, 135 Wash. 156, 237, p. 498 (1925), and *In re Sinlahekin Creek*, 162 Wash. 635 (1931), the court affirmed the "reasonable time" concept without clarification. However, the Attorney General (representing the Supervisor of Hydraulics) argued in his brief that riparian water rights were extinguished by the 1891 Act (Ch. 142, Laws of 1891) or, as an alternative, that the rights were cancelled by the 1917 Water Code.

The status of riparian water rights in Washington is best clarified in Proctor v. Sim, 134 Wash. 604, 236 P. 114 (1925), where the Court held as follows: (1) The common law or riparian rights in Washington must be modified because of the arid conditions of the state, and a riparian's right be measured by his beneficial use, either presently or within a reasonable time; (2) That the above is what the Washington Legislature meant by the existing right preserved in the 1917 code; and (3) That Washington's Water Code, like Oregon's, operates to cut off unused riparian rights.

Consequently, the Department of Ecology takes the position that (1) Riparian rights had to be exercised within a reasonable time after enactment of the 1917 Water Code (effective date, June 6, 1917); (2) Three years is a "reasonable time"; and (3) Continuation of riparian rights, as with appropriate rights, is dependent upon beneficial use.

The 1917 Water Code provides a method whereby rights to water perfected under either riparian or appropriative theory could be determined. The method of determination is a general adjudication of water rights within a designated area, and is a special kind of quiet title procedure. This procedure is set forth in RCW 90.03.110 through RCW 90.03.240.

In 1920, an adjudication of rights to the waters of Stemilt Creek was completed. State of Washington v. American Fruit Growers, Inc., et al, Chelan County Court No. 18107. The findings of the Chelan County Court were appealed in the Supreme Court of the State of Washington, which Court decision is reported in State of Washington v. American Fruit Growers, 135 Wash. 156, 237 P. 498 (1925). The findings of the Supreme Court were guiding in a Decree on Remittitur issued by the Chelan County Court in 1926, Chelan County Court No. 18107.

Many of the rights to water confirmed in State, supra, had been recognized by the Chelan County Court in an earlier decree, Phillip Miller, et al v. Lake Irrigation Company, et al, Chelan County Court No. 4 (1902). Inclusion of such decrees in a later adjudication was contemplated by the 1917 Water Code, which at RCW 90.03.170 provides as follows:

"...A final decree adjudicating rights or priorities, entered in any case decided prior to taking effect of this act, shall be conclusive among the parties thereto and the extent of use so determined shall be prima facie evidence of rights to the amount of water and priorities so fixed as against any person not a party to said decree."

All of the decrees in State, supra determined the volume of the right to water for each of the several ditches used to divert water from Stemilt Creek. Lands appurtenant to the right to water were described, but the volume of the total ditch right that is appurtenant to the land, and the number of acres upon which the water had been beneficially used was not made a part of the decrees. The 1917 Water Code required these factors be determined so that extent of each right to water can be determined (RCW 90.03.240).

Following completion of the adjudication, but prior to the decision of the State Supreme Court, several water rights were transferred from the point of diversion and/or place of use specified by the decree. These transfers were approved by the Washington State Supervisor of Hydraulics by certificates of change. Some of the transfers do not limit the number of acres upon which the transferred water could be used, and many transfers did not specifically quantify the volume of the rights transferred. Additional transfers of water rights were authorized following the filing of the Decree on Remittitur.

In 1963, as a result of several protests to a proposed transfer of Class I, 2, and 4 rights to water from Stemilt Creek, which transfer requests would have allowed the Wenatchee Heights Reclamation District to change its point of diversion in the form of "Cross-over Ditches" between the Southeast Branch of Stemilt Creek and the Easterly Northwest Branch and Westerly Northwest Branch of Stemilt Creek, the Washington State Department of Conservation, Division of Water Resources, after a field investigation of the matter, entered an order denying the application to transfer the rights. The order was appealed to the Superior Court of Chelan County, which Court in Wenatchee Heights Reclamation District v. M. G. Walker, Chelan County Court No. 22103 (1966) entered a judgement upholding the order of the State Department of Conservation.

Following the judgement in Wenatchee, supra the state allowed additional transfers of rights to water from Stemilt Creek.

Purpose of the Study

The present study of rights to water from Stemilt Creek was undertaken so that the Department of Ecology could better manage the waters of Stemilt Creek within the framework of water rights established by the court and by the laws of the State of Washington. The study used all available records to determine the priority and class designation of each right adjudicated, the name of the person holding the right as that name appears on state records, the maximum amount of water that each right holder may receive, uses for which the rights have been established, the sources of water, location of points of diversion and description of lands to which the water right is appurtenant and the number of acres irrigated. Additionally, the study includes all perfected and inchoate rights to surface water appropriated in accordance with Chapter 90.03 RCW since the decree in State, supra. All of these rights are set forth in a table at the end of this report.

Units of Measure

Several of the rights to water confirmed by the Court in State, supra are stated in miner's inches. Generally, miner's inches in that decree refer to a miner's inch under 6 inches of pressure. Stated in cubic feet per second (cfs), there are 40 miner's inches to 1 cfs when the miner's inches are measured under 6 inches of pressure. Where the decree refers to miner's inches under 4 inches of pressure, this report has converted that reading to miner's inches under 6 inches of pressure. All miner's inches were converted to cfs and equivalent amounts of water are stated in this report in both miner's inches under 6 inches of pressure and in cubic feet per second.

The Lockwood Right (Class I)

The volume of water to be diverted from Stemilt Creek (under the Lockwood Right) was set by the Court in State, supra, to be 5.0 cfs (200 miner's inches). However, the decree did not set forth the maximum number of acres of land irrigated with the volume of water confirmed by the right. Relying upon information given on claims filed with the Chelan County Court at the beginning of the adjudication that resulted in the aforesaid decree, and where possible, confirming this acreage by means of testimony given at the trial and recorded in the transcript of direct testimony, the volumes of water and maximum number of acres of land appurtenant to each right confirmed as a part of the Lockwood Right was determined to be as follows:

<u>NAME OF OWNER</u>	<u>NUMBER OF ACRES</u>	<u>VOLUME OF WATER (CFS)</u>	<u>(MINER'S INCHES)</u>
Flora Allen and Malaga Land Co.	85	0.326	13.0
J. D. Barry and Joseph Querbach	10	0.104	4-1/6
W. S. Batterton	10	0.104	4-1/6
George Butler	5	0.056	2.22
American Fruit Growers, Inc.	36.5	0.413	16.5
Howard Honner	13	0.163	6.5
L. C. Bailey	27	0.150	6.0
E. M. Gillette	100	0.275	11.0
Samuel Glick, Sr. and Samuel Glick, Jr.	18	0.392	15-2/3
David Holmberg	31	0.300	12.0
Charles A. Key	5	0.056	2.22
Anna B. Leach	6	0.075	3.0
M. P. Laughlin	15	0.130	5-5/24

NAME OF OWNER	NUMBER OF ACRES	VOLUME OF WATER	
		(CFS)	(MINER'S INCHES)
Robert Nicholson	5	0.050	2-1/12
H. B. Courtney	40	0.175	7.0
E. A. Oswald	33	0.111	4.42
The Prowell Company	40	0.188	7.5
L. J. Prowell	15	0.417	16-2/3
The Prowell-Hoffman Co.	20	0.208	8-1/3
W. N. Pate	20	0.208	8-1/3
Frank S. Key and Clem Robinson	5	0.062	2.5
J. W. Styles	20	0.188	7.5
W. A. Stevenson	5	0.062	2.5
Howard Thomas	5	0.062	2.5
H. M. Spencer	20	0.250	10.0
J. H. Fuller	6	0.062	2.5
S. J. McEldowney and Thomas McEldowney	26	0.306	12.2
H. D. McEldowney	14	0.100	4.0
A. L. Coleman	28	0.062	2.5
TOTAL:	664.5	5.055	201.98

The above-noted total volume of water in miner's inches slightly exceeds the 200 miner's inches confirmed by the Court in Miller, supra, State, supra, and Wenatchee, supra, but the approximately 1 percent difference could easily be due to error in apportionment of shares to water from the Lockwood Ditch. State, supra, Lockwood Exhibit 10, Exhibit Book pp. 460-461.

Subsequent to the hearing on claims in State, supra, applications for change in point of diversion and place of use of waters under the Lockwood Right were approved by the State of Washington. These changes are as follows:

Temporary Certificate of Change No. 63 - Authorized the Stemilt Irrigation District a change of point of diversion for 100 miner's inches (2.5 cfs) of the Lockwood Right from the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M. The new points of diversion were as follows:

1. Morris Ditch intake located in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 23, T. 22 N., R. 20 E.W.M.
2. Reed Ditch intake located in the center of SE $\frac{1}{4}$ of Sec. 22, T. 21 N., R. 20 E.W.M.

This change covered a cooperative use agreement between the Lockwood and Canaday Irrigation Company and the Stemilt Irrigation District. The agreement was dated June 12, 1926, and provided for alternate uses between the various ditches and lands.

Subsequently, Certificate of Change No. 117 was written to complete the permanent transfer of point of diversion and place of use of these waters from the Lockwood and Canaday Irrigation Company to the Stemilt Irrigation District.

Certificate of Change No. 117 - Authorized the Stemilt Irrigation District to change the point of diversion and place of use of 101 miner's inches (2.525 cfs) of the Lockwood Right. The new place of use was described as being on lands within the Stemilt Irrigation District. The new points of diversion from Stemilt Creek were described as follows:

1. NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M.
2. SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M.
3. SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

The lands from which the water right was changed and the lands to which the right became attached were not expressly described by the Certificate of Change. Therefore, the 101 miner's inches (2.525 cfs) of water right will be apportioned to the number of acres this rate of withdrawal represents as compared to the total rate of 201.98 miner's inches (5.055 cfs) confirmed by the court, less the confirmed quantities changed by Certificate of Change No. 166. An apportioned share of the remaining 618.85 acres of land irrigated within the remaining 188.23 miner's inches (4.708 cfs) of water confirmed in State, supra amounts to 332.06 acres. Due to the location of the lands to be irrigated within the Stemilt Irrigation District with the changed Lockwood Right not being specified by the Certificate of Change, the 101 miner's inches (2.525 cfs) of water can be used to irrigate a maximum of 332.06 acres of land anywhere within the boundaries of the Stemilt Irrigation District, as these boundaries existed on December 16, 1931, the date of approval of Certificate of Change No. 117.

An application for change was approved on April 3, 1981 for this right changing the place of use to lands within the Stemilt Irrigation District boundaries lying west of the west line of Sec. 22, T. 21 N., R. 20 E.W.M. Diversion #1 previously described has been changed to the Clear Lake/Reed Ditch in the E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 22, T. 21 N., R. 20 E.W.M. A Certificate of Change has not issued.

Certificate of Change No. 120 - Authorized the Wenatchee Heights Reclamation District to change the point of diversion and place of use of 56.00 miner's inches (1.40 cfs) of the Lockwood Right from Stemilt Creek to lands within the boundaries of the Wenatchee Heights Reclamation District, which lands are located within Secs. 25, 26, 34, and 35, T. 22 N., R. 20 E.W.M. The new point of diversion from Stemilt Creek was described as being within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

The lands from which the water right was changed and the lands to which the right became attached were not described by the certificate.

Additionally, the Certificate of Change authorized the water to be used for stock and domestic purposes and for irrigation at the changed place of use. The certificate did not specify if the stock and domestic uses were a change in the type of use made of the water.

An apportioned share of the 664.5 acres of land irrigated with the 201.98 miner's inches (5.055 cfs) of water confirmed in State, supra, less the quantity changed by Certificate of Change No. 166, will be assigned to the Wenatchee Heights Reclamation District. This share amounts to 184.11 acres, being calculated from the quantities of 618.85 acres and 188.23 miner's inches as used in the previous change. Due to the location of the lands to be irrigated within the Wenatchee Heights Reclamation District with the changed Lockwood Right not being specified by the Certificate of Change, the 56.00 miner's inches (1.40 cfs) of water can be used to irrigate a maximum of 184.11 acres of land anywhere within the boundaries of the Wenatchee Heights Reclamation District, as these boundaries existed on January 22, 1932, the date of approval of Certificate of Change No. 120.

Certificate of Change No. 129 - Authorized the Wenatchee Heights Reclamation District to change 56.00 miner's inches (1.40 cfs) of water of the Lockwood Right to an early season diversion and storage right. Although the Certificate of Change did not make reference to Certificate of Change No. 120 described above, the direct flow point of diversion from Stemilt Creek to which points of diversion are authorized to be added by Certificate of Change No. 129, is the point of diversion authorized by Certificate of Change No. 120. Therefore, the 56.00 miner's inches (1.40 cfs) of Lockwood Right referred to in Certificate of Change No. 129 is the same 56.00 miner's inches (1.40 cfs) of Lockwood Right referred to in Certificate of Change No. 120. The new point of diversion from Stemilt Creek authorized by Certificate of Change No. 129 is within the NW $\frac{1}{4}$, Sec. 29, T. 21 N., R. 20 E.W.M. Certificate of Change No. 129 authorizes the Wenatchee Heights Reclamation District to hold the 56.00 miner's inches (1.40 cfs) of Stemilt Creek water in

an unnamed reservoir owned and operated by the Wenatchee Heights Reclamation District for the purpose of irrigation of lands within the District when the flow of Stemilt Creek recedes during the irrigation season. Although Certificate of Change No. 129 only designates irrigation as a use for the stored water, there is no specific mention of restricting the use of the stored water to this purpose, and presumably, the stored water may also be used for domestic and livestock purposes as authorized by Certificate of Change No. 120. Certificate of Change No. 129 does not designate the number of acres that can be irrigated using the stored water, and without such designation the limitation of 184.11 acres of land within the boundaries of the Wenatchee Heights Reclamation District specified above for the same 56.00 miner's inches (1.40 cfs) of water under Certificate of Change No. 120 must apply. However, the area wherein the 184.11 acres may lie should be within the boundaries of the Wenatchee Heights Reclamation District as these boundaries existed on May 26, 1932, when Certificate of Change No. 129 was approved by the State of Washington.

Certificate of Change No. 129 does not specify the location of the unnamed reservoir in which the 56.00 miner's inches (1.40 cfs) of water is to be stored.

Certificate of Change No. 166 - Authorizes the Columbia Valley Branch of the National Bank of Commerce of Seattle at Wenatchee, Washington to change the point of diversion and place of use of 13.75 miner's inches (0.344 cfs) of water from Stemilt Creek. The Certificate of Change authorizes the water which was formerly used for irrigating lands in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 21 E.W.M. to be used to irrigate lands in the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M. No origin of the right is stated on the Certificate of Change. However, in a Report, Finding, Conclusion and Order by M. G. Walker, Supervisor, Division of Water Resources, Washington State Department of Conservation issued on August 19, 1963, and upon appeal by the Wenatchee Heights Irrigation District confirmed by the Chelan County Court in Wenatchee, *supra*, the right to 13.75 miner's inches (0.344 cfs) of water from Stemilt Creek held by the National Bank of Commerce of Seattle is tabulated as part of the Lockwood Right.

The records clearly state that the right had been confirmed in the name of the Prowell Company, and further that the waters had been used in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 27, T. 22 N., R. 21 E.W.M. That right, as listed under the decree, is for 40 acres, 7.5 miner's inches (0.188 cfs). The remaining lands from which the water is being transferred were not specified in the request; however, L. J. Prowell did hold rights on the adjoining 15 acres in the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 27, T. 22 N., R. 21 E.W.M. Therefore, we have assumed that the remaining 6.25 miner's inches and 5.65 acres were transferred from said W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, thus leaving 10-5/12 miner's inches on the original place of use and removing 6.25 miner's inches of the original 16-2/3 miner's inches. The total acres specified to be irrigated by the .344 cfs are 45.65. This figure represents the full 40 acres of the Prowell Company and a proportionate share of the L. J. Prowell right which is equivalent to 6.25 miner's inches.

The new point of diversion authorized by the Certificate of Change is described as being within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Certificate of Change No. 379 - Authorizes the several persons named thereon to change the place of use of portions of the 13.75 miner's inches (0.344 cfs) of water from Stemilt Creek referred to in Certificate of Change No. 166 described above. The names of the new holders of the right, the amount of water apportioned to each and the new place of use are as follows:

NAME OF RIGHT HOLDER	VOLUME OF RIGHT		PROPORTIONATE	NEW PLACE OF USE
	(CFS)	(MINER'S IN.)	SHARE OF LANDS APPURTENANT (ACRES)	
Sargent D. Shiflett	0.025	1.00	3.32	NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M.
Sargent D. Shiflett	0.012	0.50	1.66	SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 10, T. 21 N., R. 20 E.W.M.
Jess Zimmerman	0.075	3.00	9.96	S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, T. 21 N., R. 20 E.W.M.

NAME OF RIGHT HOLDER	VOLUME OF RIGHT (CFS)	MINER'S IN.	PROPORTIONATE SHARE OF LANDS APPURTENANT (ACRES)	NEW PLACE OF USE
Fred Koester	0.050	2.00	6.64	Tract 18, Block 1 Wenatchee Heights Orchard Tracts
R. J. Umbarger	0.025	1.00	3.32	Tract 1, Block 2, LESS the W 180 feet thereof, in Wenatchee Heights Orchard Tracts
Desa Trumble	0.025	1.00	3.32	Tracts 6 & 7, and the N 706 feet of Lot 4, Block 12 of Wenatchee Heights Orchard Tracts
John Grubb	0.031	1.25	4.15	Tracts 4 & 7, Block 11 of Wenatchee Heights Orchard Tracts
Boleslaw Jagla	0.050	2.00	6.64	NW $\frac{1}{4}$, Sec. 26, & SE $\frac{1}{4}$, Sec. 27, ALL in T. 22 N., R. 20 E.W.M.
Wenatchee Heights	0.050	2.00	6.64	Lands within the district boundaries and comprising parts of Secs. 25, 26, 34, & 35, ALL in T. 22 N., R. 20 E.W.M.
TOTAL:	0.343	13.75	45.65	

Certificate of Change No. 1123 - Authorizes John Files, Jr. to change the place of use of 0.025 cfs (1.0 miner's inches) of water from Stemilt Creek. The former place of use and volume of water involved in the change indicate the right is part of a right to 0.05 cfs (2.0 miner's inches) of water from Stemilt Creek held by Fred Koester, as set forth in Certificate of Change No. 379 above. The new place of use authorized for the 0.025 cfs (1.0 miner's inch) of water from Stemilt Creek is described as follows:

Tracts 4 and 5 of Block 9 of Wenatchee Heights Orchard Tracts, and that portion of the unplatted part of the SE $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 34, lying northerly of the right of way of the Wenatchee Heights Road, ALL in T. 22 N., R. 20 E.W.M.

Although Certificate of Change No. 1123 does not specify the number of acres appurtenant to the change portion of the right, this report will show that one-half of the number of acres appurtenant to the Fred Koester right as tabulated under the discussion of Certificate of Change No. 379 above, are transferred to the new place of use.

Certificate of Change No. 1135 - Authorizes Frank E. Berdon to change the place of use of 0.025 cfs (1.0 miner's inch) of water from Stemilt Creek. The former place of use and volume of the right indicate it to be the remaining part of the Fred Koester right (see cc 379) not transferred by Certificate of Change No. 1123 above. The new place of use is described as follows:

Lots 7, 8, and 9, Block 8 of Wenatchee Heights Orchard Tracts within Sec. 34, T. 22 N., R. 20 E.W.M., and the north 165 feet of the NE $\frac{1}{4}$, Sec. 3, T. 21 N., R. 20 E.W.M., LESS the west 1,150 feet thereof.

Certificate of Change No. 394 - Authorizes Boleslaw Jagla to change the place of use of 2.0 miner's inches (0.050 cfs) of water charged to him in Certificate of Change No. 379 above. The new places of use are described as follows:

- 0.5 miner's inches (0.012 cfs) in the SW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.
- 0.75 miner's inches (0.019 cfs) in the NW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.
- 0.75 miner's inches (0.019 cfs) in the SE $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.

The Certificate of Change does not apportion the 6.64 acres of land appurtenant to the right, but this report will make such an apportionment of the acreage.

Certificate of Change No. 1-4-133 - Authorizes Glenn E. Steinbach to change the place of use of 1 miner's inch (.025 cfs) of the waters of Stemilt Creek. Said right being a portion of the Lockwood Right, as it has been changed by Certificates of Change No. 166 and No. 379. The specific portion of the right is defined under Change No. 379 as the R. J. Umbarger right for 3.32 acres of irrigation.

The place of use as defined previously was Tract 1 of Block 2 of the plat of Wenatchee Heights Orchard Tracts less the west 180 feet thereof.

The new place of use is that portion of the following described property lying within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, T. 22 N., R. 20 E.W.M.

Beginning at the southwest corner of the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 34, T. 22 N., R. 20 E.W.M.; thence N 89°34' E along the section center line 368.0 feet to the northeast corner of Lot 9, Block 9 Plat of Wenatchee Heights Orchard Tracts; thence S 10°26' E 378.9 feet; thence S 50°04' E 170.1 feet; thence N 33°56' E 480.0 feet; thence N 13°28' W 291.8 feet; thence N 1°27' W 443.2 feet; thence N 1°08' W 914.0 feet; thence S 88°24' W 803.0 feet more or less, to the west line of the E $\frac{1}{2}$ NW $\frac{1}{4}$ of said section; thence southerly along said west line to the point of beginning.

Due to the authorized changes of volumes of water confirmed by the Court to the Lockwood Right in State, supra only 29.25 miner's inches (0.735 cfs) of the original right to water from Stemilt Creek remains with the Lockwood Ditch. An apportionment of the original 664.5 acres irrigated with the Lockwood Right would mean the 97.19 acres of land could be irrigated using the 29.25 miner's inches (0.735 cfs) of water. The location of the 97.19 acres of land could be anywhere within the lands described as appurtenant to the Lockwood Right in State, supra, except the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 21 E.W.M., from which lands Certificate of Change No. 166 expressly transfers water rights.

The Wood Right (Class IT)

The volume of water to be diverted from Stemilt Creek under the Wood Right was set by the Court in State, supra, to be 5.0 cfs (200 miner's inches). The decree did not set forth the maximum number of acres of land irrigated with the volume of water confirmed for the right. Relying upon information given on claims filed with the Chelan County Court at the beginning of the adjudication that resulted in the aforesaid decree, and where possible confirming this acreage through testimony presented at the trial and recorded in the transcript of direct testimony, the volumes of water and maximum number of acres of land appurtenant to each right to water confirmed as a part of the Wood Right is as follows:

NAME OF OWNER	NUMBER OF ACRES	VOLUME OF WATER	
		(CFS)	(MINER'S INCHES)
Myron C. Atwood and Paul W. Atwood	20	0.250	10
E. E. Bruce	18	0.208	8-1/3
Elizabeth Butler	10	0.031	1-1/4
Thomas R. Chisholm	52	0.259	10-1/3

NAME OF OWNER	NUMBER OF ACRES	VOLUME OF WATER	
		(CFS)	(MINER'S INCHES)
A. L. Coleman	28	0.062	2-1/2
T. E. Egbert	10	0.038	1-1/2
E. M. Gillette	100	0.325	13
Samuel Johnson	20	0.250	10
E. W. Oswald	33	0.333	13-1/3
Herman T. Oswald	10	0.200	8
R. M. Ragsdale	85	0.125	5
W. J. Slack	10	0.150	6
Perry E. Soule	24	0.300	12
A. T. Sutton	20	0.038	1-1/2
Margaret Vining	5	0.031	1-1/4
Peter Wheeler	56	0.100	4
Philander P. Wood	65	2.125	85
J. W. Rose	50	0.175	7
TOTAL:	616	5.0	200

Subsequent to the hearing on claims in State, supra, applications for change in point of diversion and place of use of waters under the Wood Right were approved by the State of Washington.

In approving the certificates of change, the State of Washington has allowed a total of 200.083 miner's inches (5.002 cfs) of water to be changed, in either point of diversion and/or place of use. The reason for the difference between the amount of 200.0 miner's inches (5.0 cfs) confirmed by the Court in State, supra, and the 200.083 miner's inches (5.002 cfs) authorized to be transferred by the State of Washington cannot be determined at this late date. Nor can the State on its own authority prorata distribute the difference between all changes authorized. Therefore, the most equitable solution is to recognize that due to administrative changes, the Wood Right has increased to a total of 200.083 miner's inches (5.002 cfs), and to justify the difference as being due to irrigation return flow to Stemilt Creek. This change in total quantity was recognized in Wenatchee, supra. The individual changes to the Wood Right are as follows:

Since completion of the Superior Court Decree on Remittitur No. 18107, signed in 1926, many petitions for changes to the rights described have been submitted. As these requests were approved, they were issued as Certificates of Change. Following are the change certificates associated with the Class II "Wood Right."

Certificate of Change No. 102 - Authorizes Wenatchee Heights Reclamation District to change the point of diversion and place of use of 6.0 miner's inches (.150 cfs) of water from Stemilt Creek under the Wood Right for lands within the NW $\frac{1}{4}$ of Sec. 23, T. 22 N., R. 21 E.W.M. The new point of diversion is to be within the SE $\frac{1}{4}$ of Sec. 16, T. 21 N., R. 20 E.W.M., and the new place of use is to be within the lands served by the Wenatchee Heights Reclamation District.

The changes, as confirmed by this certificate, are superseded by Certificate of Change No. 120, which includes this 6 miner's inches.

Certificate of Change No. 117 - Authorized the Stemilt Irrigation District to change 45.00 miner's inches (1.125 cfs) of the Wood Right to lands within the Stemilt Irrigation District. The new points of diversion from Stemilt Creek were described as follows:

1. NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M.
2. SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M.
3. SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

The lands from which the water right was changed and the lands to which the right became attached were not described in the Certificate of Change.

The number of acres that can be irrigated using this right will be calculated on the basis of a portion of the 258.93 acres of land appurtenant to the Wood Right remaining after subtracting 357.07 acres of the right that can be accounted for by Certificate of Change NOS. 65, 67, 103, 144, 204, 95, 93, 12, 1-3-11, 853, and 854 described herein, from the total of 616 acres that research for this report has shown to be irrigated at the time claims were submitted to the Court in State, supra. The proportionate amount of acres thus calculated for this right would be 90.32 acres.

Due to the location of the lands to be irrigated within the Stemilt Irrigation District with the changed Wood Right not being specified by the Certificate of Change, 45.00 miner's inches (1.125 cfs) of water can be used to irrigate a maximum of 90.32 acres of land anywhere within the boundaries of the Stemilt Irrigation District, as these boundaries existed on December 16, 1931, the date of approval of Certificate of Change No. 117.

An application for change was approved on April 3, 1981 for this right changing the place of use to lands within the Stemilt Irrigation District boundaries lying west of the west line of Sec. 22, T. 21 N., R. 20 E.W.M. Diversion #1 previously described has been changed to the Clear Lake/Reed Ditch in the E $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 22, T. 21 N., R. 20 E.W.M. A Certificate of Change has not issued.

Certificate of Change No. 120 - Authorized the Wenatchee Heights Reclamation District to change the point of diversion and place of use of 67.00 miner's inches (1.675 cfs) of the Wood Right to lands within the boundaries of the Wenatchee Heights Reclamation District, which lands are located within Secs. 25, 26, 34, and 35, T. 22 N., R. 20 E.W.M. The new point of diversion from Stemilt Creek was described as being within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

The lands from which the water right was changed and the lands to which the right became attached were not described by the certificate.

Additionally, the Certificate of Change authorized the water to be used for stock and domestic purposes and for irrigation at the changed place of use. The certificate did not specify if the stock and domestic uses were a change in the type of use made of the water.

An apportioned share of the lands that can be irrigated with this right will be calculated as on the basis of a portion of the 258.93 acres of land appurtenant to the Wood Right remaining after subtracting 357.07 acres of the right that can be accounted for by Certificate of Change Nos. 65, 67, 103, 144, 204, 95, 93, 12, 1-3-11, 853, and 854 described herein, from the total of 616 acres that research for this report has shown to be irrigated at the time claims were submitted to the Court in State, supra. The proportionate amount of acres thus calculated for this right would be 134.47 acres.

Due to the location of the lands to be irrigated within the Wenatchee Heights Reclamation District with the changed Wood Right not being specified by the Certificate of Change, the 67.00 miner's inches (1.675 cfs) of water can be used to irrigate a maximum of 134.47 acres of land anywhere within the boundaries of the Wenatchee Heights Reclamation District as these boundaries existed on January 22, 1932, the date of approval of Certificate of Change No. 120.

Certificate of Change No. 129 - Authorized the Wenatchee Heights Reclamation District to change 67 miner's inches (1.675 cfs) of water which was awarded to the Wood Ditch, to include an early season of diversion and storage right. Although the Certificate of Change did not make reference to Certificate of Change No. 120 described above, the direct flow point of diversion from Stemilt Creek, to which points of diversion are authorized to be added by Certificate of Change No. 129, is the point of

diversion authorized by Certificate of Change No. 120. Therefore, the 67.00 miner's inches (1.675 cfs) of Wood Right referred to in Certificate of Change No. 129 is the same 67.00 miner's inches (1.675 cfs) of Wood Right referred to in Certificate of Change No. 120. The new point of diversion from Stemilt Creek authorized by Certificate of Change No. 129 within the NW $\frac{1}{4}$, Sec. 29, T. 21 N., R. 20 E.W.M. Certificate of Change No. 129 authorizes the Wenatchee Heights Reclamation District to hold the 67.00 miner's inches (1.675 cfs) of Stemilt Creek water in an unnamed reservoir owned and operated by the Wenatchee Heights Reclamation District for the purpose of irrigating lands within the Wenatchee Heights Reclamation District as the flow of Stemilt Creek recedes during the irrigation season. Although Certificate of Change No. 129 only designates irrigation as a use for the stored water, there is no specific mention of restricting the use of the stored water to this purpose, and presumably, the stored water may also be used for domestic and livestock purposes as authorized by Certificate of Change No. 120. Certificate of Change No. 129 does not designate the number of acres that can be irrigated using the stored water, and without such designation the limitation of 134.47 acres of land within the boundaries of the Wenatchee Heights Reclamation District specified above for the same 67.00 miner's inches (1.675 cfs) of water under Certificate of Change No. 120 must apply. However, the area wherein the 134.47 acres may lie should be within the boundaries of the Wenatchee Heights Reclamation District as these boundaries existed on May 26, 1932, when Certificate of Change No. 129 was approved by the State of Washington.

Certificate of Change No. 129 does not specify the location of the unnamed reservoir in which the 67.00 miner's inches (1.675 cfs) of water is to be stored.

Certificate of Change No. 101 - Authorizes Boleslaw Jagla to change 8 miner's inches (0.20 cfs) of the Wood Right to water from Stemilt Creek. The water was changed from use on lands described as that part of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T. 22 N., R. 20 E.W.M. lying south and east of Stemilt Creek. Research of the findings of the Court in State, supra shows that the above described lands were appurtenant to a right to 12.20 miner's inches (0.306 cfs) of water from Stemilt Creek for the use of S. J. McEldowney and Thomas J. McEldowney under the Lockwood Right. The record does not show how 8 miner's inches (0.20 cfs) of Wood Right attached to the land. The Court in Wenatchee, supra, did, however, confirm the aforesaid 8 miner's inches (0.20 cfs) of Wood Right changed by Certificate of Change No. 101. Certificate of Change No. 101 authorizes Boleslaw Jagla to apply the 8 miner's inches (0.20 cfs) of water to lands described as follows:

Lot 2, Block 9 of Wenatchee Heights Orchard Tracts, 4 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 22 N., R. 20 E.W.M., SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 20 E.W.M., NW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.

Certificate of Change No. 101 also authorized the point of diversion from Stemilt Creek for the 8 miner's inches (0.20 cfs) of Wood Right to be changed to a point located in the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M. from a point within the SE $\frac{1}{4}$ of Sec. 25, T. 22 N., R. 20 E.W.M.

The Certificate of Change does not specify the number of acres to be irrigated with the 8 miner's inches (0.20 cfs) of water from Stemilt Creek, but an apportioned share of the 258.93 acres of land appurtenant to the Wood Right remaining after subtracting 357.07 acres of the right that can be accounted for by Certificate of Change Nos. 65, 67, 103, 144, 204, 95, 93, 12, 1-3-11, 853, and 854 described herein, from the total of 616 acres research for this report has shown to be irrigated at the time claims were submitted to the Court in State, supra. The proportionate amount of acres thus calculated for this right would be 16.06 acres.

Certificate of Change No. 144 - Authorizes Boleslaw Jagla to change the point of diversion and place of use of 1.5 miner's inches (0.038 cfs) of water from Stemilt Creek for lands described as Lots 10 and 12, Block 7 of Wenatchee Heights Orchard Tracts. These lands are appurtenant to a right for T. E. Egbert, which was a portion of the Wood Right confirmed by the Court in State, supra. Research preparatory to this report does not show any water right other than the Wood Right as being appurtenant to the afore-described lands. Deductively then, the 1.5 miner's inches (0.038 cfs) of water must be a part of the Wood Right confirmed by the Court in State, supra. The Court in Wenatchee, supra confirmed the right to 1.5 miner's inches (0.038 cfs) of water from Stemilt Creek transferred by Certificate of Change No. 144 as a part of the Wood Right. Therefore, the 1.5 miner's inches (0.038 cfs) of water will be considered herein to be a part of the Wood Right.

Certificate of Change No. 144 authorizes the right to 1.5 miner's inches (0.038 cfs) of water to be applied to Lot 2, Block 9, Wenatchee Heights Orchard Tracts; 4 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 22 N., R. 20 E.W.M.; and the SE $\frac{1}{4}$, Sec. 27, and NW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M. The point of diversion from Stemilt Creek was authorized to be changed to a point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M. from a point in the SE $\frac{1}{4}$ of Sec. 25, T. 22 N., R. 20 E.W.M.

No acreage limitation was placed on the right by the Court in either State, supra or Wenatchee, supra, nor by the State Supervisor of Hydraulics in Certificate of Change No. 144. However, the statement of claim filed by T. E. Egbert in State, supra indicates that he irrigated approximately 10 acres in Lots 10 and 12, Block 7 of Wenatchee Heights Orchard Tracts in 1920. Therefore, as reasoned earlier in this report, the right to 1.5 miner's inches (0.038 cfs) must be appurtenant to 10 acres of land.

It should be noted that the lands to which water rights were authorized to be transferred by Certificate of Change No. 101 are the same as lands to which water rights were transferred by Certificate of Change No. 144.

Certificate of Change No. 95 - Authorizes Boleslaw Jagla to change 3-1/3 miner's inches (0.083 cfs) of the Wood Right to water from Stemilt Creek to lands described as follows:

Lot 2, Block 9 of Wenatchee Heights Orchard Tracts; the SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 20 E.W.M.; the NW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.; and a block of land described as follows:

Beginning at the southeast corner of SW $\frac{1}{4}$, Sec. 23, T. 22 N., R. 20 E.W.M.; thence west on the south line of said section 800 feet; thence due south 170 feet; thence due west on the south line of said section to the place of beginning, being 4 acres, more or less.

It may be noted that the above lands are the same as those for which water rights were authorized to be transferred by Certificate of Change Nos. 101 and 144. The only difference in a description of the lands to which the rights to water were transferred is a more complete description on Certificate of Change No. 95 of location of the 4 acres of land in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 22 N., R. 20 E.W.M.

The lands from which the 3-1/3 miner's inches of the Wood Right to water from Stemilt Creek were transferred, as described on Certificate of Change No. 95, are lands for which Herman T. Oswald filed a claim for 8 miner's inches (0.20 cfs) of water for the irrigation of 10 acres. Although the court did not rule on the Oswald claim as such under State, supra, the Oswald claim would appear to be a part of the total 200 miner's inches (5.00 cfs) of right to water from Stemilt Creek confirmed by the court for the Wood Right. Therefore, the 3-1/3 miner's inches (0.083 cfs) authorized to be transferred by Certificate of Change No. 95 would be appurtenant to a portion of the 8 acres. This portion would be approximately 4.17 acres.

The new point of diversion was described on the Certificate of Change as a point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Certificate of Change No. 67 - Authorizes F. M. Cammack to change the point of diversion and place of use of 10 miner's inches (0.250 cfs) of the Wood Right to water from Stemilt Creek. The new place of use is described as the W $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 1; E $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2; W $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{4}$ NW $\frac{1}{4}$, and part of the E $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, ALL in T. 21 N., R. 20 E.W.M. The new points of diversion are described as in the NE $\frac{1}{4}$, Sec. 14; and the E $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14; and the NE $\frac{1}{4}$, Sec. 15; and the NW $\frac{1}{4}$, Sec. 14, ALL in T. 21 N., R. 20 E.W.M., with the diversion to be rotated between the four points mentioned.

The lands from which the right to 10 miner's inches (0.250 cfs) is transferred are described on Certificate of Change No. 67 only as, "lands located under the Wood Ditch." However, upon review of the petition for change, the place of use was clearly identified as that given under the Myron C. and Paul W. Atwood right as defined by Decree No. 18107. Therefore, the change has been limited to the 20 acres of irrigation authorized by that right. Those 20 acres of irrigation were within the following described lands:

Beginning at a point N 45° E 100 feet from the SW corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T. 22 N., R. 20 E.W.M.; thence S 30°49' E 587 feet to center of a deep gulch; thence following the center of said gulch N 33°31' E 183.9 feet; thence still following the center of said gulch N 15°40' E 192.6 feet; thence still following

the center of said gulch N 12°58' E 408.4 feet to an intersection of said gulch with county road leading to Wenatchee (now abandoned); thence following said road (now abandoned) N 48°4' W 590.75 feet to center of another gulch; thence following the center of the last named gulch S 40°50' W 383.6 feet; thence still following the center of said gulch S 27°18' W 374.5 feet; thence still following the center of said gulch S 20°20' W 48.5 feet; thence still following said gulch S 0°13' W 664.5 feet to a point 50 feet due W to the point of beginning; thence due E 50 feet to the place of beginning, containing 20 acres.

Also beginning at a point 700 feet S of the Great Northern Railroad on the E line of the SW¼SE¼ and of Lot 6 of Sec. 24, T. 22 N., R. 20 E.W.M.; thence W 654 feet to a line which would be continuation of the W line of the E¼ of said SW¼SE¼ of said section; thence S on said line to the S line of said section; thence E on said S line to E line of said SW¼SE¼ aforesaid; thence N on said line to the place of beginning, containing 20 acres, more or less.

Certificate of Change No. 65 - Authorizes C. B. Knouf to change the point of diversion and place of use of 20 miner's inches (0.500 cfs) of the waters from Stemilt Creek.

The point of diversion is changed from a point in the SE¼SE¼ of Sec. 25, T. 22 N., R. 20 E.W.M. to three points. They are located within the SW¼NW¼, and SW¼NE¼ of Sec. 14, and the W¼SW¼ of Sec. 12, all being within T. 21 N., R. 20 E.W.M.

The certificate of change does not clarify the present place of use other than to specify lands within Sec. 24, T. 22 N., R. 20 E.W.M. A review of the petition for change and Decree No. 18107 show Wood Right for all of the SE¼ of said Sec. 24, except that portion of the W¼SE¼ lying south of the Great Northern Railroad right-of-way. These lands are covered by four decreed rights in the names of M. C. and P. W. Atwood, E. E. Bruce, Samuel Johnson, and P. E. Soule.

It is clear that the Atwood Right is not the source of these 20 miner's inches, since Certificate of Change No. 67 very clearly involves that right. This point is especially confusing since Mr. Knouf's petition for change states that the 20 inches are waters presently used by the Atwoods to irrigate lands within Sec. 24, T. 22 N., R. 20 E.W.M. We can only assume that the Atwoods acquired some of the adjoining lands between the time of the decree and the date the petition for change was submitted by Knouf. Although we cannot clearly say which of the three remaining rights in Sec. 24 is to be changed, we do know that there are a total of 30-1/3 miner's inches of Wood Right remaining in Sec. 24 if the Atwood right is eliminated. By dividing the total lands (62 acres) irrigated by the 30-1/3 miner's inches, we find that each inch is equivalent to 2.04 acres of irrigation. We, therefore, have assigned a total of 40.9 acres of irrigation to the 20 miner's inches being changed by Certificate No. 65.

The original place of use was the SE¼ of Sec. 24, T. 22 N., R. 20 E.W.M. and the place of use is being changed to the E¼ of Sec. 11 and the W¼SW¼ of Sec. 12, all within T. 21 N., R. 20 E.W.M.

Certificate of Change No. 204 - Authorizes A. E. Kane to change the point of diversion and place of use of 0.2583 cfs (10-1/3 miner's inches) of water from Stemilt Creek. Although the Certificate of Change did not describe the basis for the right to water from Stemilt Creek, which was transferred thereby, the Court in Wenatchee, supra found the right to be a part of the Wood Right, and the Court in State, supra confirms a part of the Wood Right as appurtenant to lands owned by Thomas R. Chisholm in the E¼, Sec. 36, T. 22 N., R. 20 E.W.M. Research preparatory to this report indicates Thomas R. Chisholm filed a claim for 10-1/3 miner's inches (0.2583 cfs) of water from Stemilt Creek for the irrigation of 52 acres of land in the E¼, Sec. 36, T. 22 N., R. 20 E.W.M. Deductively then, the 0.2583 cfs (10-1/3 miner's inches) changed by this certificate is the same 10-1/3 miner's inches (0.2583 cfs) of water from Stemilt Creek claimed by Thomas R. Chisholm, and the right must be appurtenant to 52 acres of land.

The Certificate of Change authorizes the new point of diversion from Stemilt Creek to be in the NW¼SW¼, Sec. 30, T. 22 N., R. 21 E.W.M. However, the point from which the right was transferred was described as being in the NE¼NW¼, Sec. 1, T. 21 N., R. 20 E.W.M., which point was not that described for the Wood Right in State, supra. Due to the Washington State Supervisor of Hydraulics having approved the change in point of diversion, the above noted discrepancy would appear to be immaterial to the legality of the location of the new point of diversion. The Certificate of Change authorizes a new place of use within the E¼NW¼, SW¼NW¼, Sec. 30, T. 22 N., R. 21 E.W.M.

Certificate of Change No. 103 - Authorizes the Commercial Bank and Trust Company and Peter Wheeler to change the point of diversion and place of use of 9 miner's inches (0.225 cfs) of the Wood Right to water from Stemilt Creek.

The new places of use and the volumes of water appurtenant to each were described as follows:

6 miner's inches (0.150 cfs) to be used for the irrigation of the E $\frac{1}{2}$ of Sec. 3, T. 21 N., R. 20 E.W.M.

3 miner's inches (0.075 cfs) to be used for the irrigation of Lots 1, 2, 3, and 9, Block 14, and Lots 1 and 2, Block 13 of Wenatchee Heights Orchard Tracts.

The new point of diversion was described as being within the SE $\frac{1}{2}$ of Sec. 16, T. 21 N., R. 20 E.W.M. at the intake of the Spring Hill Ditch.

Although the Certificate of Change did not describe the number of acres of land that could be irrigated with the 9 miner's inches (0.225 cfs) of water, the Court in State, supra confirmed a right to water from Stemilt Creek through the Wood Ditch for E. M. Gillette. Research for this report indicates that E. M. Gillette claimed a right to 13 miner's inches (0.325 cfs) of water from Stemilt Creek for the irrigation of 100 acres of land, which land was described in the claim as the lands from which Certificate of Change No. 103 transfers a right to water from Stemilt Creek. Deductively then, the right to water transferred by Certificate of Change No. 103 is a part of the E. M. Gillette right, and is appurtenant to a proportion of the 100 acres claimed. This proportion will be calculated on the basis of a proportion of the 100 acres of land appurtenant to 13 miner's inches (0.325 cfs), that 9 miner's inches (0.225 cfs) represents. This portion is 69.23 acres. Of this area, 23.08 acres could be irrigated in Lots 1, 2, 3, and 9, Block 14 and Lots 1 and 2, Block 13 of Wenatchee Heights Orchard Tracts, and 46.15 acres irrigated in the E $\frac{1}{2}$ of Sec. 3, T. 21 N., R. 20 E.W.M.

Certificate of Change No. 93 - Authorizes J. W. Rose and Emily R. Rose, and Franklin A. Wood to change the point of diversion of 2.49 cfs (99.6 miner's inches) of water from Stemilt Creek and 25 acre-feet of water diverted from Stemilt Creek and stored in an unnamed reservoir. The Court in Wenatchee, supra found the rate of diversion from Stemilt Creek Wood Right for the right to be 7 miner's inches (0.175 cfs), and to this extent the court amended the Certificate of Change. In State, supra, J. W. Rose's claim to a right to water from Stemilt Creek was for 7 miner's inches (0.175 cfs) for the irrigation of 50 acres of land in the W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M. through the Wood Ditch. The Court in Wenatchee, supra confirmed that the right was a part of the Wood Right.

The new point of diversion authorized by the Certificate of Change was described as in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. However, the point from which the right was transferred was described as in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M., which points are not the location of the point of diversion described for the Wood Right in State, supra. Due to the Washington State Supervisor of Hydraulics having approximated the change in point of diversion, the above noted discrepancy would appear to be immaterial to the legality of the location of the new point of diversion.

Certificate of Change No. 131 - Authorizes Charles W. Oakes and Effie Oakes to change the point of diversion of 9 miner's inches (0.225 cfs) of water from Stemilt Creek. The new point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

The Certificate of Change does not describe the lands appurtenant to the right, or the number of acres that can be irrigated using the 9 miner's inches (0.225 cfs) of water. Therefore, the number of acres that can be irrigated using the right will be calculated on the basis of a portion of the 258.93 acres of land appurtenant to the Wood Right remaining after subtracting 357.07 acres of the right that can be accounted for by Certificate of Change Nos. 65, 67, 103, 144, 204, 95, 93, 12, 1-3-11, 853, and 854 described herein, from the total of 616 acres that research for this report has shown to be irrigated at the time claims were submitted to the Court in State, supra. The proportionate amount of acres thus calculated for this right would be 18.06 acres.

Certificate of Change No. 12 - Authorizes W. J. Slack to change the point of diversion of an unknown quantity of water from an unnamed creek. The new point of diversion is described as in the SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M.

CCV&LIPD provides the adjustment

The Court in Wenatchee, supra found that the right to be for 6.00 miner's inches (0.150 cfs) of water from Stemilt Creek and that the right was part of the Wood Right. Research for this report indicates that W. J. Slack claimed in State, supra a right to 6 miner's inches of water from Stemilt Creek for the irrigation of 10 acres of land described as Lot 1, Block 1, Malaga Land Company's Orchard Tracts. In the absence of State records to the contrary, the extent of the right, i.e.: 6 miner's inches (0.150 cfs) and 10 acres, and place of use remains the same as claimed in State, supra.

Certificate of Change No. 854 - Authorizes Virginia M. Rubush to change the point of diversion of 4 miner's inches (0.100 cfs) of the waters of Stemilt Creek. Such waters being that portion of the Wood Right confirmed to Peter Wheeler by Superior Court Decree No. 18107. The records indicate that this right is for irrigation of 56 acres within the E½ of Sec. 3, T. 21 N., R. 20 E.W.M., and that the point of diversion was within the SE¼SE¼ of Sec. 25, T. 22 N., R. 20 E.W.M.

Certificate of Change No. 854 changes the point of diversion to the NE¼SE¼ of Sec. 16, T. 21 N., R. 20 E.W.M.

Certificate of Change No. 853 - Authorizes Virginia M. Rubush to change the point of diversion and place of use of 1-3/4 miner's inches (.0438 cfs) of the Wood Right from Stemilt Creek. Such waters being a portion of the 5 inches of Wood Right as confirmed to R. M. Ragsdale.

By calculating the proportionate share represented by 1-3/4 inches, we conclude that the change applies to 29.75 acres of land.

The point of diversion has been changed from the SE¼SE¼ of Sec. 25, T. 22 N., R. 20 E.W.M., to the NE¼SE¼ of Sec. 16, T. 21 N., R. 20 E.W.M.

That the water has been used for irrigation on the following described land:

Lot 3, Block 6; Lots 2, 3, 4, 5, 6 and 7, Block 4; Lot 3, Block 3; Lots 1, 7, 8, 10 and 11, Block 8; Lot 3, Block 9; Lots 10, 11 and 12, Block 1, all within Wenatchee Heights Orchard Tracts, Sec. 34, T. 22 N., R. 20 E.W.M.

That the place of use is being changed to the following described lands:

Lots 1 and 2 and the S½NE¼ and all of the SE¼ of Sec. 3, T. 21 N., R. 20 E.W.M., EXCEPT that portion of the north 10 rods of the aforesaid Lots 1 and 2 lying east of a line 1150 feet east of the west line of said Lot 2.

Certificate of Change No. 1-3-11 - Authorizes John McCroskey to change 1-1/2 miner's inches (0.038 cfs) of the Wood Right to lands within Lot 6, Block 1 of the Plat of Wenatchee Heights Orchard Tracts, otherwise described as being within the N½NW¼, Sec. 35, T. 22 N., R. 20 E.W.M.

Lands from which the water right was changed are those confirmed by the Court in State, supra for A. T. Sutton. A review of testimony and claims submitted in State, supra indicates that the right is appurtenant to 20 acres of land. The lands described as the new place of use are approximately 5 acres, therefore, 15 acres of the right cannot be exercised.

The above described Certificates of Change relative to the Wood Right confirmed in State, supra, account for all of the rights and none remain at their original point of diversion and place of use.

Cynthia P. Groff Right (Class III)

The Court in State, supra confirmed a right to 10 miner's inches (0.25 cfs) of water from two springs located within the NE¼, Sec. 23, T. 21 N., R. 20 E.W.M. for use upon 40 acres of land riparian to the spring. This right, Certificate of Adjudicated Water Right No. 321, was authorized to be changed in point of diversion and place of use by Certificate of Change No. 1-3-2.

Certificate of Change No. 1-3-2 - Authorizes Thomas K. Mathison and L. W. Steffen to change the point of diversion and place of use of the Cynthia P. Groff right to water from Stemilt Creek as follows:

1. 0.125 cfs (5.0 miner's inches). Change the point of diversion to a point within the SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M., and use the water upon N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M. (Stemilt Irrigation District P.O.D.).
2. 0.0278 cfs (1.11 miner's inches). Change the point of diversion to a point within the S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M., and use the water upon Secs. 1 and 12, T. 21 N., R. 21 E.W.M. (Upper Groff Springs).
3. 0.0972 cfs (3.89 miner's inches). Change the point of diversion to a point within the S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M., and use the water upon the N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M. (Upper Groff Springs).

Although the Certificate of Change did not specify the number of acres of land that could be irrigated at the new place of use, a proportion of the original 40 acre limit of the Cynthia P. Groff right to the amount of water allowed for each new place of use would be as follows:

1. 20.0 acres of land within the N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.
2. Community domestic supply and industrial use (April 1 to October 1) within Stemilt Irrigation District (SID) boundaries in Secs. 1 and 12, T. 21 N., R. 21 E.W.M.
3. 15.56 acres of land within the N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.

C. B. Knouf Right (Class III)

The right of C. B. Knouf to 0.25 cfs (10 miner's inches) of water from Stemilt Creek for the irrigation of 20 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M. was confirmed by the Court in State, supra. The court assigned the right to Class III, and indicated that the right was perfected under the legal theory of riparianism. Due to the right being a riparian right, the Court indicated that it was superior against all rights to water from Stemilt Creek except those in Classes 1, 2, 5, 6, 7 and 10 as set forth in the decree. The right is recorded with the State of Washington as Certificate of Adjudicated Water Right No. 322 of the Stemilt Creek Adjudication.

J. F. Black Right (Class III)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 322.

Holcomb Right (Class IV)

The right to water from Stemilt Creek for the Holcomb Ditch was confirmed by the Court in State, supra to be for 0.5 cfs (20 miner's inches). Research preparatory to this report indicates that a total of 112 acres were irrigated by four claimants using water from the Holcomb Ditch. These rights are as follows:

NAME OF OWNER	AREA IRRIGATED		VOLUME OF WATER	
	ACRES		(CFS)	(MINER'S INCHES)
A. L. Coleman	30		0.050	2
E. A. Oswald	32		0.125	5
John M. Rezek	40		0.250	10
W. J. Slack	10		0.075	3
TOTAL	112		0.500	20

Following entry of the final decree in State, supra, several changes in the point of diversion and place of use of the aforesaid rights have been authorized by the State of Washington. These changes are as follows:

Certificate of Change No. 102 - Authorizes Wenatchee Heights Reclamation District to change the point of diversion and place of use of 3.0 miner's inches (.075 cfs) of water from Stemilt Creek under the Holcomb Right for lands within the N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 33, T. 22 N., R. 21 E.W.M. (lands described by Certificate No. 324 for W. J. Slack). The new point

of diversion is to be within the SE $\frac{1}{4}$ of Sec. 16, T. 21 N., R. 20 E.W.M., and the new place of use is to be within the lands served by the Wenatchee Heights Reclamation District. The original point of diversion appears to have been within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M. although Certificate No. 324 does not identify a point of diversion there (Lockwood Ditch).

The changes as confirmed by this certificate are superseded by Certificate of Change No. 120, which is for the same 3 miner's inches.

Certificate of Change No. 124 - Authorizes Chris Mathison and Edwin A. Oswald to change the point of diversion of 5 miner's inches (0.125 cfs) of water from Stemilt Creek under the Holcomb Right from a point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M. (Lockwood Ditch), to a point within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M., and to change the place of use from the lands within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, T. 22 N., R. 21 E.W.M., to land west of the county road in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.

The Certificate of Change does not limit the number of acres appurtenant to the right, but testimony of E. A. Oswald at the hearing on claims in the Stemilt Creek Adjudication indicates that 32 acres were irrigated using the water at that time (1920). Therefore, the right is appurtenant to 32 acres of land at the new place of use.

Certificate of Change No. 120 - Authorizes the Wenatchee Heights Reclamation District to change the point of diversion and place of use of 3 miner's inches (0.075 cfs) of water from Stemilt Creek under the Holcomb Right. The new point of diversion is described as being within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M., and the new place of use as being within the boundaries of the Wenatchee Heights Reclamation District in Secs. 25, 26, 34, and 35, T. 22 N., R. 20 E.W.M. This certificate supersedes Certificate of Change No. 102.

Although the Certificate of Change does not limit the number of acres of land upon which the 3 miner's inches (0.075 cfs) of water can be used, W. J. Slack indicated that he used 3 miner's inches (0.075 cfs) of the Holcomb Right to irrigate 10 acres of land. Therefore, the 3 miner's inches (0.075 cfs) of water can be used upon a maximum of 10 acres of land at the new place of use.

The Certificate of Change also specified that the 3 miner's inches (0.075 cfs) of water could be used for domestic and livestock purposes.

Certificate of Change No. 129 - Authorizes the Wenatchee Heights Reclamation District to change the point of diversion of 3 miner's inches (0.075 cfs) of water from Stemilt Creek under the Holcomb Right. The certificate authorizes addition of points of diversion within the NW $\frac{1}{4}$, Sec. 29, T. 21 N., R. 20 E.W.M. Authorization is given to divert the 3 miner's inches (0.075 cfs) of water during the early part of the irrigation season and to store the water in an unnamed reservoir for later use upon lands within the boundaries of the Wenatchee Heights Reclamation District.

Although the Certificate of Change does not limit the number of acres of land that can be irrigated with the stored water, the description of the former point of diversion is the same as the new point of diversion authorized by Certificate of Change No. 120. Therefore, the 3 miner's inches (0.075 cfs) of water authorized to be changed in Certificate of Change No. 129 must be the same 3 miner's inches (0.075 cfs) of water authorized to be changed in Certificate of Change No. 120. Consequently, the right authorized to be changed by Certificate of Change No. 129 must be appurtenant to 10 acres of land within the boundaries of the Wenatchee Heights Reclamation District as these boundaries existed on May 26, 1932, the date the change was authorized. This certificate supersedes Certificates of Change No. 102 and No. 120.

Certificate of Change No. 1-4-207 - Authorizes Bernard and Carliceo Aponick to add a point of diversion for 10 miner's inches (0.25 cfs) under the Holcomb Right (Class IV). Said 10 miner's inches being identified in the name of John M. Rezek on Certificate No. 324. The additional point of diversion authorized by Certificate of Change No. 1-4-207 is on the Columbia River at a point upstream from the confluence with Stemilt Creek, said additional point being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. Water may be diverted from the Columbia River up to a total of 0.25 cfs so long as water in a like quantity is available at the original point of diversion on Stemilt Creek. Any water diverted from Stemilt Creek under authority of Certificate No. 324 shall be deducted from the total authorized diversion of 0.25 cfs.

The Spring Hill Irrigation Company Right (Class V)

The Court in State, supra confirmed the Spring Hill Irrigation Company Right to 12.5 cfs (500 miner's inches) of water from Stemilt Creek for use upon 1500 acres of land. In confirming the right the court specified appurtenant lands, and the names of the owners of the land, but did not specify what portions of the 12.5 cfs (500 miner's inches) and 1500 acres of the total right was appurtenant to each land parcel. Research preparatory to this report did not help resolve the question of apportionment of the right. Therefore, in this report the Spring Hill Irrigation Company Right will be for 12.5 cfs (500 miner's inches) for use on a maximum of 1500 acres within parcels of land described within the Court decree and amended by Certificate of Change Nos. 166 and 379.

NOTE: Using the total shares of 160, we assumed that each share is equivalent to 3.125 acres and 9.375 acres.

Certificate of Change No. 166 - Authorizes the Columbia Valley Branch of the National Bank of Commerce of Seattle at Wenatchee to change the place of use of the amount of the entire rights to 4 shares of stock of the Spring Hill Irrigation Company and a proportionate storage right of the Spring Hill Reservoir from irrigation of the E $\frac{1}{2}$ SE $\frac{1}{2}$ NW $\frac{1}{2}$, SW $\frac{1}{2}$ NE $\frac{1}{2}$, NW $\frac{1}{2}$ SE $\frac{1}{2}$, and NE $\frac{1}{2}$ SW $\frac{1}{2}$, Sec. 15, T. 21 N., R. 20 E.W.M to irrigation of the NW $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{2}$, and SW $\frac{1}{2}$ SW $\frac{1}{2}$, Sec. 11, T. 21 N., R. 20 E.W.M.

The above described lands in Sec. 15 were not appurtenant to any of the rights of the Spring Hill Irrigation Company confirmed by the Court in State, supra. However, the decree does confirm a right to the Prowell Company for use of water from the Spring Hill Irrigation Company Right on land in the E $\frac{1}{2}$ SE $\frac{1}{2}$ NW $\frac{1}{2}$, SW $\frac{1}{2}$ NE $\frac{1}{2}$, NW $\frac{1}{2}$ SE $\frac{1}{2}$, and NE $\frac{1}{2}$ SW $\frac{1}{2}$, Sec. 16, T. 21 N., R. 20 E.W.M. Research for this report indicates that the above description is in error, and that Certificate of Change No. 166 correctly describes the lands as being in Sec. 15.

Certificate of Change No. 379 - Authorizes the Wenatchee Heights Reclamation District to change the place of use of water right comprised by 4 shares of stock of the Spring Hill Irrigation Company, including a proportionate storage right in the Spring Hill Reservoir Right. The new place of use is described as Wenatchee Heights Reclamation District lands comprising portions of Secs. 25, 26, 34, and 35, T. 22 N., R. 20 E.W.M., while the former place of use as being lands described in Certificate of Change No. 166. The effect of Certificate of Change No. 379, then, is to change the place of use, which is lands served by the Wenatchee Heights Reclamation District. This change is on 37.5 acres of irrigation and 12-1/2 miner's inches (.3125 cfs).

The Lake Irrigation Company Right (Class VI)

The Court in State, supra confirmed a right to 15.0 cfs (600 miner's inches) for use by the Lake Irrigation Company for the irrigation of 2000 acres of land. In confirming the right, the court did not indicate how the irrigated acreage and volume of water was to be shared among the 32 owners of lands appurtenant to right. Research preparatory to this report also failed to determine how the right is to be portioned among the various appurtenant land parcels. Therefore, the right will remain undifferentiated among the various land parcels appurtenant to the right. However, it was determined that originally there were 1000 shares to the right. Therefore, each share was assumed to represent .6 miner's inches (0.015 cfs) and be appurtenant to 2 acres.

Two Certificates of Change have been authorized for the use of the right to water for the Lake Irrigation Company. These Certificates of Change are as follows:

Certificate of Change No. 118 - Authorizes the Lake Irrigation Company to change the point at which 7 cfs (280 miner's inches) of its right to water is diverted from Stemilt Creek. The new point of diversion is described as being within the SE $\frac{1}{2}$, Sec. 22, T. 21 N., R. 20 E.W.M. The Certificate of Change authorizes by inclusion the storage of the 7 cfs (280 miner's inches) in Lily Lake when not needed for direct irrigation. Lily Lake is located in the NW $\frac{1}{2}$ SE $\frac{1}{2}$, Sec. 22, T. 21 N., R. 20 E.W.M.

Certificate of Change No. 407 - Authorizes the Stemilt Irrigation District to change the place of use of 998 shares of the 15 cfs (600 miner's inches) of water from Stemilt Creek awarded to the Lake Irrigation Company by the Court in State, supra. The certificate indicates that the entire 15 cfs (600 miner's inches) of water right was equally divided between 1000 shares of stock in the Lake Irrigation Company, and that all but two of the shares were owned by the Stemilt Irrigation District. Prorated on the aforesaid basis, Stemilt Irrigation District controls 14.97 cfs (598.80 miner's inches) of the

former Lake Irrigation Company Right to water from Stemilt Creek, while 0.03 cfs (1.20 miner's inches) of the right remains with the Lake Irrigation Company.

The Certificate of Change provides a distribution of the number of the 998 shares of the Lake Irrigation Company stock appurtenant to lands served by the Stemilt Irrigation District.

An application for change was approved on April 3, 1981 for the portion of the Lake Irrigation Company right described in Certificates of Change No. 118 and No. 407. The approval authorized the following:

7.0 cfs from Stemilt Creek at the Lily Lake Ditch within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 22, T. 21 N., R. 20 E.W.M., for storage in Lily Lake, and

14.97 cfs LESS the quantity diverted at the Lily Lake Ditch from the Clear Lake/Reed Ditch located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 22, T. 21 N., R. 20 E.W.M., AND the Stemilt Irrigation District diversion point located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M., for irrigation of lands within the Stemilt Irrigation District lying west of the west line of Sec. 5, T. 21 N., R. 21 E.W.M. Certificates of Change have not issued. The Stemilt Irrigation District is limited to irrigating 821 acres under its portion of the Lake Irrigation District, Wood Ditch and Lockwood rights (previously described by Certificates of Change No. 117, No. 118 and No. 407.

F. M. Cannack (Class VII)

The Court in State, supra confirmed a right to 1.25 cfs (50 miner's inches) of water from Stemilt Creek for use upon 55 acres of land. Said place of use to be within the following:

W $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 1, T. 21 N., R. 20 E.W.M.
E $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 2, T. 21 N., R. 20 E.W.M.

The point of diversion, as confirmed for this right, is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 4, T. 21 N., R. 20 E.W.M.

The Court ruled that said right is superior to the right of C. B. Knouf in Class III of said decree.

Earl Richardson (Class VIII)

The Court in State, supra confirmed a right to .37 cfs (14.8 miner's inches) of water from Stemilt Creek for use upon 15 acres of land. The place of use to be within the following: S $\frac{1}{4}$ NW $\frac{1}{4}$ and Govt. Lots 3 and 4 of Sec. 1, T. 21 N., R. 20 E.W.M. The points of diversion are two ditches, one within the NE $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M. and one within the NW $\frac{1}{4}$ of Sec. 1, T. 21 N., R. 20 E.W.M.

Perry Ditch Right (Class IX)

The Court in State, supra confirmed a right to 1.00 cfs (40 miner's inches) of water from Stemilt Creek for use upon an unspecified number of acres of land. Research preparatory to this report indicates the water was used to irrigate 259 acres of land. The point of diversion and place of use of water diverted from Stemilt Creek under the Perry Ditch Right was changed by Certificate of Change No. 569.

Certificate of Change No. 569 - Authorizes the Lockwood and Canaday Irrigation Company to change the point of diversion and place of use of the Perry Ditch Right from Stemilt Creek. The new point of diversion is described as a point within the S $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M. The new place of use is described as all lands in Secs. 27, 29, 30, 32, 33, 34, and 35, ALL in T. 22 N., R. 21 E.W.M. served by the Lockwood and Canaday Irrigation Company.

Morris Ditch Right (Class X)

The Court in State, supra confirmed a right to 5.0 cfs (200 miner's inches) of water from Stemilt Creek for use upon 326 acres of land served from the Morris Ditch. The point of diversion and place of use of a part of this right has been changed by Certificate of Change Nos. 104, 218, and 1151.

Certificate of Change No. 218 - Authorized Louise Furriss to change the place of use of 2/9th interest of the Morris Ditch Right from Stemilt Creek to within the E½NE¼, SW½NE¼, and NE½SE¼, Sec. 12, T. 21 N., R. 20 E.W.M. The Certificate of Change did not further quantify the volume of water to be diverted at the new point of diversion, but 2/9th of 5.0 cfs is 1.112 cfs (44.48 miner's inches). In the absence of more specific information of the volume of water represented by 2/9th interest of the Morris Ditch Right, it is assumed that said interest amounts to 1.112 cfs (44.48 miner's inches). The proportionate acres are 72.44 acres.

Certificate of Change No. 104 - Authorizes Christopher A. Mathison to make the change as defined by Certificate of Change No. 1151. Certificate No. 104 was issued with an error in the legal description, which is corrected by Certificate of Change No. 1151.

Certificate of Change No. 1151 - Authorizes Christopher A. Mathison to change the point of diversion of 33-1/3 miner's inches (.833 cfs) of the Morris Ditch Right to a point within the NE½NE¼, Sec. 14, T. 21 N., R. 20 E.W.M. The prorated acres for 33-1/3 miner's inches under the Morris Ditch Right is 54.33.

Perry Ditch Right (Class XI)

The Court in State, supra confirmed a right to 3.00 cfs (120 miner's inches) of water from Stemilt Creek for use upon an unspecified number of acres of land. Research preparatory to this report indicates the water was used to irrigate the same 259 acres irrigated with water from Stemilt Creek under the Perry Ditch Right. The point of diversion and place of use of water diverted from Stemilt Creek under the Perry Ditch Right was changed by Certificate of Change No. 569.

Certificate of Change No. 569 - Authorizes the Lockwood and Canaday Irrigation Company to change the point of diversion and place of use of the Perry Ditch Right from Stemilt Creek. The new point of diversion is described as a point within the S½SE¼, Sec. 25, T. 22 N., R. 20 E.W.M. The new place of use is described as all lands in Secs. 27, 29, 30, 32, 33 and 35, ALL in T. 22 N., R. 21 E.W.M. served by the Lockwood and Canaday Irrigation Company.

M. J. Garrett (Class XII)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 332.

The Prowell Company (Class XII)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 333.

F. M. Cammack (Class XII)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 334.

F. M. Cammack (Class XII)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 335.

Cynthia P. Groff (Class XII)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 336.

J. L. Daniels (Class XII)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 337.

Enlarged Perry Ditch (Class XIII)

The Court in State, supra confirmed a right to 4.0 cfs (160.0 miner's inches) of water from Stemilt Creek for use upon an unspecified number of acres of land. Research preparatory to this report indicates the water was used to irrigate 272 acres of land. The point of diversion from Stemilt Creek of the Enlarged Perry Ditch was not set forth in the decree, but in this report the point of diversion will be considered to be the same as for the Perry Ditch.

J. W. Rose and M. H. Nelson (Class XVII)

Certificate No. 346 of Decree No. 18107 confirmed a right for 8 miner's inches (.20 cfs) of the waters of Stemilt Creek for the irrigation of 8 acres within the E $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M.

The point of diversion, as confirmed by the Decree, was within the SW $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M.

Subsequent to the adjudication, the right was changed by Certificate of Change No. 93.

Certificate of Change No. 93 - Authorizes J. W. Rose, Emily Rose and Franklin A. Wood to change the point of diversion for .20 cfs (8 miner's inches) from the SW $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M. to the NE $\frac{1}{2}$ NE $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M.

John M. Rezek (Class XVIII)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 347.

Landreth Brothers and Inland Timber Co. (Class XIX)

This right remains as it was confirmed by Decree No. 18107, Certificate No. 348.

The rights to such springs as result from irrigation return flow are the property of the persons owning lands on which said springs arise and the waters of said springs may be used upon any lands owned by that person. The following are the only lands upon which said springs were known to arise.

M. J. Garrett	SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 14, T. 21 N., R. 20 E.W.M.
F. M. Cammack	W $\frac{1}{2}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 14, T. 21 N., R. 20 E.W.M.
J. R. Chase	NE $\frac{1}{4}$ Sec. 11, T. 21 N., R. 20 E.W.M.
Thomas Derefield and H.D. West and C.B. Knouf	SE $\frac{1}{2}$ Sec. 11; W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 12, T. 21 N., R. 20 E.W.M.
J. W. Rose and M. H. Nelson	E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 14, T. 21 N., R. 20 E.W.M.
F. M. Cammack	W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 1; E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 2, T. 21 N., R. 20 E.W.M.

Galler Springs

The rights to Galler Springs were confirmed under eight separate certificates, numbers 362 through 369. They are as described below with changes entered as they have occurred.

Graves Orchard Company - Certificate No. 362 - Confirmed a right for 1/8 of the entire flow of the springs for the irrigation of 20 acres within the E $\frac{1}{2}$ E $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ of Sec. 33, T. 22 N., R. 21 E.W.M.

Galvin Wyr and I. M. Derefield - Certificate No. 363 - Confirmed a right for 1/4 of the entire flow of the springs for the irrigation of 40 acres within the N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ and the W $\frac{1}{2}$ NE $\frac{1}{2}$ NE $\frac{1}{4}$ of Sec. 33, T. 22 N., R. 21 E.W.M. The point of diversion for this water being within the NE $\frac{1}{4}$ of Sec. 5, T. 21 N., R. 21 E.W.M.

N. Hill - Certificate No. 364 - Confirmed a right for 1/16 of the entire flow of the springs for the irrigation of 10 acres of land within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 33, T. 22 N., R. 21 E.W.M. The point of diversion for this water being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 5, T. 21 N., R. 21 E.W.M.

Leon Hill - Certificate No. 365 - Confirmed a right for 1/16 of the entire flow of the springs for the irrigation of 10 acres within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 33, T. 22 N., R. 21 E.W.M. The point of diversion for this water being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 5, T. 21 N., R. 21 E.W.M.

W. J. Rothgeb - Certificate No. 366 - Confirmed a right for 1/8 of the entire flow of the springs for the irrigation of 20 acres within the E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 28, T. 22 N., R. 21 E.W.M.

E. A. Mullen - Certificate No. 367 - Confirmed a right for 1/16 of the entire flow of the springs for the irrigation of 10 acres within the E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 28, T. 22 N., R. 21 E.W.M. The point of diversion for this water is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 5, T. 21 N., R. 21 E.W.M.

Phoebe Usher - Certificate No. 368 - Confirmed a right for 1/16 of the entire flow of the springs for the irrigation of 10 acres within the W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 28, T. 22 N., R. 21 E.W.M.

Certificate of Change No. 540 - Authorized Roger J. Meakin to change the place of use of a portion of the waters of Galler Springs. Said change to be on a portion of the waters confirmed to Phoebe Usher by Certificate No. 368.

Certificate of Change No. 540 specified that 1/40 of the flow of Galler Springs be changed. It also defines said 1/40 flow to be limited to 4 miner's inches or 40 percent of the right defined on Certificate No. 368.

The water use is to be changed from the W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 28, T. 22 N., R. 21 E.W.M. to Lot A of the Plat of First Addition to Malaga Land Company's Orchard Tracts located in the N $\frac{1}{2}$ of Sec. 33, T. 22 N., R. 21 E.W.M. The portion of the right being changed is for four acres of irrigation.

J. W. Usher, E. L. Robbins, and O. M. Simmons - Certificate No. 369 - Confirmed a right for 1/4 of the entire flow of the springs for the irrigation of 40 acres within the SW $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 28, T. 22 N., R. 21 E.W.M.

Certificate of Change No. 235 - Authorized Frank Bainard to change the place of use of a portion of the Galler Springs right identified by Certificate No. 369, in the name of J. W. Usher, et al.

Said change covers 3/32 of the entire flow of the springs or 37.5 percent of the right as defined under Certificate No. 369.

The water had been used within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 28, T. 22 N., R. 21 E.W.M. for the irrigation of 40 acres.

That portion of the right being changed has been calculated as 15 acres of irrigation to be within the W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 34, T. 22 N., R. 21 E.W.M., less the south 406 feet thereof.

Taking into account all of the recorded certificates of change as described above, rights to water from Stemilt Creek are tabulated by class as follows:

CLASS I - 1883

Name of Right	Maximum Amount		No. of Acres	Source
	(cfs)	Of Water (Miner's In.)		
<u>LOCKWOOD</u>	0.735	29.25	97.19	Stemilt
Point of Diversion:	SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M.			
Place of Use:	Lots, "A", 3, 4, 5, 6, 7, 11, 12 and reservoir site First Addition; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, Block 2; Lots 2, 3, 4, Block 3; Lots 2, 7, Block 4; Lots 1, 2, 3, 4, 5, 6, 7, 8, Block 5; Lots 2, 3, 4, 5, 6, Block 6; Lots 1, 2, Block 7; ALL in Malaga Land Company's Orchard Tracts.			
	East 10 acres of NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.			
	W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, except 16 feet on west side; also 16 feet off E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.			

The E $\frac{1}{2}$ of the following described tract: Beginning at a point 49 rods south of the northeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.; thence south along the section line 21 rods 10 $\frac{1}{2}$ feet; thence due west to the Lockwood, Canadaay & Thomas Irrigation Ditch; thence in a northwesterly direction along said ditch to a point due west of the point of beginning; thence due east to the place of beginning; containing 5 acres, more or less.

Beginning at a point 4 rods south and 688 feet west of the northeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 30, T. 22 N., R. 21 E.W.M.; thence south 25 rods; thence west to the west line of the said NE $\frac{1}{4}$ SE $\frac{1}{4}$; thence north 25 rods to a point due west of the place of beginning; thence east to the point of beginning, containing 6 acres, more or less.

Also, the south 18 acres of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the north 2 acres of NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.

Also, beginning at a point 30 feet east and 566 feet south of the northwest corner of the SW $\frac{1}{4}$, Sec. 29, T. 22 N., R. 21 E.W.M., and running south 122 feet; thence west 8 rods to the place of beginning, containing 1/3 acre, more or less.

Also, beginning at a point 29 rods south of the northeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.; thence south 20 rods; thence west 80 rods, more or less, to the west line of said forty; thence north 20 rods; thence east to the place of beginning, containing 10 acres, more or less, subject, however, to the present county road along the east line of the said described tract.

SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.

Also, that part of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M. described as follows: Beginning at a point 70 rods 10 $\frac{1}{2}$ feet south of the northeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30; thence running due west to the Lockwood, Canadaay & Thomas Irrigation Ditch; thence southeasterly along said ditch to an intersection with the north line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Sec. 30; thence east along said line to the east line of said section; thence north to the place of beginning.

Part of the E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M., described as follows: Commencing at a point on the east line of the above described tract 724 feet south of the northeast corner thereof; thence south on the east line of said E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 34, 1916 feet to the centerline of said Sec. 34; thence west on said centerline 665 feet to the southwest corner of said E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 34; thence north on the west line of said E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 34, 1649 feet; thence to the right an angle of 80°, 280 feet; thence to the left an angle of 14°, 421 feet to the place of beginning, containing 27 acres, more or less.

All of Sec. 35, T. 22 N., R. 21 E.W.M., except the NW $\frac{1}{4}$ NW $\frac{1}{4}$.

S $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.

SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 21 E.W.M.

SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 1-3/5 acres adjoining in SW $\frac{1}{4}$ NE $\frac{1}{4}$, ALL in Sec. 34, T. 22 N., R. 21 E.W.M.

The W $\frac{1}{2}$ of the following described tract of land: Beginning for the same at a point 49 rods south of the northeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 30, T. 22 N., R. 21 E.W.M.; thence running south along said section a distance of 21 rods and 10 $\frac{1}{2}$ feet; thence due west to the Lockwood,

Canaday & Thomas Irrigation Ditch; thence in a northwesterly direction along said ditch to a point due west of the place of beginning; thence due east to the place of beginning, also a right of way across the E $\frac{1}{2}$ of said tract along the north line thereof 20 feet wide.

S $\frac{1}{2}$ of Lot 16, Block 3, Gulick's Orchard Tracts.

W $\frac{3}{4}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.

E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 21 E.W.M.

SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, T. 22 N., R. 21 E.W.M., containing 10 acres, more or less.

Also, the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 27, T. 22 N., R. 21 E.W.M.; also, all that portion of the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M., EXCEPT a tract of land bounded as follows: Beginning at a point on the east line of the E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, 724 feet south of the northeast corner thereof and thence running south on said east line 596 feet to the southeast corner of said 20 acre tract; thence west to the southwest corner of said tract; thence north on west line of said tract 329 feet; thence turning to the right an angle of 80° and running 282 feet; thence turning to the left an angle of 14° and running 421 feet to the place of beginning; containing 72.7 acres, more or less.

SW $\frac{1}{4}$, Sec. 28, T. 22 N., R. 21 E.W.M., EXCEPT the following described land: Beginning at the southwest corner of said Sec. 28 and running thence east along the south line thereof 670 feet; thence north 825 feet; thence south 74°20' north 400 feet; thence north 85°10' east 90.3 feet; thence north 35° west 300 feet; thence north 9°05' west 156.4 feet; thence north 38°13' west 100 feet; thence north 2°35' east 170.5 feet; thence north 44°42' west 318.4 feet; thence west 670 feet to the west line of said Sec. 28; thence south along the west line of said Sec. 28, 1600 feet to the place of beginning, containing 29.18 acres, more or less, in said excepted tract, subject to the county road, containing 130.82 acres, more or less.

W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 21 E.W.M.

W $\frac{1}{2}$ NF $\frac{1}{4}$ NF $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.

E $\frac{1}{2}$ W $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.

E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.

E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 21 E.W.M.

Lot 2, First Addition Malaga Land Company's Orchard Tracts.

Lot 1, First Addition Malaga Land Company's Orchard Tracts.

The north 22 acres of the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.

Beginning at a point 4 rods south from the northeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.; thence running west 688 feet; thence south 25 rods; thence east 688 feet; thence north 25 rods to the place of beginning, EXCEPTING the County Road, containing 6 acres.

All lands lying south and east of the center line of Stemilt Creek in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M. including right of way to County Road appurtenant thereto.

Part of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M., as follows: Beginning at the northwest corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.; running thence east on a line between the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said section 60 rods; thence south 59 rods; thence west 31 rods; thence north to the line between the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$; thence east 31 rods to place of beginning, containing 11-1/6 acres, more or less.

E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, T. 22 N., R. 21 E.W.M.

STEMILT IRRIGATION DIST.

2.525 101.00 332.06 Stemilt Cr..

Points of Diversion:

1. E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M.
2. SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M.
3. SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

Place of Use:

332.06 acres of land within the boundaries of the Stemilt Irrigation District lying west of the west line of Sec. 5, T. 21 N., R. 21 E.W.M.

WENATCHEE HEIGHTS RECLAMATION DISTRICT

1.40 56.00 184.11 Stemilt Cr.

Points of Diversion:

- NW $\frac{1}{4}$, Sec. 29, T. 21 N., R. 20 E.W.M.
SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

Taken from point of diversion during the early part of each irrigation season and stored in a reservoir owned and operated by the Wenatchee Heights Reclamation District. The stored water is to be used during the irrigation season to irrigate 184.11 acres of land and for domestic and livestock purposes within the boundaries of the Wenatchee Heights Reclamation District as those boundaries existed on May 26, 1932.

ALSO

0.050 2.0 6.64 Stemilt Cr.

Point of Diversion:

A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

6.64 acres within lands served by the district in Secs. 25, 26, 34, and 35, ALL in T. 22 N., R. 20 E.W.M.

SARGENT D. SHIFLETT

0.025 1.0 3.32 Stemilt Cr.

Point of Diversion:

A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

3.32 acres within the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M.

ALSO

0.012 0.5 1.66 Stemilt Cr.

Point of Diversion:

A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

1.66 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 10, T. 21 N., R. 20 E.W.M.

JESS ZIMMERMAN

0.075 3.0 9.96 Stemilt Cr.

Point of Diversion:

A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

9.96 acres within the S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, T. 21 N., R. 20 E.W.M.

<u>FRANK B. BERDAN</u>	0.025	1.0	3.32	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	3.32 acres within Lots 7, 8, and 9, Block 8 of Wenatchee Heights Orchard Tracts within Sec. 34, T. 22 N., R. 20 E.W.M., and the north 165 feet of the NE $\frac{1}{4}$, Sec. 3, T. 21 N., R. 20 E.W.M., LESS the west 1,150 feet thereof.			
<u>GLENN E. STEINRACH</u>	0.026	1.0	3.32	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	3.32 acres being that portion of the following described property lying within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 34, T. 22 N., R. 20 E.W.M. Beginning at the southwest corner of the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 34, T. 22 N., R. 20 E.W.M.; thence N 89°34' E along the section centerline 368.0 feet to the northeast corner of Lot 9, Block 9 Plat of Wenatchee Heights Orchard Tracts; thence S 10°26' E 378.9 feet; thence S 50°04' E 170.1 feet; thence N 33°56' E 480.0 feet; thence N 13°28' W 291.8 feet; thence N 1°27' W 443.2 feet; thence N 1°08' W 914.0 feet; thence S 88°24' W 803.0 feet more or less, to the west line of the E $\frac{1}{2}$ NW $\frac{1}{4}$ of said Section; thence southerly along said west line to the point of beginning.			
<u>DESA TRUMBLE</u>	0.025	1.00	3.32	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	3.32 acres in Tracts 6 and 7, and the north 706 feet of Lot 4, Block 12 of Wenatchee Heights Orchard Tracts.			
<u>JOHN GRUBB</u>	0.032	1.25	4.15	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	4.15 acres within Tracts 4 and 7, Block 11 of Wenatchee Heights Orchard Tracts.			
<u>BOLESŁAW JAGLA</u>	0.012	0.5	1.66	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	1.66 acres within the SW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.			
<u>ALSO</u>	0.019	0.75	2.49	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	2.49 acres within the NW $\frac{1}{4}$, Sec. 26, T. 21 N., R. 20 E.W.M.			
<u>ALSO</u>	0.019	0.75	2.49	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	2.49 acres within the SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 20 E.W.M.			
<u>JOHN FILES, JR.</u>	0.025	1.0	3.32	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	3.32 acres within Tracts 4 and 5, Block 9 of Wenatchee Heights Orchard Tracts, and that portion of the unplatted part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 34, lying northerly of the right of way of the Wenatchee Heights Road, ALL in T. 22 N., R. 20 E.W.M.			

CLASS II - 1883

STEMILT IRRIGATION DISTRICT

	1.125	45.00	90.32	Stemilt Cr.
Points of Diversion:	1. E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M. 2. SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M. 3. SW $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.			
Place of Use:	90.32 acres of land within the boundaries of the Stemilt Irrigation District lying west of the west line of Sec. 5, T. 21 N., R. 21 E.W.M.			

WENATCHEE HEIGHTS RECLAMATION DISTRICT

	1.675	67.00	134.47	Stemilt Cr.
Points of Diversion:	NW $\frac{1}{4}$, Sec. 29, T. 21 N., R. 20 E.W.M. SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	134.47 acres of land within the boundaries of the Wenatchee Heights Irrigation District as these boundaries existed on May 26, 1932.			

BOLESLAW JAGLA

	0.321	12.83	30.23	Stemilt Cr.
Point of Diversion:	A point located within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	A maximum of 30.23 acres of irrigation within Lot 2, Block 9 of Wenatchee Heights Orchard Tracts; SE $\frac{1}{4}$, Sec. 27, T. 22 N., R. 20 E.W.M.; NW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.; and a block of land described as follows: Beginning at the southeast corner of the SW $\frac{1}{4}$, Sec. 23, T. 22 N., R. 20 E.W.M.; thence west on the south section line of said section 800 feet; thence due south 170 feet; thence due west on the south line of said section to the place of beginning.			

F. M. CAMMACK

	0.250	10	20.00	Stemilt Cr.
Points of Diversion:	All of the water appurtenant to the right may be diverted from Stemilt Creek through any one of the following points: <ol style="list-style-type: none"> 1. A point within the NE$\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. 2. A point within the E$\frac{1}{2}$SE$\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. 3. A point within the NE$\frac{1}{4}$, Sec. 15, T. 21 N., R. 20 E.W.M. 4. A point within the NW$\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. 			
Place of Use:	A maximum of 20.00 acres of land within the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 1, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and a part of the E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14, ALL in T. 21 N., R. 20 E.W.M.			

C. B. KNOUF

	0.500	20	40.90	Stemilt Cr.
Point of Diversion:	<ol style="list-style-type: none"> 1. A point within the SW$\frac{1}{2}$NW$\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. 2. A point within the SW$\frac{1}{2}$NE$\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. 3. A point within the W$\frac{1}{2}$SW$\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M. 			
Place of Use:	A maximum of 40.90 acres within the E $\frac{1}{2}$, Sec. 11 and W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 12, ALL in T. 21 N., R. 20 E.W.M.			

<u>A. E. KANE</u>	0.258	10-1/3	52.00	Stemilt Cr.
Point of Diversion:	A point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.			
Place of Use:	A maximum of 52.00 acres within the E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T. 22 N., R. 21 E.W.M.			
<u>COMMERCIAL BANK and TRUST COMPANY and PETER WHEELER</u>	0.075	3.00	23.08	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	A maximum of 23.08 acres within Lots 1, 2, 3 and 9, Block 14, and Lots 1 and 2, Block 13 of Wenatchee Heights Orchard Tracts.			
<u>ALSO</u>	0.150	6.00	46.15	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	A maximum of 46.15 acres within the E $\frac{1}{2}$, Sec. 3, T. 21 N., R. 20 E.W.M.			
<u>J. W. ROSE</u>	0.175	7.00	50.00	Stemilt Cr.
Point of Diversion:	A point within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.			
Place of Use:	A maximum of 50.00 acres within the W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.			
<u>CHARLES W. OAKES</u>	0.225	9.00	18.06	Stemilt Cr.
Point of Diversion:	A point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.			
Place of Use:	A maximum of 18.06 acres within the lands appurtenant to the Wood Ditch Right as described by the Chelan County Court in a decree made and entered on the 26th day of January, 1926, and recorded in Volume 12 of the Superior Court Journal of said county at page 256, LESS those lands particularly identified as appurtenant to rights to water confirmed in the aforesaid court decree and from which the right to water has been duly transferred, which lands are more fully described in this report. A description of the remaining lands which may be appurtenant to this right is as follows:			
*Listed under E. E. Bruce	A maximum of 18.00 acres of a plat of land described as follows: All of Lot 5, Sec. 24, T. 22 N., R. 20 E.W.M. excepting the right of way of the St. Paul Minneapolis & Manitoba R.R. Co. as now established and excepting any existing county roads.			
	Also, the following described tract of land: Beginning at the northeast corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec. 24; thence running south a distance of 555 feet; thence running in a northwesterly direction along the present county road a distance of 1035 feet to the center of a gulch; thence running in a southwesterly direction along the center of said gulch a distance of 735 feet to an intersection with the west line of said forty; thence north 594 feet to the northwest corner of said forty; thence east to the place of beginning.			
*Listed under Elizabeth Butler in Decree	A maximum of 10.00 acres of a plat of land described as follows: Lots 2 and 4, Perry Fruit Gardens.			
*Listed under A. J. Coleman in the Decree	A maximum of 20 acres of the following: E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, T. 22 N., R. 21 E.W.M.			

*Listed under E. M. Gillette in Decree

A maximum of 30.77 acres of the following: All Sec. 35, EXCEPT NW $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.

*Listed under Samuel Johnson in Decree

A maximum of 20.00 acres of a plat of land described as follows: The S $\frac{1}{2}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 25, T. 22 N., R. 20 E.W.M.; also the following described lands: Beginning at a point which bears north 45° east a distance of 100 feet from the southwest corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T. 22 N., R. 20 E.W.M. and running thence in a southeasterly direction a distance of 587 feet to the center of a deep gulch; thence running in a northeasterly direction down the center or bottom of said gulch a distance of 1500 feet to the intersection of said gulch with the old Wenatchee-Malaga Road; thence in an easterly direction along said wagon road a distance of 488 feet to the east line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec. 24; thence south a distance of 2057 feet to the southeast corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 25, T. 22 N., R. 20 E.W.M.; thence west to the southwest corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Sec. 25; thence north to the southwest corner of the SE $\frac{1}{4}$ E $\frac{1}{4}$ of Sec. 24; thence north 45° east a distance of 100 feet to the point of beginning, containing 175 acres, more or less.

*Listed under E. W. Oswald in Decree

A maximum of 33 acres of the following: Part of SW $\frac{1}{4}$, Sec. 28, T. 22 N., R. 21 E.W.M.

*Listed under Herman T. Oswald in Decree

A maximum of 5.83 acres on a plot of land described as follows: Beginning at the southwest corner of Sec. 28, T. 22 N., R. 21 E.W.M.; running thence east along the south line of Sec. 28 aforesaid 760 feet; thence north 825 feet; thence south 74°20' east 400 feet; thence north 85°10' east 90.3 feet; thence north 35° west 300 feet; thence north 9°05' west 156.4 feet; thence north 38°13' west 100 feet; thence north 2°35' east 170.5 feet; thence north 44°42' west 318.4 feet; thence west 670 feet to the west line of Sec. 28; thence south 1600 feet along the west line of Sec. 28 to place of beginning, containing 29.18 acres, excepting therefrom rights of way for county roads as now laid out.

*Listed under R. M. Ragsdale under Decree

A maximum of 55.25 acres within the following: Lot 3, Block 6; Lots 2, 3, 4, 5, 6 and 7, Block 4; Lot 3, Block 3; Lots 1, 7, 8, 10, 11, Block 8; Lot 3, Block 9; Lots 10, 11, 12, Block 1, ALL Wenatchee Heights Orchard Tracts in Sec. 34, T. 22 N., R. 20 E.W.M.

*Listed under Perry E. Soule under Decree

A maximum of 24.00 acres on a plat of land described as follows: The SW $\frac{1}{4}$ SE $\frac{1}{4}$ and Lot 6 in Sec. 24, T. 22 N., R. 20 E.W.M., EXCEPT the following described tract of land, to-wit: Beginning at a point 700 feet south of the Great Northern Railway on the east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and of Lot 6 of Sec. 24 in the above township and range; thence west 654 feet to the line which would be a continuation of the west line of the E $\frac{1}{2}$ of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said section; thence south on said line to the south line of said section; thence east on said south line to the east line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence north on said line to the place of beginning; and EXCEPTING also all that portion of the W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 24, T. 22 N., R. 20 E.W.M. lying south of the right of way of the Great Northern Railway, containing 38 acres, more or less, containing 24 acres over and above the above described exceptions.

*Listed under Margaret Vining under Decree

A maximum of 5.00 acres on a plat of land described as follows: Lot 3, Perry Fruit Gardens.

*Listed under Philander
P. Wood under Decree

The E $\frac{1}{2}$ NW $\frac{1}{4}$ and Lots 1 and 2, Sec. 30, T. 22 N., R. 21 E.W.M.
Execution Book 54, page 484, Annie S. Wood, Plaintiff, vs.
P. P. Wood, Defendant; EXCEPTING all that part of land lying
south and east of the center of Stemilt Creek in the SE $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 30, T. 22 N., R. 21 E.W.M.

W. J. SLACK

0.150 6.00 10 Stemilt Cr.

Point of Diversion:

A point within the SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M.

Place of Use:

10 acres within Lot 1, Block 1 of Malaga Land Company's
Orchard Tracts.

VIRGINIA M. RUBUSH

0.100 4.00 56 Stemilt Cr.

Point of Diversion:

A point within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

56 acres within the E $\frac{1}{2}$, Sec. 3, T. 21 N., R. 20 E.W.M.

ALSO

0.0438 1.75 29.75 Stemilt Cr.

Point of Diversion:

A point within NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

29.75 acres within Lots 1 and 2 and the S $\frac{1}{2}$ NE $\frac{1}{4}$ and all of the
SE $\frac{1}{4}$ of Sec. 3, T. 21 N., R. 20 E.W.M., EXCEPT that portion
of the north 10 rods of the aforesaid Lots 1 and 2 lying
east of a line 1150 feet east of the west line of said
Lot 2.

JOHN McCROSKEY

0.038 1.50 20.00 Stemilt Cr.

Point of Diversion:

A point within NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

20.00 acres within Lot 6, Block 1 of the Plat of Wenatchee
Heights Orchard Tracts. This lot is only 5 acres, so
15 acres of the right cannot be exercised.

CLASS III - RIPARIAN

THOMAS K. MATHISON
and L. W. STEFFEN

0.125 5.0 20.0 Stemilt Cr.

Point of Diversion:

A point within the SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

Place of Use:

20 acres within the N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, T. 21 N.,
R. 20 E.W.M.

ALSO

0.0278 1.11 4.44 Upper Groff Spr.

Point of Diversion:

A point within the S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M.

Place of Use:

Industrial use within Secs. 1 and 12, T. 21 N., R. 20 E.W.M.

ALSO

0.0972 3.89 15.56 Upper Groff Spr.

Point of Diversion:

A point within the S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M.

Place of Use:

15.56 acres within the N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20
E.W.M.

C. B. KNOUF

Point of Diversion:

Place of Use:

Time of Use:

0.25 10 20 Stemilt Cr.

A point 800 feet east and 350 feet north of the southwest corner of Sec. 14, T. 21 N., R. 20 E.W.M.

20 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M.

From April 1 to October 1 of each year. Riparian rights as against all parties except those in Classes 1, 2, 5, 6, 7 and 10 of this classification.

J. F. BLACK

Point of Diversion
and
Place of Use:

0.50 20 40 Stemilt Cr.

SE $\frac{1}{4}$, Sec. 21, T. 21 N., R. 20 E.W.M. Riparian rights only to waters from Middle and North Forks of Stemilt Creek and to all springs within the SE $\frac{1}{4}$, Sec. 21, T. 21 N., R. 20 E.W.M.

CLASS IV - 1888

A. L. COLEMAN

Point of Diversion:

Place of Use:

0.050 2 30 Stemilt Cr.

A point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M.

30 acres within the E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, T. 22 N., R. 21 E.W.M.

CHRIS MATHISON and
EDWIN A. OSWALD

Point of Diversion:

Place of Use:

0.125 5 32 Stemilt Cr.

A point within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

32 acres of land lying west of the county road in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.

JOHN M. REZEK

Point of Diversion:

Place of Use:

0.250 10 40 Stemilt Cr.

A point within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T. 22 N., R. 20 E.W.M.

40 acres within Government Lots 8 and 9, Sec. 19, T. 22 N., R. 21 E.W.M., EXCEPT Beginning at a point which is south 00°00' 710 feet and south 63°15' east 512 feet from the intersection of the west line of Sec. 19, T. 22 N., R. 21 E.W.M. and the southerly line of permanent Highway No. 6 of Chelan County as a true point of beginning; thence south 63°15' east 380 feet; thence north 20°35' east 736 feet to a point on the south line of said permanent Highway No. 6, which point is 1038 feet southeasterly along a 0°59' curve from said intersection of said west line of said Sec. 19 and said south line of said permanent Highway No. 6; thence following along said 0°59' curve in a northwesterly direction 344 feet; thence south 14°59' west 253 feet; thence south 58°57' east 44.3 feet; thence south 21°50' west 435 feet to the said true point of beginning.

JOHN M. REZEK

(Bernard and Carlileo
Aponick)

0.250 10 40 Stemilt Cr.

0.250 10 40 Columbia River

NOTE: Total diversion shall not exceed 0.250 cfs from both points of diversion. Water can be diverted from the river only at such times and in such quantity as is available at the original point of diversion on Stemilt Creek.

Points of Diversion:

#1: A point within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, T. 22 N., R. 20 E.W.M. (Stemilt Creek)

#2: A point within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, T. 22 N., R. 21 E.W.M. (Columbia River)

Place of Use:

No change

WENATCHEE HEIGHTS
RECLAMATION DISTRICT

0.075 3 10 Stemilt Cr.

Points of Diversion:

Points within the SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M., and NW $\frac{1}{4}$, Sec. 29, T. 21 N., R. 20 E.W.M.

Place of Use:

10 acres within the boundaries of the Wenatchee Heights Irrigation District as these boundaries existed on September 16, 1930.

CLASS V - 1885

SPRING HILL
IRRIGATION COMPANY

12.1875 487.5 1462.5 Stemilt Cr.

Point of Diversion:

A point within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

Place of Use:

1462.5 acres of land within the following:

*The following parcels of land are listed in order as they appear in the decree. The lands as changed by Certificates of Change 166 and 379 have been listed separately under the Wenatchee Heights Reclamation Dist. Therefore, the lands as originally described for the Prowell Company have been deleted.

All that part of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 15, T. 22 N., R. 20 E.W.M. lying north of the county road commonly known as Circle Street and east of the county road commonly known as Miller Street.

Lots 3, 4, 5, 6, and 7, Block 11 of Wenatchee Heights Orchard Tracts.

Lot 2, Block 8 of Wenatchee Heights Orchard Tracts.

Lot 15 and 529 feet of Lot 18, Block 1 of Wenatchee Heights Orchard Tracts.

Lot 1, Block 4 of Wenatchee Heights Orchard Tracts.

Lot 7, Block 2 of Wenatchee Heights Orchard Tracts.

Lots 10 and 12, Block 7 of Wenatchee Heights Orchard Tracts.

Lot 5; SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 22 N., R. 20 E.W.M.

Lots 1, 3, 21, and 9, Block 14, Lots 1 and 2, Block 13 of Wenatchee Heights Orchard Tracts.

NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 22, T. 22 N., R. 20 E.W.M.

Lot 2, Block 9 of Wenatchee Heights Orchard Tracts, and NW $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M., and 9 acres in Sec. 23, T. 22 N., R. 20 E.W.M. adjoining the NW $\frac{1}{4}$, Sec. 26, T. 22 N., R. 20 E.W.M.

W $\frac{1}{2}$, Sec. 3, T. 21 N., R. 20 E.W.M.

Lot 3, Block 12 of Wenatchee Heights Orchard Tracts.

25 five-acre lots in Wenatchee Heights Orchard Tracts.

W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 15, T. 21 N., R. 20 E.W.M.

Lots 8 and 9, Block 1 and Lots 4, 5, 6, and 7, Block 3 of Wenatchee Heights Orchard Tracts.

Lots 6, 7, and 8, Block 4 and Lot 1, Block 8, and Lot 3, Block 9 of Wenatchee Heights Orchard Tracts.

S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 34, T. 22 N., R. 20 E.W.M., EXCEPT a strip of land being 12 rods wide north and south and 40 rods long east and west in the extreme northeast corner of said tract. Also, a tract 12 rods north and south and 40 rods long east and west in the extreme southwest corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Sec. 34; ALSO, the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33, T. 22 N., R. 20 E.W.M., EXCEPT about 6-2/3 acres in the northwest corner thereof deeded to Conrad Rose.
Also, Lot 1, Sec. 4, T. 21 N., R. 20 E.W.M., EXCEPT about 2-3/5 acres near the northwest corner thereof and fully described in said deed to Conrad Rose above mentioned.

Lot 3, Block 6 and Lot 5, Block 4 of Wenatchee Heights Orchard Tracts.

Lots 5 and 6, Block 5, and Lot 8, Block 9, Lot 4, Block 8 of Wenatchee Heights Orchard Tracts.

Lot 1, Block 1 of the First Addition to Wenatchee Heights Orchard Tracts.

Lots 4, 5, 6, and 8, Block 7 of Wenatchee Heights Orchard Tracts and 4 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 35, T. 22 N., R. 20 E.W.M.; ALSO the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 20 E.W.M.

Lots 17 and 18, Block 1; Lot 1, Block 2, EXCEPT the west 180 feet, ALL in Wenatchee Heights Orchard Tracts.

Lots 10 and 11, Block 8 of Wenatchee Heights Orchard Tracts.

W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 15, T. 21 N., R. 20 E.W.M.

Lot 3, Block 3; Lots 7 and 8, Block 8 of Wenatchee Heights Orchard Tracts.

Lot 3, Block 8 of Wenatchee Heights Orchard Tracts.

Lot 5, Block 10 of Wenatchee Heights Orchard Tracts.

Lot 1, Block 1; Lots 2 and 3, Block 15; Lots 3, 4, and 6, Block 10 of Wenatchee Heights Orchard Tracts.

WENATCHEE HEIGHTS
RECLAMATION DISTRICT

Point of Diversion:

Place of Use:

0.3125 12.5 37.5 Stemilt Cr.

A point within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 16, T. 21 N., R. 20 E.W.M.

37.5 acres within those lands in Secs. 25, 26, 34, and 35, T. 22 N., R. 20 E.W.M. within the boundaries of the Wenatchee Heights Reclamation District as these boundaries existed on February 26, 1953.

CLASS VI - 1888

Rights in this class are superior to the right of C. B. Knouf of Class III above.

Rights in this class, prior to July 1 in each year, are superior to rights in Class V above in compliance with the decree in the case of Miller v. Lake Irrigation Co. No. 4, Records of Chelan County.

STEMILT IRRIGATION DISTRICT

14.97 598.80 1997.6 Stemilt Cr.

Points of Diversion:

Three points located within the N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M. and within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M., 7.97 cfs from the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14 and NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22 and 7 cfs from the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 22.

Place of Use:

Lands within the Stemilt Irrigation District lying west of the west line of Sec. 5, T. 21 N., R. 21 E.W.M.:

LAKE IRRIGATION COMPANY

0.03 1.2 2.4 Stemilt Cr.

Point of Diversion:

A point within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 1, T. 21 N., R. 20 E.W.M.

Place of Use:

The two shares of the Lake Irrigation Right which were not changed by Certificates of Change Nos. 118 or 407 are assumed to be appurtenant to the original place of use as described by Decree No. 18107.

CLASS VII - 1892

C. M. CAMMACK

1.25 50 55 Stemilt Cr.

Points of Diversion and Place of Use:

55 acres in the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M. and E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 2, T. 21 N., R. 20 E.W.M.

This right is superior to the right of C. B. Knouf in Class III above.

CLASS VIII - 1894

EARL RICHARDSON

0.37 15 15 Stemilt Cr.

Points of Diversion:

2 ditches within the NE $\frac{1}{4}$, Sec. 14 and NW $\frac{1}{4}$, Sec. 1, ALL within T. 21 N., R. 20 E.W.M.

Place of Use:

15 acres in the S $\frac{1}{2}$ NW $\frac{1}{4}$ and Government Lots 3 and 4, Sec. 1, T. 21 N., R. 20 E.W.M.

CLASS IX - 1897

LOCKWOOD-CANADAY IRRIGATION COMPANY (Perry Ditch Right)

1.00 40 259 Stemilt Cr.

Point of Diversion:

A point located within the S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M.

Place of Use:

259 acres of land served with water by the Lockwood-Canaday Irrigation Company within Secs. 27, 29, 30, 32, 33, 34, and 35, ALL in T. 22 N., R. 21 E.W.M.

CLASS X - 1895

MORRIS DITCH COMPANY

5.0 200 326 Stemilt Cr.

Points of Diversion:

1. A point within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M.
2. A maximum of 33-1/3 miner's inches (0.833 cfs) at a point within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. A maximum of 44.48 miner's inches (1.112 cfs) to be diverted to the following points:
3. E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.
4. SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.
5. NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.

Place of Use:

326 acres of land within the following:

E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.

W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 7, T. 21 N., R. 21 E.W.M., EXCEPT 10 acres of the north end; ALSO the north 4 acres of the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 7, T. 21 N., R. 21 E.W.M.

SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.

Government Lots 3, 4, and 5, and the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 6, T. 21 N., R. 21 E.W.M., ALSO Government Lot 1, Sec. 1, T. 21 N., R. 20 E.W.M.

E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T. 21 N., R. 21 E.W.M.

N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T. 21 N., R. 21 E.W.M.

E $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 7, T. 21 N., R. 21 E.W.M., EXCEPT the E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, ALSO N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$.

CLASS XI - 1897

LOCKWOOD-CANADAY IRRIGATION COMPANY
(Perry Ditch Right)

3.00 120 259 Stemilt Cr.

Point of Diversion:

A point located within the S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 25, T. 22 N., R. 20 E.W.M.

Place of Use:

259 acres of land served with water by the Lockwood-Canaday Irrigation Company within Secs. 27, 29, 30, 32, 33, 34, and 35, ALL in T. 22 N., R. 21 E.W.M.

CLASS XII - 1898

M. J. GARRETT

1.25 50 19 Stemilt Cr.

Point of Diversion:

SW $\frac{1}{4}$, Sec. 15, T. 21 N., R. 20 E.W.M.

Place of Use:

The SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M., excluding all that part of said land lying over the brow of the hill in the northeast corner; ALSO the following described tract of land: Commencing at the southeast corner stake at the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M. and running thence along the east line of said forty to a point where said line crosses Stemilt Creek being about 1500 feet to a point where said creek crosses the west line of said forty; thence due south 850 feet along the west line of said forty to the southwest corner thereof; thence along the south line of said forty to the place of beginning.

THE PROWELL COMPANY 1.25 50 55 Stemilt Cr.
 Point of Diversion: SE $\frac{1}{4}$, Sec. 15, T. 21 N., R. 20 E.W.M.
 Place of Use: 55 acres of land in the W $\frac{1}{2}$ NW $\frac{1}{4}$ and all that portion of the N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M., lying northwest of the east branch of Stemilt Creek.

F. M. CAMMACK 0.75 30 50 Stemilt Cr.
 Point of Diversion and Place of Use: 50 acres within the W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

0.37 15 15 Stemilt Cr.
 Point of Diversion: E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.
 Place of Use: 15 acres lying south of Stemilt Creek within the E $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 14, T. 21 N., R. 20 E.W.M.

CYNTHIA P. GROFF 0.50 20 31 Stemilt Cr.
 Point of Diversion and Place of Use: 31 acres within the NE $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M., and S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

The amount here allocated to these lands includes the amount allotted to the NE $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M., under Class III above. The total amount of water under both classes shall never at any time exceed 0.5 cubic feet per second.

J. L. DANIELS 1.0 40 65 Stemilt Cr.
 Point of Diversion and Place of Use: 65 acres within Government Lot 1, the S $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 2, T. 21 N., R. 20 E.W.M.

CLASS XIII - 1899

ENLARGED PERRY DITCH 4.0 160.0 272 Stemilt Cr.
 Point of Diversion: A point located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.

Place of Use: 272 acres of land within the following:
 All that portion of the S $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 29, T. 22 N., R. 21 E.W.M. lying north of a line described as follows: Beginning at an iron bolt driven in the ground at the eastern boundary of the county road and from which said iron bolt the one-fourth section corner on the west line of said Sec. 29, T. 22 N., R. 21 E.W.M. bears south 8°44' west a distance of 415.0 feet; thence running north 90° east a distance of 463.1 feet to an iron pipe driven in the ground; thence running south 0°00' east a distance of 44.9 feet to another iron pipe; thence running north 89°49' east a distance of 2115 feet on a line midway between two rows of fruit trees to the eastern boundary of the NW $\frac{1}{4}$ of said Sec. 29, T. 22 N., R. 21 E.W.M.
 SE $\frac{1}{4}$; SE $\frac{1}{2}$ SW $\frac{1}{4}$; and that portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 29, T. 22 N., R. 21 E.W.M. described as follows: Beginning at the southeast corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ said Sec. 29 running thence west on the division line a distance of 50 rods; thence north 40 rods; thence east 14 rods; thence north to the north line of said NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Sec. 29; thence east 36 rods to the northeast corner of said SW $\frac{1}{4}$ of said Sec. 29; thence south 80 rods, more or less, to the point of beginning.

All that portion of the S $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 29, T. 22 N., R. 21 E.W.M. lying south of a line described as follows: Beginning at an iron bolt driven in the ground at the eastern boundary of the county road and from which said iron bolt the one-fourth corner on the west line of said Sec. 29, T. 22 N., R. 21 E.W.M. bears south 8°44' west 415.0 feet; thence running north 90° east 463.1 feet to an iron pipe driven in the ground; thence running south 0°00' east 44.9 feet to another iron pipe and thence running north 89°49' east 2115 feet on a line midway between two rows of fruit trees to the eastern boundary of the NW $\frac{1}{4}$ of said Sec. 29, T. 22 N., R. 21 E.W.M., containing 23.83 acres, more or less, EXCEPTING a strip of land 8 feet in width along the south line of said lands which has been reserved as a roadway.

All of the W $\frac{1}{4}$ SW $\frac{1}{4}$ of said Sec. 29, T. 22 N., R. 21 E.W.M. EXCEPTING a portion thereof bounded as described as follows: Beginning at a point which is south 558 feet and east 30 feet from the one-fourth corner on the west line of Sec. 29, T. 22 N., R. 21 E.W.M.; thence north 89°48' east 132.0 feet; thence south 0°12' east 364.8 feet; thence south 19°8' east 526.4 feet; thence south 0°37' east 240.0 feet; thence south 51°11' west 402 feet; thence north 0°11' east 1356.4 feet to the place of beginning, said excepted tract containing 6.61 acres, more or less; EXCEPTING also one large reservoir in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said section.

Also a tract of land bounded as follows: Beginning on the north line of the SW $\frac{1}{4}$ of Sec. 29, T. 22 N., R. 21 E.W.M., 36 rods west of the northeast corner thereof; thence running south 40 rods; thence west 14 rods; thence south 40 rods to the south line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Sec. 29; thence west 30 rods to the southwest corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said section; thence north to the northwest corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ aforesaid; thence east to the place of beginning; EXCEPTING all county road laid out and established across said lands and also EXCEPTING two small reservoir sites.

N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 29, T. 22 N., R. 21 E.W.M.

M. H. NELSON

1.25	50	76	Stemilt Cr. through the Chisholm-Zorn Ditch
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Point of Diversion:

A point within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

Place of Use:

76 acres within the S $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, and E $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 1, ALL in T. 21 N., R. 20 E.W.M.

J. W. ROSE and EMILY
ROSE and FRANKLIN A.
WOOD

0.50	20	21.2	Stemilt Cr. through the Chisholm-Zorn Ditch
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Point of Diversion:

A point within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

Place of Use:

21.2 acres within the W $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.

MILLO A. WOOD

0.75	25	31.8	Stemilt Cr.
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Point of Diversion:

A point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.

Place of Use:

31.8 acres within that part of the SE $\frac{1}{4}$, Sec. 36, T. 22 N., R. 20 E.W.M. lying northerly of the present county road and westerly of the old county road.

R. H. PERRY 1.25 50 95 Stemilt Cr.
through the
Chisholm-Zorn
Ditch

Point of Diversion: A point within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

Place of Use: 95 acres within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, T. 22 N., R. 21 E.W.M.

CLASS XIV - 1900

FRANK E. KINGSBURY 0.75 30 30 Stemilt Cr.

Point of Diversion and Place of Use: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, T. 21 N., R. 21 E.W.M.

CLASS XV - 1901

SKOOKUM DITCH 4.00 160.0 unknown Stemilt Cr.

Point of Diversion: A point near the center of Sec. 27, T. 21 N., R. 20 E.W.M.

Place of Use: An unknown number of acres within the following:

E $\frac{1}{4}$, Sec. 13, T. 21 N., R. 20 E.W.M.

SE $\frac{1}{4}$, Sec. 1, T. 21 N., R. 20 E.W.M.

Beginning at the quarter corner on the east line of Sec. 1, T. 21 N., R. 20 E.W.M. and running west on the said quarter line (Magnetic Variation) south 67°30' west 291 feet to a point; thence running south 4°30' west (Magnetic Variation) 299 feet; thence turning to the right an angle of 43°12' and running 100 feet; thence turning to the left an angle of 31°5' a distance of 188 feet; thence turning to the left an angle of 17°26' a distance of 352 feet; thence turning to the left an angle of 5°5' and running east on said line to the southeast corner of the aforesaid NE $\frac{1}{4}$ SE $\frac{1}{4}$; thence running north on the east line of said Sec. 1 to place of beginning.

Sec. 1, T. 21 N., R. 20 E.W.M.

NW $\frac{1}{4}$, Sec. 13, T. 21 N., R. 20 E.W.M.

All of Sec. 35, T. 22 N., R. 21 E.W.M. EXCEPT the NW $\frac{1}{4}$ NW $\frac{1}{4}$; the S $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 34, T. 22 N., R. 21 E.W.M.; the E $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.

SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, T. 22 N., R. 21 E.W.M.

SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$, Sec. 32, T. 22 N., R. 21 E.W.M.

CLASS XVI - 1903

FRANK E. KINGBURY 0.75 30 30 Stemilt Cr.

Point of Diversion and Place of Use: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, T. 21 N., R. 21 E.W.M.

CLASS XVI - 1903

J. R. CHASE 1.0 40 38 Stemilt Cr.
Point of Diversion and Place of Use: 38 acres within the NE $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M. This right also includes the right to the use of water from springs on said property due to return seepage water from reservoirs, ditches, and irrigation.

C. B. KNOUF 1.2 48 48 Stemilt Cr.
Points of Diversion: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.
NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.
Place of Use: 46 acres within the SE $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M., and W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.

The amount here allocated includes the amount allotted to the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M. under Class III above. The total amount of water under both classes shall never at any time exceed 1.2 cubic feet per second.

CLASS XVII - 1905

J. W. ROSE and FRANKLIN A. WOOD 0.2 8 8 Stemilt Cr.
Point of Diversion: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.
Place of Use: 8 acres within the E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.

CLASS XVIII - JULY 24, 1917

JOHN M. REZEK 1.0 40 25 Stemilt Cr.
Point of Diversion and Place of Use: 25 acres within Govt. Lots 8 and 9, Sec. 19, T. 22 N., R. 21 E.W.M.

CLASS XIX - RIPARIAN

LANDRETH BROTHERS and INLAND TIMBER COMPANY
Unspecified amount for livestock and domestic use upon lands described as follows:
All of Secs. 17, 19, 29, 33, 27 and the NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 26, W $\frac{1}{2}$, SE $\frac{1}{4}$, Sec. 23, S $\frac{1}{2}$, Sec. 13, S $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 15, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, Sec. 7, ALL in T. 21 N., R. 20 E.W.M.

MISCELLANEOUS SPRINGS (IRRIGATION RETURN FLOW)

M. J. GARRETT SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.
F. M. CAMMACK W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.
J. R. CHASE NE $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M.
THOMAS DEREFIELD and H. D. WEST and C. B. KNOUF SE $\frac{1}{4}$, Sec. 11, and W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 12, T. 21 N., R. 20 E.W.M.
J. W. ROSE and M. H. NELSON E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 14, T. 21 N., R. 20 E.W.M.
F. M. CAMMACK W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 1; E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 2, T. 21 N., R. 20 E.W.M.

After consideration of the changes which have been documented on the Galler Springs rights, the following rights are in effect:

<u>GRAVES ORCHARD COMPANY</u>	1/8 flow	20 acres
Place of Use:	E $\frac{1}{2}$ E $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{2}$ of Sec. 33, T. 22 N., R. 21 E.W.M.	
<u>GALVIN WYER and I. M. DEREFIELD</u>	1/4 flow	40 acres
Point of Diversion:	NE $\frac{1}{2}$, Sec. 5, T. 21 N., R. 21 E.W.M.	
Place of Use:	N $\frac{1}{2}$ NW $\frac{1}{2}$ NE $\frac{1}{2}$ and W $\frac{1}{2}$ NE $\frac{1}{2}$ NE $\frac{1}{2}$, Sec. 33, T. 22 N., R. 21 E.W.M.	
<u>N. HILL</u>	1/16 flow	10 acres
Point of Diversion:	SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 5, T. 21 N., R. 21 E.W.M.	
Place of Use:	SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33, T. 22 N., R. 21 E.W.M.	
<u>LEON HILL</u>	1/16 flow	10 acres
Point of Diversion:	SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 5, T. 21 N., R. 21 E.W.M.	
Place of Use:	SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33, T. 22 N., R. 21 E.W.M.	
<u>W. J. ROTHGEB</u>	1/8 flow	20 acres
Place of Use:	E $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$, Sec. 28, T. 22 N., R. 21 E.W.M.	
<u>E. A. MULLEN</u>	1/16 flow	10 acres
Point of Diversion:	SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 5, T. 21 N., R. 21 E.W.M.	
Place of Use:	E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$, Sec. 28, T. 22 N., R. 21 E.W.M.	
<u>PHOEBE USHER</u>	3/80 flow	6 acres
Place of Use:	W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$, Sec. 28, T. 22 N., R. 21 E.W.M.	
<u>ROGER J. MEAKIM</u>	1/40 flow	4 acres
Place of Use:	Lot "A" Plat of First Addition to Malaga Land Company's Orchard Tracts within N $\frac{1}{2}$, Sec. 33, T. 22 N., R. 21 E.W.M.	
<u>J. W. USHER</u>	5/32 flow	25 acres
Place of Use:	SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28, T. 22 N., R. 21 E.W.M.	
<u>FRANK BAINARD</u>	3/32 flow	15 acres
Place of Use:	W $\frac{1}{2}$ NW $\frac{1}{2}$ NW $\frac{1}{2}$, Sec. 34, T. 22 N., R. 21 E.W.M., LESS the south 406 feet thereof.	

Storage Rights

The decree in State, supra establishes 8 classes of rights to store water in various reservoirs. All storage rights are conditioned to be subject to any prior rights to water from Stemilt Creek, as set forth in a schedule of rights in the decree.

Subsequent to the date of the decree, several rights to water set forth in the main schedule of rights in the decree have been changed to storage rights. In keeping with the intent of the decree, these changes require that in the event of a shortage of water, all input to reservoirs must stop and regulation of the various classes of water rights to the natural stream flow of Stemilt Creek must be carried out so that the better class rights receive the full measure of their right.

The decree in State, supra did not specify lands upon which the stored water could be used. Research for this report indicates that the lands upon which the stored water was used were those lands to which stream flow rights for that water were normally used. Under this system, the storage facilities were only used to prolong the period of time water was available to those irrigation companies and individuals holding rights to water from Stemilt Creek.

Changes from stream flow right to storage rights are as follows:

Certificate of Change No. 93 - Authorizes J. W. Rose, Emily R. Rose and Franklin A. Wood to change the point of diversion of 10 acre-feet of water as authorized by Adjudicated Surface Water Certificate No. 359. It also authorizes them to change the point of diversion of 15 acre-feet of water as authorized by Adjudicated Surface Water Certificate No. 360.

The original point of diversion for Certificate No. 359 was within the SW $\frac{1}{4}$ of Sec. 22, T. 21 N., R. 20 E.W.M.

The original point of diversion for Certificate No. 360 was within Sec. 28, T. 21 N., R. 20 E.W.M.

Each of these rights allows a maximum of 1.00 cfs for filling during the irrigation season.

The new point of diversion authorized for both of these rights is now to be within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M.

Certificate of Change No. 1-3-5 - Authorizes Milo A. Wood to change the place of use of 15 acre-feet of the waters stored in an unnamed reservoir. Said waters were originally confirmed by Decree No. 18107 and Adjudicated Surface Water Certificate No. 360 and were previously changed under Certificate of Change No. 93. Said waters were authorized for use on lands within Sec. 28, T. 21 N., R. 20 E.W.M. The new place of use is to be that part of the SE $\frac{1}{4}$ of Sec. 36, T. 22 N., R. 20 E.W.M. lying northerly of the present county road and westerly of the old county road as they existed on August 24, 1972.

Certificate of Change No. 1-3-66 - Authorizes Milo A. Wood to change the point of diversion for 1.00 cfs, 15 acre-feet per year of the waters of Stemilt Creek for storage.

The point of diversion as previously changed by Certificate of Change No. 93 was located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M.

The new points of diversion are to be located with primary and secondary points as follows:

NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, T. 21 N., R. 20 E.W.M.
AND
NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, R. 21 N., R. 20 E.W.M.

A special provision of this change is that the applicant accept a transportation loss of 10 percent from his storage reservoir to his secondary point of diversion or up to 1-1/2 acre-feet per year.

Certificate of Change No. 117 - Authorizes Stemilt Irrigation District to divert 2.525 cfs (101 miner's inches) from Stemilt Creek for irrigation of 332.06 acres under the Lockwood Right (Certificate No. 319) and 1.125 cfs (45 miner's inches) for irrigation of 90.32 acres under the Wood Right (Certificate No. 320). The authorized points of diversion are located within the following described lands:

- (a) NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 22, T. 21 N., R. 20 E.W.M. (Clear Lake/Reed Ditch);
- (b) SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 22, T. 21 N., R. 20 E.W.M. (Lily Lake Ditch); and
- (c) SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14, T. 21 N., R. 20 E.W.M.

Although it is not specifically stated on Certificate of Change No. 117, review of the file clearly indicates that the intent of Diversion Points (a) and (b) was to store water in Lily Lake and Clear Lake when the full 2.525 and 1.125 cfs under Certificates Nos. 319 and 320, respectively, was not required directly for irrigation.

Certificate of Change No. 118 - Authorizes the Lake Irrigation Company to change the point of diversion of 7.0 cfs (280 miner's inches) of water from Stemilt Creek to a point located within the SE $\frac{1}{4}$, Sec. 22, T. 21 N., R. 20 E.W.M., and to store the 7.0 cfs (280 miner's inches) so diverted in Lily Lake, which is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T. 21 N., R. 20 E.W.M. when the water is not being used for direct irrigation. This change is the basis of the second point of diversion authorized for the Lake Irrigation Company and the Stemilt Irrigation District, as tabulated under Class VI, Direct Flow Rights, above.

*Note: This change does not affect the storage right as confirmed by Certificate No. 349.

Certificate of Change No. 129 - Authorizes the Wenatchee Heights Reclamation District to store 56.0 miner's inches (1.40 cfs) of Class I right, 67.0 miner's inches (1.68 cfs) of Class II right, and 3 miner's inches (0.075 cfs) of Class IV right in an unnamed reservoir owned and operated by the Wenatchee Heights Reclamation District. The certificate of change authorizes the water to be diverted and stored in the early part of the irrigation season.

This change does not affect the storage rights and is included here only for completeness.

Certificate of Change No. 166 - Authorizes the Columbia Valley Branch of the National Bank of Commerce of Seattle to change the place of use of a proportionate share equal to 4 shares of stock of the Spring Hill Irrigation Company. The certificate does not change the storage right, and is included here only for completeness of the report.

Certificate of Change No. 379 - Authorizes the Wenatchee Heights Reclamation District to change the place of use of one-half interest in each of two storage rights recorded as Certificate of Adjudicated Water Right Nos. 357 and 358. The change in place of use is from the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11, T. 21 N., R. 20 E.W.M. to unspecified lands. Although the certificate did not specify the lands upon which the reservoir water must be used, these lands must be within the boundaries of the Wenatchee Heights Reclamation District, and the water can only be used upon the total number of acres to which the Wenatchee Heights Reclamation District holds rights to water.

The Certificate of Change also authorizes the Wenatchee Heights Reclamation District to change the place of use of the amount of water represented by 4 shares of the Spring Hill Irrigation Company, including a proportionate share of the storage right in the Spring Hill Reservoir. This change is a change of Certificate of Change No. 166, above. Lands to be irrigated with the changed storage right are lands within the Wenatchee Heights Reclamation District and the number of acres to be irrigated with the stored water cannot exceed the total number of acres to which the Wenatchee Heights Reclamation District holds rights to water by virtue of its ownership of shares of the Spring Hill Irrigation Company, and the lands to be irrigated must be those appurtenant to a right to water authorized by the Spring Hill Irrigation Company in Class V above.

Certificate of Change No. 786 - Authorizes the Three Lakes Water Users to change the point of diversion of 20 cfs of the waters of Stemilt Creek as such water was confirmed on Adjudicated Surface Water Certificates Nos. 352 and 353, under Decree No. 18107. Said waters were diverted through the Perry Ditch to the Three Lakes Reservoir from a point located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 1, T. 21 N., R. 20 E.W.M. The new point of diversion, as confirmed by Change No. 786, is located within the SE $\frac{1}{4}$ of Sec. 25, T. 22 N., R. 20 E.W.M.

The change also corrects the description of the location of the reservoir from Sec. 29, T. 21 N., R. 20 E.W.M., under Certificate No. 352, and Sec. 29, T. 21 N., R. 21 E.W.M., under Certificate No. 353, to the correct location within Sec. 29, T. 22 N., R. 21 E.W.M.

A schedule of reservoir rights is as follows:

Maximum diversion for storage during irrig. year (cfs)	maximum diversion each season (acre-feet)	name of reservoir	location of reservoir
<u>CLASS I - 1892</u>			
LAKE IRRIGATION COMPANY			
4.0	360.0	Lily Lake	Sec. 22, T. 21 N., R. 20 E.W.M.
10.0	100.0	Clear Lake	Secs. 22 and 23, T. 21 N., R. 20 E.W.M.
*Note: These rights are equal in priority to Class VII of the Direct Flow schedule of rights.			
<u>CLASS II - 1896</u>			
SPRING HILL IRRIGATION COMPANY			
6.0	300.0	Spring Hill	Secs. 21 and 16, T. 21 N., R. 20 E.W.M.
<u>CLASS III - 1899</u>			
THREE LAKES			
10.0	450.0	Mud Lake (Original Development)	Sec. 29, T. 22 N., R. 21 E.W.M.
<u>CLASS IV - 1908</u>			
10.0	560.0	Original Mud Lake	Sec. 29, T. 22 N., R. 21 E.W.M.
<u>CLASS V - 1907</u>			
MALAGA LAND COMPANY			
5.0	300.0	Malaga Land Company Reservoir	Secs. 5 and 6, T. 21 N., R. 21 E.W.M.
F. M. CAMMACK			
1.0	15.0		Sec. 14, T. 21 N., R. 20 E.W.M.
<u>CLASS VI - 1909</u>			
CHASE AND KNOUF			
2.5	40.0		Sec. 11, T. 21 N., R. 20 E.W.M.

Maximum diversion for storage during irrig. year (cfs)	maximum diversion each season (acre-feet)	name of reservoir	location of reservoir
<u>PROWELL-WHEELER COMPANY</u>			
2.5	80.0		Sec. 20, T. 21 N., R. 20 E.W.M.
2.5	80.0		Sec. 29, T. 21 N., R. 20 E.W.M.
<u>CLASS VII - 1911</u>			
<u>ROSE AND NELSON</u>			
1.0	10.0		Sec. 22, T. 21 N., R. 20 E.W.M.
<u>CLASS VIII - 1913</u>			
<u>J. W. ROSE</u>			
1.0	15.0		Sec. 28, T. 21 N., R. 20 E.W.M.

Subsequent to the general adjudication as recorded by Decree No. 18107, there have been several water rights issued under the provisions of RCW 90.03.280.

A listing of those water rights follows:

<u>SURFACE WATER CERTIFICATES</u>						
Name	Certificate Number	Volume of Water		Acres	Purpose of Use	Priority Date
		cfs	af/yr			
Wenatchee Heights Reclamation Dist.	584	7.33	---	750*	stock, domestic & irrigation	03/17/19
Wenatchee Heights Reclamation Dist.	585	7.33	---	750*	stock, domestic & irrigation	03/17/19
Wenatchee Heights Reclamation Dist.	586	7.33	---	750*	stock, domestic & irrigation	03/17/19
Wenatchee Heights Reclamation Dist.	588	reservoir	800	---	stock, domestic & irrigation	05/07/19
* Total acres between Surface Water Certificates Nos. 584, 585, 586 and 588						
F. M. Cammack	1522	1.00	---	---	power generation	09/19/33
Chris Mathison	6053	reservoir	45	100	irrigation	02/09/44
Henry Greenwood	6045	reservoir	25	65	irrigation	06/22/44
Stemilt Project, Inc.	10166	reservoir	350	350	irrigation	05/31/61
Stemilt Irrigation District	10258	reservoir	150	150	irrigation	05/31/61

Name	Certificate Number	Volume of Water		Acres	Purpose of Use	Priority Date
		cfs	af/yr			
Steffen Brothers	8675	reservoir	20	35	irrigation	01/15/62
M. A. Wood	9263	reservoir	60	30	irrigation	02/14/62
George J. Kelner	10278	.10	30	10	irrigation	02/03/64
Howard Kelner	9235	.12	24	6	irrigation	02/04/64
Jerome Gutwiler	S4-01160C	.005	5	---	stock	02/25/64
J. D. Foraker	9329	.15	60	15	irrigation	05/13/64
John F. Grubb	10756	.005	1	---	stock	12/01/65
V. C. Abercrombie	10481	.04	14	4	irrigation	03/08/66
Eugene W. Troxel	9982	.01	4	1	domestic supply & irrigation	10/14/66
Cyril H. Balch	S3-00657C	.10	33.66	10	domestic supply & irrigation	08/13/71
Stemilt Irrigation District	S3-00050C	.0278	8.42	---	domestic supply & industrial use	09/28/71
Stemilt Project, Inc.	S4-01244C	20.00	500	500	irrigation	10/30/61
Howard W. Kellogg	S3-21055C	.15	15	6	domestic supply & irrigation	04/26/73
Joy Diane Foraker	S3-22569C	.03	2	---	stock and domestic	02/19/74
Galler Ditch Co.	R4-01269C	reservoir	360	160	irrigation	12/14/70
Richard D. Hein	S3-22136C	.01	2	---	domestic	11/27/73
Russell Craft	S4-23993C	.01	2	0.5	domestic supply & irrigation	05/28/75
Joseph H. Lyons	S4-25022(A)C	0.03	3	---	domestic supply & stockwater	03/17/77
Laurel Hills Service Assoc.	S4-25022(B)C	0.04	4	---	domestic supply	03/17/77
Hal C. Lyons	S4-25454C	0.44	120	30	irrigation	08/01/77
Russell Craft	S4-25876C	0.02	6	---	domestic supply	05/03/78
Roy Miller & R.W. Hastings	S4-26620C	0.08	18	---	domestic supply	03/31/80
Lovell R. Webb	S4-28719C	0.002	1.0	---	domestic supply	06/26/85

SURFACE WATER PERMITS

Name	Permit Number	Volume of Water		Acres	Purpose of Use	Priority Date
		cfs	af/yr			
Big Springs Ranch, Inc.	S4-26685P	0.13	13	---	domestic supply	04/21/80
Sterline J. & Phyllis Carmody	S4-27987P	0.033	2	---	domestic supply	07/19/82

Name	Permit Number	Volume of Water		Acres	Purpose of Use	Priority Date
		cfs	af/yr			
Curtis & Terri Mende	S4-28076P	0.0266	2	---	domestic supply & stockwater	10/18/82
Iris Rose Hahn	S4-28863P	0.10	14.25	4.7	irrigation & stockwater	02/07/86

SURFACE WATER APPLICATIONS

Name	Application Number	Requested Quantity (cfs)	Acres	Proposed Use	Priority Date
Wenatchee Heights Rec. District	S4-28553	0.36	36	irrigation	10/24/84
Kyle Mathison	S4-28634	4.68	263	supplemental irrigation & domestic supply	02/26/85
Marv & Rae LaRue	S4-28694	0.02	---	domestic supply	05/22/85
Wenatchee Heights Rec. District	S4-28696	1.07	53 3/4	irrigation	04/05/85
Cherie Rowland	S4-28718	0.08	10	domestic supply & irrigation	06/25/85
Gordon Goodwin	S4-28794	0.03	---	domestic supply & irrigation	09/15/85
Carl Pederson	S4-28799	0.02	---	domestic supply & irrigation	09/23/85
K.A.C.H.	S4-28943	0.55	600	irrigation	05/23/86
Galler Ditch Co.	S4-28984	0.20	160	irrigation	06/20/86
B.R. Meyer	S4-29001	0.17	70	irrigation	07/09/86
B.R. Meyer	S4-29002	2.29	70	domestic supply & irrigation	07/09/86

This report was originally prepared by Dr. George Maddox during the summer of 1974, and subsequently has been edited and updated for distribution by Doug Clausing.

The findings of this report are considered by the Department of Ecology to be the most accurate portrayal of the current water rights in the Stemilt Creek drainage basin now available. Any comments or suggested corrections will be reviewed and considered during future revisions of the report.

Future water right changes will be documented in our Central Regional Office and will be added to the report at the time of revision.

Signed at Yakima, Washington
this _____ day of March, 1987.

DOUG CLAUSING
Resource Management Division
Department of Ecology

DC:ska



State of Washington
 Department of Ecology
 Office of Columbia River
 Report of Examination for
 Trust Water Change Application
 CS4-SWC9231

File NR CS4-SWC9231
 WR Doc ID 6007793

Changed Place of Use, Change Point of Withdrawal, and Changed Purpose of Use

PRIORITY DATE 9/29/1958	CHANGE AUTHORIZATION NUMBER CS4-SWC9231	TRUST TERM Permanent
WATER RIGHT OWNER Kyle Mathison and Steven Shiflett 4597 Stemilt Hill Rd. Wenatchee, WA. 98801-8933		

Purpose, Rate, and Quantity

The right has changed from irrigation to the purposes of instream flow and mitigation for out-of-stream uses. The right will convey by Quit Claim Deed to the State's Trust Water Rights Program (Trust). The right has the maximum instantaneous flow rate and annual quantity values allocated in the following manner:

Period	Primary Reach		Secondary Reach	
	Flow (cfs)	Acre-feet	Flow (cfs)	Acre-feet
05/1 -10/15	N/A	N/A	0.29	54

The Primary Reach of an instream flow Trust Water Right is that portion of a water body that benefits from both the former consumptive use and former return flow waters of a water right. Downstream of the Primary Reach is found the Secondary Reach. The Secondary Reach benefits only from the former consumptive use as the return flow would have found its way back to the water body under the previously authorized use. Values given for the Secondary Reach would mitigate proposed out-of-stream uses located downstream along the Columbia River near Malaga, WA. Attributes of these proposed out-of-stream uses are captured in applications S4-29956 and S4-31083.

The quantity conveyed to Trust is further limited by monthly values given in Table 1 below:

Table 1: Monthly Trust Water Quantities and Rates from WIG Data (pasture/turf at Nespelem Station)

Monthly Trust Water Quantities and Rates							
	May	June	July	August	September	October	Total
Qa (ac-ft)	3.7	11.6	16.4	13.6	8.2	0.5	54.0
Qj (cfs)	0.1	0.2	0.3	0.2	0.1	0.01	N/A

Trust Water Right Place of Use (See Attached Map)				
REACH	WATERBODY	TRIBUTARY TO	COUNTY	WATER RESOURCE INVENTORY AREA
Begin Secondary Reach	W.F. San Poil River	Columbia River	Okanogan	52 - Sanpoil
End Secondary Reach	Columbia River	Pacific Ocean	Chelan	40 - Alkali-Squilchuck

As discussed in the Investigator's Report, a Primary Reach for this proposal is not warranted. The Secondary reach begins at a point located at N 48.57364, E -119.06771 (in NAD 83) and within the NE¼SE¼ of Section 33, T. 36N., R. 30E.W.M., and ends at a diversion point located within the SW¼SE¼ of Section 19, T. 22N., 21E.W.M.

Proposed Works

None. Water formerly withdrawn under SWC 9231 remains in Aeneas Creek and conveys to Trust.

Provisions

General

The water to convey to Trust under CS4-SWC9231 is intended to mitigate new appropriations as captured within applications S4-29956 and S4-31083. If applications S4-29956 and S4-31083 are processed favorably and after any appeals favorably resolved:

- 1) All irrigation at the original Place of Use shall cease under SWC 9231.
- 2) Within 30 days of the last appeal period, the irrigation component of Surface Water Claim S4-069422CI shall be voluntarily relinquished. Any authorizations that issue under applications S4-29956 and S4-31083 shall be provisioned such.
- 3) Within 30 days of the last appeal period, a Quit Claim Deed shall be filed with the Washington Department of Ecology conveying the authorized Trust water quantity and rate(s) under this Report of Examination to the Washington Department of Ecology.
- 4) Any authorizations that issue under applications S4-29956 and S4-31083 shall be provisioned such that they are subject to any cessation or modification resulting from a finding of impairment pursuant to RCW 90.42.040(4)(b).

If the four steps listed above are complied with, a Trust Water Certificate shall issue in the name of the Washington Department of Ecology for the amounts conveyed to Trust under this authorization.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477, Internet: <http://dor.wa.gov/> or E-mail: REETSP@DOR.WA.GOV.

Findings of Fact

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. CS4-SWC9231, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

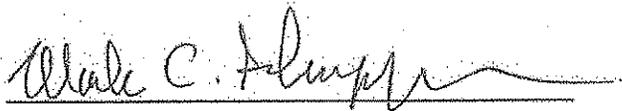
To appeal you must do the following within 30 days of the date of receipt of the Order:

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Ste. 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Yakima, Washington, this 13th day of April 2015.



Mark C. Schuppe, Operations Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Kyle D. Mathison, Applicant
 Water Right Control Number CS4-SWC9231
 Thomas Perkow, Department of Ecology

BACKGROUND

The general location of the site is near the confluence of Aeneas Creek and the West Fork of the Sanpoil River in Okanogan County. The intent is to cease irrigating all acres under this and the two other related water right documents (ground water certificate S4-01203C and surface water claim S4-069422C1 (hereafter referred to as "the Claim")) and convey the formerly used water into the State's Trust Water Rights Program (Trust). Trust water would be used as mitigation for new out-of-stream uses in Chelan County as captured in new water right applications S4-29956 and S4-31083. The subject change application was submitted on October 30, 2013, by Kyle D. Mathison and assigned tracking number CS4-SWC9231. Two other related change applications were filed concurrently (CG4-01203C and CS4-069422C1), proposing similar changes.

EXISTING Water Right Attributes

Water Right Owner:	Kyle Mathison and Steven Shiflett
Priority Date:	9/29/1958
Place of Use	ALL in Section 33, T. 36N., R. 30E.W.M., Less roads: Government Lots 1, 2, 3, 4, 5, and 6; AND Government Lot 9 (Julian Aeneas Indian Allotment); AND Government Lot 10 (Chief Aeneas Indian Allotment); AND SE¼NW¼.

County	Waterbody	Tributary To	WRIA
Okanogan	Aeneas Creek	W. F. Sanpoil River	52-Sanpoil

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation of 104 acres	1.2	cfs	416	Not specified	Not specified

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Aeneas Creek	Not specified	36N.	30E.W.M.	33	Lot 5		

cfs = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian.

REQUESTED Water Right Attributes

Name:	The Washington Department of Ecology
Date of Application:	10/30/2013
Place of Use	A Secondary Reach only as recommended at the end of this report.

County	Waterbody	Tributary To	WRIA
Okanogan	Aeneas Creek	Pacific Ocean	52-Sanpoil
Okanogan	West Fork Sanpoil River	Sanpoil River	52-Sanpoil
Okanogan	Sanpoil River	Columbia River	52-Sanpoil
Chelan	Columbia River	Pacific Ocean	40-Alkali-Squillchuck

Purpose	Rate	Unit	Acre-feet/yr	Begin Season	End Season
Instream Flow and Mitigation	1.2	cfs	416	04/15	10/15

Legal Requirements for Requested Change

The following lists and describes requirements that must be met prior to authorizing the proposed change in place of use and in purpose of use.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the 1) Douglas County Empire Press on March 13 and 20, 2014; 2) Omak-Okanogan County Chronicle on March 12 and 19, 2014; and 3) Wenatchee World on March 7 and 14, 2014.

Notice to the Washington Department of Fish and Wildlife

Pursuant to RCWs 90.42.040(5)(b), 90.42.110(2), 90.03.280, and 77.57.020, Ecology must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. On April 11, 2014, notice was mailed to WDFW in conjunction with the Trust Water notice discussed next. The project as a whole was described.

Creation of Trust Water Notice

Pursuant to RCW 90.42.040(5)(b), "...the department shall send a notice containing pertinent information to all appropriate state agencies, potentially affected local governments and federally recognized tribal governments, and other interested parties." Such notice was sent on April 11, 2014, to a wide variety of agencies, tribes, and interested parties. A list of recipients can be obtained by request from Ecology's Office of Columbia River. Additionally, discussion on this project took place between Ecology representatives (including the author of this ROE) and the Water Rights Administrator for the Confederated Tribes of the Colville Reservation (the Tribe), Lois Trevino, and the Tribe's consultant, Fred Rajala, in August, September, and October of 2014.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e. an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met:

- (a) It is a surface water right application for more than one (1) cfs, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute (gpm);
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g. the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

Chapter 90.42 RCW authorizes Ecology to acquire water for Trust and to use this water for water banking purposes.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of the validity and extent of the claim or right. This is necessary to establish whether, and to what extent, the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

INVESTIGATION

History of Water Use and Tentative Determination of Validity and Extent

The subject right originally issued in December of 1964, with a priority date of September 29, 1958, for the irrigation of 104 acres from a surface water diversion located on Aeneas Cr ek. The original Report of Examination (ROE) for this right, written in 1958, indicates that gravity rill irrigation was being considered and that the applicant may install sprinklers. This ROE identified 35 acres as "presently irrigated", with a total of 60 planned. This ROE also mentions that the applicant claims a vested right for 104 acres, to which this 1958 right would be supplemental, if established. In 1963, new owners applied for and received authorization to move the point of diversion approximately 1,500 feet downstream. Presumably, the original diversion did not produce sufficient head pressure for sprinklers, and the preference was to use a pump instead. As such, a location reducing piping and electrical cable costs would be preferable. No other changes to this right are on file. The place of use of SWC 9231 overlaps with G4-01203C and S4-069422CI at the subject area proposed for change.

A review of documents (relevant permitting documents for SWC 9231 and G4-01203C, the Claim, surveyor's notes from 1909, found on the Bureau of Land Management (BLM) website, and a 1910, map found on the BLM website) determined that irrigation likely did not occur here until much closer to 1958 than 1900. Firstly, the 1958 ROE for SWC 9231 indicates that only 35 acres were irrigated at that time and that no water had been previously appropriated here. Also, the Beginning of Construction form filed under SWC 9231 indicates that only 30% of the clearing work had been completed by March of 1960. The mathematically inclined reader will note that 30% of 104 acres is 31.2 acres – very close to 35 acres. Additional information given on the form states, "*Ice is over the creek and I have to wait for it to thaw and the water go down before I can continue work*", indicates further that the project had not yet been fully completed at that time. Secondly, some uncertainty exists with the Claim as to whether the irrigation use (as opposed to the stock and domestic uses) dates back to 1900. Thirdly, the 1909 surveyor's notes are unambiguous that the land surveyed, south and east of the subject property, was not under irrigation at that time, describing in some detail nearby areas as: "*Soil, rocky, first and second rates. Timber, pine, fir, and tamarack. Undergrowth, young growth of fir and tamarack, willow and alder. Land mountainous or covered with dense undergrowth and exceptionally difficult to survey...*"* The 1909 survey traversed to the south and then east of the subject area, along the Township boundary. A scanned 1910 map image is included on the BLM website that compiles data collected during the 1909 and other surveys.** This map provides a high level of detail, labeling a small orchard, various barn locations, and even a local hen house. Tilled or irrigated fields appear to be denoted, yet the symbology

used is undefined. Nothing on the 1910 map suggests that irrigation was taking place in the subject area.

Research efforts then swung towards aerial photo review. The USGS's "EarthExplorer", a map viewing program found on the USGS website, has a black and white photo covering the site dated October 1, 1953, available for inspection. Minimal evidence of development or irrigation was observed at the site from this photo. In contrast, two other black and white aerial photos on this website dated September 1, 1983, and September 5, 1991, clearly show irrigated fields within the site area. As such, it appears that water was not used in this area for irrigation until sometime after 1953.

* http://www.blm.gov/or/landrecords/survey/vNoteView1_2.php?R0160WA0138001390

** http://www.glorerecords.blm.gov/details/survey/default.aspx?dm_id=310365&sid=v4fgivzr.1t1#surveyDetailsTabIndex=1

This water use finding is injurious to the Claim in terms of the irrigation use component. After discussing this finding with the applicant's legal counsel (Mark Peterson and Marc Marquis), it was decided that the irrigation component of the Claim would be voluntarily relinquished and change application CS4-069422CI voluntarily withdrawn if this change application, its companion application CG4-01203C, and new water right applications S4-29956 and S4-31083 are all favorably processed. Ecology's analysis of validity and extent of water rights continues below, now confined to the two State-issued water right certificates.

Additional aerial photographs and satellite images were reviewed as part of Ecology's tentative determination of validity and extent of water rights here. This record extended from 1964 to 2013. It appears areas covered by wheel line irrigation were replaced by a center pivot in the early 2000s. Approximately 90 acres covered by the pivot and approximately 15 acres covered by a wheel line located NW of the pivot appeared to have been irrigated consistently through the years. However, the photographic and imagery records were not always consistent for the remaining portions of the farm, and a field visit was scheduled to examine these areas. The field visit took place on October 16, 2014. Participants were Mark Peterson (introduced earlier), Kenny Montanye (a current farm worker with historic knowledge of this site), Mark Schuppe (Operations Manager for the Office of Columbia River (OCR)), and the author of this report. Mr. Montanye first directed the tour of the property to two areas adjacent to Aeneas Creek where seasonal dams would be constructed to allow flood irrigation of some of the area south of the pivot. The dam sites were in poor condition and Mr. Montanye indicated that they had been heavily damaged during flooding events within the past couple of years and no flood irrigation had been applied since. Nevertheless, successful cultivation of a crop had occurred in this southern area in 2014. Inspection of this area, Mr. Montanye's explanation of how irrigation had occurred here in the past, and additional aerial photo review resulted in 20 acres estimated as likely being irrigated at least once every five years in this southern area. The tour then swung north, to a wheel line positioned NE of the pivot. Mr. Montanye indicated that in some years this wheel line would not be used at all, while in others the wheel line would be used sparingly. In the field, the wheel line did not appear to have been recently operated: the metal wheels were buried in several inches of soil and the wheel line was parked within tall, un-mown grasses. The marshy area to the north of this field was observed to be only slightly lower in elevation and it appeared that crops grown here would benefit from some degree of sub-irrigation. These observations, coupled with re-inspection of aerial photo and satellite imagery, led the author and Mr. Schuppe to conclude that irrigation water had not been applied here at least once every five years. This resulted in an estimated 125 acres of irrigation consistently applied at this site and, ergo, available for transfer to Trust.

The original water duties allocated under G4-01203C and SWC 9231 were 53 inches/acre and 50.3 inches/acre, respectively. The tide of history has ebbed, and the reasoning for this high water duty here remains un-captured. However, there is recognition that (1) water use data were not as robust as today, (2) Ecology and Ecology's predecessor commonly affixed values near 48 inches during that period of time (a default value, say) without benefit of an explanatory narrative, and (3) the original values were based on a lower water delivery efficiency of 70% based on flood or rill irrigation. Of curious note is that the discussion on water duty in the original Report of Examination (ROE) for G4-01203C does not match the final acre-foot value assigned. The ROE discusses a 48.5 inches/acre water duty for this area which would have resulted in 606.3 ac-ft, and an explanation could not be found in the file for instead authorizing 663 ac-ft. This unexplained discrepancy is highly unusual. The author's personal opinion on this matter is that a ministerial or calculation error occurred where 606.3 was erroneously written as 663. In any case, the Proof of Appropriation for G4-01203C indicated that 160 acres are irrigated and, as the certificate issued for 640 ac-ft, it appears a 4 feet per acre water duty was settled upon.

Neither metering data nor power records were available to estimate water use. In the absence of such data, the U.S. Department of Agriculture's Washington Irrigation Guide (WIG) is commonly referred to. The type of water delivery system, in consultation with Ecology's guidance document GUID 1210 and site-specific conditions, then play into Ecology's water use estimate. For this analysis, 125 acres of an alfalfa/pasture grass mix will be considered. The WIG's Nespelem station is proximate and thought to most closely mimic the microclimate at this site due to similarities in elevation, surrounding mountainous topography, and longitude. Here, alfalfa was found to require 26.96 inches of water while pasture/turf required 28.55 inches for an average of 27.78 inches. Under 125 acres irrigated, the amount of water used consumptively by the crops totals about 289 ac-ft. Evaporative loss while delivering water to the crop is accounted for below.

Impact sprinklers are used on the wheel line, while drop down sprinkler heads are used on the pivot, with a big gun installed at the end of the pivot. In conversations with the applicant's legal counsel and Mr. Montanye, and with field observations, it appears rigorous irrigation scheduling based on measured soil water conditions and weather data did not occur here. But neither did random or arbitrary watering. Generally, it appears that irrigation scheduling at this site occurred regularly, with attention to crop needs, and under an experienced eye, as time allowed. After consulting Ecology's guidance document GUID 1210, the historic irrigation practices on this farm point towards the pivot having an estimated 80% water delivery efficiency, the wheel line an estimated 75% efficiency, and the flood irrigation an estimated 50% efficiency. Applying the 80% application efficiency to the crop irrigation requirement yields a value of 2.89 feet, the 75% efficiency yields 3.09 feet, and the flood irrigation yields 4.63 feet. Over the 125 acres a water use estimate of 399 ac-ft results (90 acres served by center pivot, 15 acres served by wheel line, and 20 acres flooded).

For the consumptive use available for transfer to Trust, the irrigation requirement for the crops plus the amount lost to evaporation during application is considered. Ecology's GUID 1210 indicates that the amount lost to evaporation during application ranges from a low of 0 – 5% to a high of 15% depending on system type. GUID 1210 further indicates that the applicant's pivot would lose 15% to evaporation, the wheel line 10%, and the flood irrigation 5%. As such, 337 ac-ft of consumptively used water would be available for transfer to Trust.

SWC 9231 authorizes up to 1.2 cfs (540 gpm), and the applicant's counsel has indicated that a combined 800 gpm were historically used under the subject authorizations. Nelson Irrigation Corporation, in an online document titled, "Water Application Solutions for Center Pivots", estimates that the operation of

a center pivot with end gun covering 90 acres would use approximately 700 gpm. Washington State University's "Irrigation in the Pacific Northwest" webpage contains a calculator to estimate system pumping requirements. Entering in data for this site, 606 gpm were calculated for the center pivot. It is likely that diversion from Aeneas Creek occurred simultaneously with the groundwater pumping that serves the center pivot (and wheel line), adding to the total instantaneous rate. Without benefit of actual measured flow, the combined 800 gpm value appears within reason and will remain undisturbed by Ecology's tentative determination of validity and extent at this site.

The two Certificates have an additive/non-additive relationship where G4-01203C is to be additive to any land not already under irrigation under SWC 9231, and non-additive to that that land already irrigated under SWC 9231. Research, observations, and discussions with Mr. Montanye and the applicant's legal counsel indicate that, currently, approximately 105 acres are irrigated by groundwater and the remaining 20 acres by Aeneas Creek surface water. This practice appears to have been continuous along a timescale on the order of decades. As such and consistent with the additive/non-additive relationship as originally authorized, Ecology's tentative determination on validity and extent ascribes 20 acres to SWC 9231 as additive and ascribes the remaining 105 acres to G4-01203C as additive. In addition, G4-01203C has 20 acres of non-additive irrigation ascribed to it. The annual quantity and instantaneous rate are thus divided up proportionately, and Ecology's tentative determination of validity and extent is as follows: For SWC 9031, 54 ac-ft and 128 gpm (0.29cfs) for the irrigation of 20 acres are additive; for G4-01203C, 283 ac-ft and 672 gpm for the irrigation of 105 acres are additive and 54 ac-ft and 128 gpm for the irrigation of 20 acres are non-additive.

The majority of the lands covered by the three subject water right documents (S4-SWC9231, S4-069422C1, and G4-01203C) lie within land allotted in 1880 to two enrolled members of the Confederated Tribes of the Colville Reservation. Patents for the allotments were issued by the United States of America in 1915: Chief Aeneas received a patent for his Allotment, Lot 10 of Section 33, T. 36N., R. 30E.W.M.; Julian Aeneas received a patent for his Allotment, Lot 9 of same Section 33. These two Lots were then conveyed in 1924 to a non-tribal member (named Clay Fruit) as fee simple patented lands. This is germane in determining whether or not a Federal reserved (Tribal) right exists here. Under a Ninth Circuit U.S. Court of Appeals case known as *Colville Confederated Tribes v. Boyd Walton, Jr.*, non-Indian successors to Indian allottees acquire a Federal reserved water right with a date of priority equal to the date the reservation was created for water already appropriated by the Indian allottee at the time of property transfer. Further, the non-Indian successor obtains a Tribal water right for any additional water appropriated with reasonable diligence after property transfer. These have been coined the term *Walton* rights. Here, allotted land transferred out of Indian ownership in 1924, and, as previously discussed, water likely was not used for irrigation until many years later, possibly not until 1958. As such, it appears a *Walton* right was not created here. Relinquishment of the irrigation portion of the Claim should absolve the subject area of Tribal water rights for irrigation. Should this change proposal be processed favorably, under today's water laws and concerns for aquatic life, the revival of irrigation here would very likely be possible only through successful water right transfer(s). These points were discussed with representatives of the Confederated Tribes of the Colville Reservation (the Water Rights Administrator and their consultant) and the applicant's legal counsel.

Proposed Use

Under the proposal, the irrigation portion of the Claim would be voluntarily relinquished, and all irrigation under the two State-issued certificates (SWC 9231 and G4-01203C) would cease. The entire transferrable quantity would rely only on the two State-issued certificates. These would convey to Trust as instream flow and downstream mitigation for new out-of-stream uses. The Trust conveyance would

involve the transfer of Deeds from the applicant to Ecology. The Place of Use (POU) of the Trust water would begin at the confluence of Aeneas Creek with the West Fork Sanpoil River as mapped on USGS maps (48.57364, -119.06771 in NAD 83) and extend downstream along the West Fork Sanpoil River, to the Sanpoil River, and then to its confluence with the Columbia River. From there, it would extend further downstream along the Columbia River to partially mitigate proposed new out-of-stream uses located near Malaga, WA, which are described more fully in new water right applications S4-29956 and S4-31083. Other rights proposed for change would similarly help mitigate these two new water right applications, but are not part of this report.

Trust water values obtained through Ecology's tentative determination of validity and extent would be further limited by month as given in the WIG for pasture/turf from the Nespelem station, and presented in the following Table:

Monthly Trust Water Quantities and Rates							
	May	June	July	August	September	October	Total
WIG (inches)	1.98	6.11	8.68	7.2	4.32	0.27	28.56
% WIG	6.9	21.4	30.4	25.2	15.1	0.9	100.0
Qa (ac-ft)	3.7	11.6	16.4	13.6	8.2	0.5	54.0
Qi (cfs)	0.1	0.2	0.3	0.2	0.1	0.01	N/A

Other Landowners within the Place of Use

The POU for SWC 9231 covers many landowners besides the applicant. The signatures of these landowners were not included on the applications. To address this failure, a separate mailing by the applicant's legal counsel informed these landowners of the proposed change. These letters were sent Certified with both the law firm's and OCR's contact information given. While a few questions were fielded by the law firm, no responses were received by Ecology.

Other Rights Appurtenant to the Place of Use

No other irrigation rights or claims appear to share the same POU of any of the three subject documents.

Hydrogeologic Evaluation

A staff hydrogeologist licensed to practice in the State of Washington, Ron Dixon, examined relevant data and provided the following conclusions:

In this hydrological setting, stream depletion that results from pumping the wells likely occurs on Aeneas Creek and the West Fork Sanpoil River below or very near the area where return flows discharge back to the stream. As a result, a primary reach determination is not warranted. Based on the topography of the valley floor and the spatial relationship of the irrigated field to Aeneas Creek and the West Fork Sanpoil River the start of the secondary reach is expected to be at or near the confluence of the two streams.

Impairment Considerations

Relinquishment of the Claim's irrigation component and no longer irrigating under SWC 9231 and G4-01203C and conveying this water into Trust would reduce a commensurate amount of water being withdrawn by the well or diverted from Aeneas Creek. Water formerly withdrawn would remain un-intercepted in the aquifer and, consequently, discharge to both Aeneas Creek and the West Fork Sanpoil River. There appear to not be any other wells proximate to the applicant's wells. As such, no impairment is expected. However, should this expectation fail, Ecology is bound by RCW 90.42.040(4)(b), which states that "If impairment becomes apparent during the time a trust water right is being exercised, the department shall cease or modify the use of the trust water right to eliminate the impairment." If approved, any authorization relying on this Trust water conveyance as mitigation would be provisioned to be subject to the cessation or modification.

Public Interest Considerations

Under RCW 90.03.380, and upheld in *Public Utility District No. 1 of Pend Oreille County v. Ecology*, the public interest test does not apply to surface water right changes. Nevertheless, under RCW 90.44.100(2), changes to ground water rights are subject to the "...findings as prescribed in the case of an original application", and under RCW 90.42.040(4)(a), for authorizing the exercise of Trust water Ecology must first make the determination that the public interest would not be impaired. In terms of the public interest, the addition of instream flow to Aeneas Creek, the West Fork Sanpoil River, the Sanpoil River, and the Columbia River would likely benefit anadromous and resident fish, an interest of the public (Chapter 90.54 RCW). The intent of this Trust conveyance is to provide mitigation water for a separate irrigation project located south of Wenatchee, Washington. Any benefits to aquatic life would not extend beyond the diversion for this proposed irrigation project.

Consideration of Protests and Comments

No protests were filed against this application. Concerns the Tribe has with this proposal were encapsulated in an email dated October 23, 2014, from the Tribe's consultant and are paraphrased below:

- A) From viewing Google Earth aerial photography, little if any irrigation water has been applied here since 1995.
- B) Older authorizations allocated water quantities well in excess of what today's irrigation systems would reasonably use.
- C) SWC 9231 is limited to the irrigation of 60 acres as that was the amount originally applied for and originally permitted.
- D) G4-01203C is non-additive to SWC 9231 to the extent SWC 9231 already irrigates land (up to perhaps 60 acres).

- E) A pump test on the well log indicates total drawdown after 4 hours at 800 gpm. What was the actual pumping rate?
- F) Multiple comments on the Claim relating to its validity and extent.

Ecology's responses to the Tribe's concerns follow below:

- A) Eleven aerial photos and twenty one satellite images over the span 1953 to 2013 were reviewed in great detail, two site visits made, the applicant's legal counsel interviewed, and a farm worker with a history of the site dating back to the 1960s (Kenny Montanye) was interviewed to determine that 125 acres have been consistently irrigated without a five-year span of non-use.
- B) Ecology's tentative determination of validity and extent significantly reduced the values originally applied for transfer to Trust based in part on more recent irrigation practices.
- C) Ecology's tentative determination on validity and extent ascribed less than 60 acres to SWC 9231.
- D) Ecology's tentative determination on validity and extent with regard to additive/non-additive quantities is consistent with the Tribe's comment.
- E) The combined instantaneous rate of diversion/withdrawal was estimated based on system parameters, third-party published documents, and professional judgment as flow measurements were not available.
- F) Any Report of Exam and/or Permit authorizing out-of-stream use(s) that would be mitigated by water formerly used at this site would require that the irrigation component of the Claim be voluntarily relinquished before the new out-of-stream use(s) begin(s). Relinquishment of the irrigation component of the Claim addresses the Tribe's concerns germane to the Claim.

In early May, 2014, Ecology received a response from WDFW recommending denial of the two applications proposing out-of-stream uses (S4-29956 and S4-31083) as the water offered as mitigation did not equal the water requested for out-of-stream uses. A concern was raised, too, over the amount of the proposed mitigation water: WDFW questioned whether the full amount proposed has actually been applied to beneficial use and, thus, available for mitigation. WDFW indicated their willingness *"...to review some out-of-kind mitigation that would protect or enhance aquatic habitat."*

Ecology's tentative determination of validity and extent significantly reduced the amount of water available for transfer to Trust and, consequently, as mitigation for new, downstream uses. Any authorization that issued based on this water as mitigation would be limited to the amounts conveyed to Trust. Other proposed Trust conveyances, if approved, would add commensurate amounts, but are not subject to this report.

CONCLUSIONS

- The public notice complies with RCWs 90.42.040(5a), 90.42.110, and 90.03.280.
- Additional notice provided to other relevant agencies and entities complies with RCW 90.42.040(5b).
- The Washington Department of Fish and Wildlife received notice under RCWs 90.42.040(5)(b), 90.42.110(2), 90.03.280, and 77.57.020.
- Electronic notice to the Okanogan County Commissioners was provided pursuant to RCW 90.03.380(10)(a).
- A tentative determination on the validity and extent of the subject right was made (see Recommendations below).

- No impairment is expected.
- Detriment to the public interest is not expected.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed in the above Report of Examination.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial.

To Convey to Trust under CS4-SWC9231

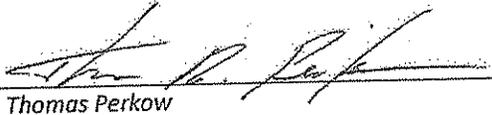
128 gpm (0.29 cfs) (Limited further by monthly breakdown of quantities and rates as presented in Table 1 of the Report of Examination above.)

54 ac-ft per year

For the purpose of instream flow as mitigation

The Place of Use begins at the confluence of Aeneas Creek and the West Fork Sanpoil River and extends downstream along the West Fork Sanpoil River, to the Sanpoil River, and then to the Columbia River, and continues downstream along the Columbia River to the points of diversion given in applications S4-29956 and S4-31083 (located near Malaga, WA). Said confluence is located at 48.57364, -119.06771 in NAD 83.

Points of Diversion or Withdrawal are not applicable for this Trust water conveyance used as instream flow.


Thomas Perkow

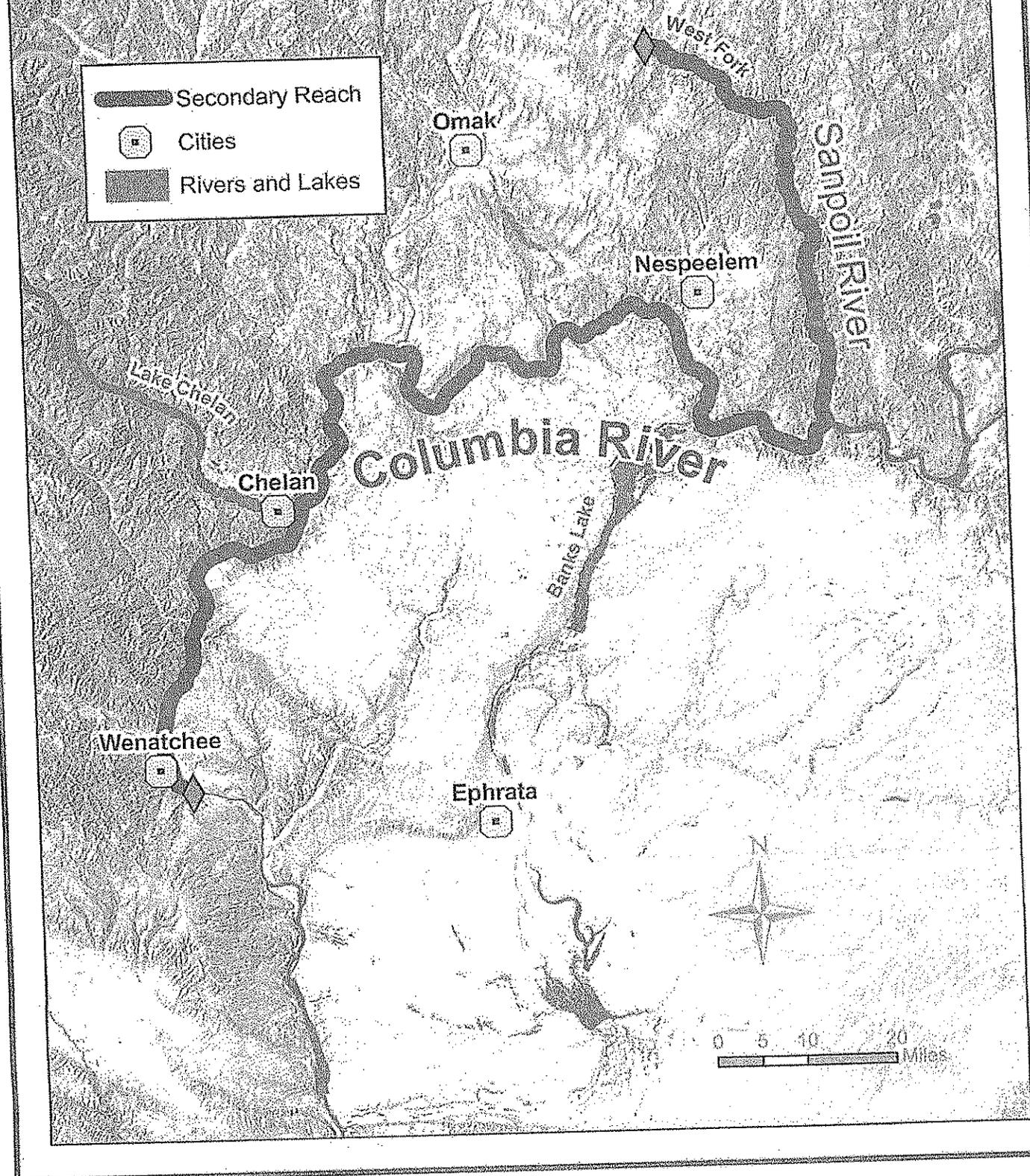
Date

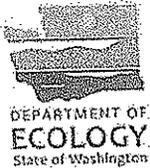
4/13/15

If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

CS4-SWC9231 Place of Use

-  Secondary Reach
-  Cities
-  Rivers and Lakes





State of Washington
 Department of Ecology
 Office of Columbia River
 Report of Examination for
 Trust Water Change Application
 CG4-01203C

File NR CG4-01203C
 WR Doc ID 6007783

Changed Place of Use, Change Point of Withdrawal, and changed Purpose of Use

PRIORITY DATE 7/30/1971	CHANGE AUTHORIZATION NUMBER CG4-01203C	TRUST TERM Permanent
WATER RIGHT OWNER Kyle Mathison and Steven Shiflett 4597 Stemilt Hill Rd. Wenatchee, WA 98801-8933		

Purpose, Rate, and Quantity

The right has changed from irrigation to the purposes of instream flow and mitigation for out-of-stream uses. The right will convey by Quit Claim Deed to the State's Trust Water Rights Program (Trust). The right has the maximum instantaneous flow rate and annual quantity values allocated in the following manner:

Period	Primary Reach		Secondary Reach	
	Flow (cfs)	Acre-feet	Flow (cfs)	Acre-feet
05/1-10/15	N/A	N/A	1.5	283

The Primary Reach of an instream flow Trust Water Right is that portion of a water body that benefits from both the former consumptive use and former return flow waters of a water right. Downstream of the Primary Reach is found the Secondary Reach. The Secondary Reach benefits only from the former consumptive use as the return flow would have found its way back to the water body under the previously authorized use. Values given for the Secondary Reach would mitigate proposed out-of-stream uses located downstream along the Columbia River near Malaga, WA. Attributes of these proposed out-of-stream uses are captured in applications S4-29956 and S4-31083.

The quantity conveyed to Trust is further limited by monthly values given in Table 1 below:

Table 1: Monthly Trust Water Quantities and Rates from WIG Data (pasture/turf at Nespelem Station)

Monthly Trust Water Quantities and Rates							
	May	June	July	August	September	October	Total
Qa (ac-ft)	19.6	60.5	86.0	71.3	42.8	2.7	283.0
Qi (cfs)	0.3	1.0	1.4	1.2	0.7	0.0	N/A

Trust Water Right Place of Use (See Attached Map)				
REACH	WATERBODY	TRIBUTARY TO	COUNTY	WATER RESOURCE INVENTORY AREA
Begin Secondary Reach	W.F. San Poil River	Columbia River	Okanogan	52 - Sanpoil
End Secondary Reach	Columbia River	Pacific Ocean	Chelan	40 - Alkali-Squillchuck

As discussed in the Investigator's Report, a Primary Reach for this proposal is not warranted. The Secondary reach begins at a point located at N 48.57364, E -119.06771 (in NAD 83) and within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, T. 36N., R. 30E.W.M., and ends at a diversion point located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, T. 22N., 21E.W.M.

Proposed Works

None. Water formerly withdrawn under G4-01203C remains in the aquifer and conveys to Trust.

Provisions

General

The water to convey to Trust under CG4-01203C is intended to mitigate new appropriations as captured within applications S4-29956 and S4-31083. If applications S4-29956 and S4-31083 are processed favorably and after any appeals favorably resolved:

- 1) All irrigation at the original Place of Use shall cease under G4-01203C.
- 2) Within 30 days of the last appeal period, the irrigation component of Surface Water Claim S4-069422CI shall be voluntarily relinquished. Any authorizations that issue under applications S4-29956 and S4-31083 shall be provisioned such:
- 3) Within 30 days of the last appeal period, a Quit Claim Deed shall be filed with the Washington Department of Ecology conveying the authorized Trust water quantity and rate(s) under this Report of Examination to the Washington Department of Ecology.
- 4) Any authorizations that issue under applications S4-29956 and S4-31083 shall be provisioned such that they are subject to any cessation or modification resulting from a finding of impairment pursuant to RCW 90.42.040(4)(b).

If the four steps listed above are complied with, a Trust Water Certificate shall issue in the name of the Washington Department of Ecology for the amounts conveyed to Trust under this authorization.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: <http://dor.wa.gov/> or E-mail: REETSP@DOR.WA.GOV.

Findings of Fact

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest. Therefore, I ORDER approval of Application No. CG4-01203C, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Ste. 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Yakima, Washington, this 13th day of April 2015.


 Mark C. Schuppe, Operations Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Thomas Perkow, Department of Ecology
 Water Right Control Number CG4-01203C
 Kyle D. Mathison, Applicant

BACKGROUND

The general location of the site is near the confluence of Aeneas Creek and the West Fork of the Sanpoil River in Okanogan County. The intent is to cease irrigating all acres under this and the two other related water right documents (surface water certificate SWC 9231 and surface water claim S4-069422C1 (hereafter referred to as "the Claim")) and convey the formerly used water into the State's Trust Water Rights Program (Trust). Trust water would be used as mitigation for new out-of-stream uses in Chelan County as captured in new water right applications S4-29956 and S4-31083. The subject change application was submitted on October 30, 2013, by Kyle D. Mathison and assigned tracking number CG4-01203C. Two other related change applications were filed concurrently (CS4-SWC9231 and CS4-069422C1), proposing similar changes.

EXISTING Water Right Attributes

Water Right Owner:	Kyle Mathison and Steven Shiflett
Priority Date:	7/30/1971
Place of Use	All those portions of Government Lots 1, 4, 5, 9, 10, 11, and 12 of Section 33 AND Government Lots 7 and 9 of Section 34, T. 36N., R. 30E.W.M. lying northerly and easterly of the highway.

County	Waterbody	Tributary To	WRIA
Okanogan	Groundwater		52-Sanpoil

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation of 150 acres	800	gpm	640	04/15	10/15

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well	3630330016		36N.	30E.W.M.	33	SW NE	48.5768	-119.0738

gpm = Gallons per Minute; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in WGS84; Lat-Long coordinates estimated.

REQUESTED Water Right Attributes

Name:	The Washington Department of Ecology
Date of Application:	10/30/2013
Place of Use:	A Secondary Reach only as recommended at the end of this report.

County	Waterbody	Tributary To	WRIA
Okanogan	Aeneas Creek	Pacific Ocean	52-Sanpoil
Okanogan	West Fork Sanpoil River	Sanpoil River	52-Sanpoil
Okanogan	Sanpoil River	Columbia River	52-Sanpoil
Chelan	Columbia River	Pacific Ocean	40-Alkali-Squillchuck

Purposes	Rate	Unit	Acre-feet/yr	Begin Season	End Season
Instream Flow and Mitigation	800	gpm	640	04/15	10/15

Legal Requirements for Requested Change

The following lists and describes requirements that must be met prior to authorizing the proposed change in place of use and in purpose of use.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the 1) Douglas County Empire Press on March 13 and 20, 2014; 2) Omak-Okanogan County Chronicle on March 12 and 19, 2014; and 3) Wenatchee World on March 7 and 14, 2014.

Notice to the Washington Department of Fish and Wildlife

Pursuant to RCWs 90.42.040(5)(b), 90.42.110(2), 90.03.280, and 77.57.020, Ecology must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. On April 11, 2014, notice was mailed to WDFW in conjunction with the Trust Water notice discussed next. The project as a whole was described.

Creation of Trust Water Notice

Pursuant to RCW 90.42.040(5)(b), "...the department shall send a notice containing pertinent information to all appropriate state agencies, potentially affected local governments and federally recognized tribal governments, and other interested parties." Such notice was sent on April 11, 2014, to a wide variety of agencies, tribes, and interested parties. A list of recipients can be obtained by request from Ecology's Office of Columbia River. Additionally, discussion on this project took place between Ecology representatives (including the author of this ROE) and the Water Rights Administrator for the Confederated Tribes of the Colville Reservation (the Tribe), Lois Trevino, and the Tribe's consultant, Fred Rajala, in August, September, and October of 2014.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e. an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met:

- (a) It is a surface water right application for more than one cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gpm;
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;

- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g. the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

Chapter 90.42 RCW authorizes Ecology to acquire water for Trust and to use this water for water banking purposes.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of the validity and extent of the claim or right. This is necessary to establish whether, and to what extent, the claim or right is eligible for change. *R.D. Merrill v. PCHB and Okanogan Wilderness League v. Town of Twisp*.

INVESTIGATION

History of Water Use and Tentative Determination of Validity and Extent

The subject right originally issued in June of 1977, with a priority of July 30, 1971, for the irrigation of 150 acres from a well located near Aeneas Creek. The original Report of Examination (ROE) for this right, written in 1975, mentions that a "supplemental" relationship exists between this and SWC 9231 (1958 priority). SWC 9231 authorizes the irrigation of 104 acres from a proximate diversion located on Aeneas Creek. The 1975 ROE for the subject right indicates that, of the 150 acres authorized, irrigation of lands already irrigated under SWC 9231 would be secondary while the remainder would be considered primary. Curiously, it does not mention the Claim, which was filed the year before in 1974. The place of use of G4-01203C overlaps with SWC 9231 and S4-069422C1 at the subject area proposed for change.

A review of documents (relevant permitting documents for SWC 9231 and G4-01203C, the Claim, surveyor's notes from 1909 found on the Bureau of Land Management (BLM) website, and a 1910 map found on the BLM website) determined that irrigation likely did not occur here until much closer to 1958 than 1900. Firstly, the 1958 ROE for SWC 9231 indicates that only 35 acres were irrigated at that time and that no water had been previously appropriated here. Also, the Beginning of Construction form filed under SWC 9231 indicates that only 30% of the clearing work had been completed by March of 1960. The mathematically inclined reader will note that 30% of 104 acres is 31.2 acres – very close to 35 acres. Additional information given on the form states, "Ice is over the creek and I have to wait for it to thaw and the water go down before I can continue work", indicates further that the project had not yet been fully completed at that time. Secondly, some uncertainty exists with the Claim as to whether the irrigation use (as opposed to the stock and domestic uses) dates back to 1900. Thirdly, the 1909 surveyor's notes are unambiguous that the land surveyed, south and east of the subject property, was not under irrigation at that time, describing in some detail nearby areas as: "Soil, rocky, first and second rates. Timber, pine, fir, and tamarack. Undergrowth, young growth of fir and tamarack, willow and

*alder. Land mountainous or covered with dense undergrowth and exceptionally difficult to survey..."*¹⁸
The 1909 survey traversed to the south and then east of the subject area, along the Township boundary. A scanned 1910 map image is included on the BLM website that compiles data collected during the 1909 and other surveys.** This map provides a high level of detail, labeling a small orchard, various barn locations, and even a local hen house. Tilled or irrigated fields appear to be denoted, yet the symbology used is undefined. Nothing on the 1910 map suggests that irrigation was taking place in the subject area.

Research efforts then swung towards aerial photo review. The USGS's "EarthExplorer", a map viewing program found on the USGS website, has a black and white photo covering the site dated October 1, 1953, available for inspection. Minimal evidence of development or irrigation was observed at the site from this photo. In contrast, two other black and white aerial photos on this website dated September 1, 1983, and September 5, 1991, clearly show irrigated fields within the site area. As such, it appears that water was not used in this area for irrigation until sometime after 1953.

* http://www.blm.gov/or/landrecords/survey/NoteView1_2.php?R0160WA0138001390

** http://www.glorerecords.blm.gov/details/survey/default.aspx?dm_id=310365&sid=y4fglyzr.1t1#surveyDetailsTabIndex=1

This water use finding is injurious to the Claim in terms of the irrigation use component. After discussing this finding with the applicant's legal counsel (Mark Peterson and Marc Marquis), it was decided that the irrigation component of the Claim would be voluntarily relinquished and change application CS4-069422CI voluntarily withdrawn if this change application, its companion application CS4-SWC9231, and new water right applications S4-29956 and S4-31083 are all favorably processed. Ecology's analysis of validity and extent of water rights continues below, now confined to the two State-issued water right certificates.

Additional aerial photographs and satellite images were reviewed as part of Ecology's tentative determination of validity and extent of water rights here. This record extended from 1964 to 2013. It appears areas covered by wheel line irrigation were replaced by a center pivot in the early 2000s. Approximately 90 acres covered by the pivot and approximately 15 acres covered by a wheel line located NW of the pivot appeared to have been irrigated consistently through the years. However, the photographic and imagery records were not always consistent for the remaining portions of the farm, and a field visit was scheduled to examine these areas. The field visit took place on October 16, 2014. Participants were Mark Peterson (introduced earlier), Kenny Montanye (a current farm worker with historic knowledge of this site), Mark Schuppe (Operations Manager for the Office of Columbia River (OCR)), and the author of this report. Mr. Montanye first directed the tour of the property to two areas adjacent to Aeneas Creek where seasonal dams would be constructed to allow flood irrigation of some of the area south of the pivot. The dam sites were in poor condition and Mr. Montanye indicated that they had been heavily damaged during flooding events within the past couple of years and no flood irrigation had been applied since. Nevertheless, successful cultivation of a crop had occurred in this southern area in 2014. Inspection of this area, Mr. Montanye's explanation of how irrigation had occurred here in the past, and additional aerial photo review resulted in 20 acres estimated as likely being irrigated at least once every five years in this southern area. The tour then swung north, to a wheel line positioned NE of the pivot. Mr. Montanye indicated that in some years this wheel line would not be used at all, while in others the wheel line would be used sparingly. In the field, the wheel line did not appear to have been recently operated: the metal wheels were buried in several inches of soil and the wheel line was parked within tall, un-mown grasses. The marshy area to the north of this field was observed to be only slightly lower in elevation and it appeared that crops grown here would benefit

from some degree of sub-irrigation. These observations, coupled with re-inspection of aerial photo and satellite imagery, led the author and Mr. Schuppe to conclude that irrigation water had not been applied here at least once every five years. This resulted in an estimated 125 acres of irrigation consistently applied at this site and, ergo, available for transfer to Trust.

The original water duties allocated under G4-01203C and SWC 9231 were 53 inches/acre and 50.3 inches/acre, respectively. The tide of history has ebbed, and the reasoning for this high water duty here remains un-captured. However, there is recognition that (1) water use data were not as robust as today, (2) Ecology and Ecology's predecessor commonly affixed values near 48 inches during that period of time (a default value, say) without benefit of an explanatory narrative, and (3) the original values were based on a lower water delivery efficiency of 70% based on flood or rill irrigation. Of curious note is that the discussion on water duty in the original Report of Examination (ROE) for G4-01203C does not match the final acre-foot value assigned. The ROE discusses a 48.5 inches/acre water duty for this area which would have resulted in 606.3 ac-ft, and an explanation could not be found in the file for instead authorizing 663 ac-ft. This unexplained discrepancy is highly unusual. The author's personal opinion on this matter is that a ministerial or calculation error occurred where 606.3 was erroneously written as 663. In any case, the Proof of Appropriation for G4-01203C indicated that 160 acres are irrigated and, as the certificate issued for 640 ac-ft, it appears a 4 feet per acre water duty was settled upon.

Neither metering data nor power records were available to estimate water use. In the absence of such data, the U.S. Department of Agriculture's Washington Irrigation Guide (WIG) is commonly referred to. The type of water delivery system, in consultation with Ecology's guidance document GUID 1210 and site-specific conditions, then play into Ecology's water use estimate. For this analysis, 125 acres of an alfalfa/pasture grass mix will be considered. The WIG's Neselem station is proximate and thought to most closely mimic the microclimate at this site due to similarities in elevation, surrounding mountainous topography, and longitude. Here, alfalfa was found to require 26.96 inches of water while pasture/turf required 28.55 inches for an average of 27.78 inches. Under 125 acres irrigated, the amount of water used consumptively by the crops totals about 289 ac-ft. Evaporative loss while delivering water to the crop is accounted for below.

Impact sprinklers are used on the wheel line, while drop down sprinkler heads are used on the pivot, with a big gun installed at the end of the pivot. In conversations with the applicant's legal counsel and Mr. Montanye, and with field observations, it appears rigorous irrigation scheduling based on measured soil water conditions and weather data did not occur here. But neither did random or arbitrary watering. Generally, it appears that irrigation scheduling at this site occurred regularly, with attention to crop needs, and under an experienced eye, as time allowed. After consulting Ecology's guidance document GUID 1210, the historic irrigation practices on this farm point towards the pivot having an estimated 80% water delivery efficiency, the wheel line an estimated 75% efficiency, and the flood irrigation an estimated 50% efficiency. Applying the 80% application efficiency to the crop irrigation requirement yields a value of 2.89 feet, the 75% efficiency yields 3.09 feet, and the flood irrigation yields 4.63 feet. Over the 125 acres a water use estimate of 399 ac-ft results (90 acres served by center pivot, 15 acres served by wheel line, and 20 acres flooded).

For the consumptive use available for transfer to Trust, the irrigation requirement for the crops plus the amount lost to evaporation during application is considered. Ecology's GUID 1210 indicates that the amount lost to evaporation during application ranges from a low of 0 – 5% to a high of 15% depending on system type. GUID 1210 further indicates that the applicant's pivot would lose 15% to evaporation,

the wheel line 10%, and the flood irrigation 5%. As such, 337 ac-ft of consumptively used water would be available for transfer to Trust.

G4-01203C authorizes up to 800 gpm, and the applicant's counsel has indicated that a combined 800 gpm were historically used under the subject authorizations. Nelson Irrigation Corporation, in an online document titled, "Water Application Solutions for Center Pivots", estimates that the operation of a center pivot with end gun covering 90 acres would use approximately 700 gpm. Washington State University's "Irrigation in the Pacific Northwest" webpage contains a calculator to estimate system pumping requirements. Entering in data for this site, 606 gpm were calculated for the center pivot. It is likely that diversion from Aeneas Creek occurred simultaneously with the groundwater pumping that serves the center pivot (and wheel line), adding to the total instantaneous rate. Without benefit of actual measured flow, the combined 800 gpm value appears within reason and will remain undisturbed by Ecology's tentative determination of validity and extent at this site.

The two Certificates have an additive/non-additive relationship where G4-01203C is to be additive to any land not already under irrigation under SWC 9231, and non-additive to that land already irrigated under SWC 9231. Research, observations, and discussions with Mr. Montanye and the applicant's legal counsel indicate that, currently, approximately 105 acres are irrigated by groundwater and the remaining 20 acres by Aeneas Creek surface water. This practice appears to have been continuous along a timescale on the order of decades. As such and consistent with the additive/non-additive relationship as originally authorized, Ecology's tentative determination on validity and extent ascribes 20 acres to SWC 9231 as additive and ascribes the remaining 105 acres to G4-01203C as additive. In addition, G4-01203C has 20 acres of non-additive irrigation ascribed to it. The annual quantity and instantaneous rate are thus divided up proportionately, and Ecology's tentative determination of validity and extent is as follows: For SWC 9231, 54 ac-ft and 128 gpm (0.29cfs) for the irrigation of 20 acres are additive; for G4-01203C, 283 ac-ft and 672 gpm for the irrigation of 105 acres are additive and 54 ac-ft and 128 gpm for the irrigation of 20 acres are non-additive.

The majority of the lands covered by the three subject water right documents (SWC 9231, S4-069422C1, and G4-01203C) lie within land allotted in 1880 to two enrolled members of the Confederated Tribes of the Colville Reservation. Patents for the allotments were issued by the United States of America in 1915: Chief Aeneas received a patent for his Allotment, Lot 10 of Section 33, T. 36N., R. 30E.W.M.; Julian Aeneas received a patent for his Allotment, Lot 9 of same Section 33. These two Lots were then conveyed in 1924 to a non-tribal member (named Clay Fruit) as fee simple patented lands. This is germane in determining whether or not a Federal reserved (Tribal) right exists here. Under a Ninth Circuit U.S. Court of Appeals case known as *Colville Confederated Tribes v. Boyd Walton, Jr.*, non-Indian successors to Indian allottees acquire a Federal reserved water right with a date of priority equal to the date the reservation was created for water already appropriated by the Indian allottee at the time of property transfer. Further, the non-Indian successor obtains a Tribal water right for any additional water appropriated with reasonable diligence after property transfer. These have been coined the term *Walton* rights. Here, allotted land transferred out of Indian ownership in 1924, and, as previously discussed, water likely was not used for irrigation until many years later, possibly not until 1958. As such, it appears a *Walton* right was not created here. Relinquishment of the irrigation portion of the Claim should absolve the subject area of Tribal water rights for irrigation. Should this change proposal be processed favorably, under today's water laws and concerns for aquatic life, the revival of irrigation here would very likely be possible only through successful water right transfer(s). These points were discussed with representatives of the Confederated Tribes of the Colville Reservation (the Water Rights Administrator and the Tribe's consultant) and the applicant's legal counsel.

Proposed Use

Under the proposal, the irrigation portion of the Claim would be voluntarily relinquished, and all irrigation under the two State-issued certificates (SWC 9231 and G4-01203C) would cease. The entire transferrable quantity would rely only on the two State-issued certificates. These would convey to Trust as instream flow and downstream mitigation for new out-of-stream uses. The Trust conveyance would involve the transfer of Deeds from the applicant to Ecology. The Place of Use (POU) of the Trust water would begin at the confluence of Aeneas Creek with the West Fork Sanpoil River as mapped on USGS maps (48.57364, -119.06771 in NAD 83) and extend downstream along the West Fork Sanpoil River, to the Sanpoil River, and then to its confluence with the Columbia River. From there, it would extend further downstream along the Columbia River to partially mitigate proposed new out-of-stream uses located near Malaga, WA, which are described more fully in new water right applications S4-29956 and S4-31083. Other rights proposed for change would similarly help mitigate these two new water right applications, but are not part of this report.

Trust water values obtained through Ecology's tentative determination of validity and extent would be further limited by month as given in the WIG for pasture/turf from the Nespelem station, and presented in the following Table:

Monthly Trust Water Quantities and Rates							
	May	June	July	August	September	October	Total
WIG (inches)	1.98	6.11	8.68	7.2	4.32	0.27	28.56
% WIG	6.9	21.4	30.4	25.2	15.1	0.9	100.0
Qa (ac-ft)	19.6	60.5	86.0	71.3	42.8	2.7	283.0
Qi (cfs)	0.3	1.0	1.4	1.2	0.7	0.04	N/A

Other Landowners within the Place of Use

The POU for G4-01203C covers many landowners besides the applicant. The signatures of these landowners were not included on the applications. To address this deficiency, a separate mailing by the applicant's legal counsel informed these landowners of the proposed change. These letters were sent Certified with both the law firm's and OCR's contact information given. While a few questions were fielded by the law firm, no responses were received by Ecology.

Other Rights Appurtenant to the Place of Use

No other irrigation rights or claims appear to share the same POU of any of the three subject documents.

Hydrogeologic Evaluation

A staff hydrogeologist licensed to practice in the State of Washington, Ron Dixon, examined relevant data and provided the following conclusions:

In this hydrological setting, stream depletion that results from pumping the wells likely occurs on Aeneas Creek and the West Fork Sanpoil River below or very near the area where return flows discharge back to the stream. As a result, a primary reach

determination is not warranted. Based on the topography of the valley floor and the spatial relationship of the irrigated field to Aeneas Creek and the West Fork Sanpoil River the start of the secondary reach is expected to be at or near the confluence of the two streams.

Impairment Considerations

Relinquishment of the Claim's irrigation component and no longer irrigating under SWC 9231 and G4-01203C and conveying this water into Trust would reduce a commensurate amount of water being withdrawn by the well or diverted from Aeneas Creek. Water formerly withdrawn would remain unintercepted in the aquifer and, consequently, discharge to both Aeneas Creek and the West Fork Sanpoil River. There appear to not be any other wells proximate to the applicant's wells. As such, no impairment is expected. However, should this expectation fail, Ecology is bound by RCW 90.42.040(4)(b), which states that "if impairment becomes apparent during the time a trust water right is being exercised, the department shall cease or modify the use of the trust water right to eliminate the impairment." If approved, any authorization relying on this Trust water conveyance as mitigation would be provisioned to be subject to the cessation or modification.

Public Interest Considerations

Under RCW 90.03.380, and upheld in *Public Utility District No. 1 of Pend Oreille County v. Ecology*, the public interest test does not apply to surface water right changes. Nevertheless, under RCW 90.44.100(2), changes to ground water rights are subject to the "...findings as prescribed in the case of an original application", and under RCW 90.42.040(4)(a), for authorizing the exercise of Trust water Ecology must first make the determination that the public interest would not be impaired. In terms of the public interest, the addition of instream flow to Aeneas Creek, the West Fork Sanpoil River, the Sanpoil River, and the Columbia River would likely benefit anadromous and resident fish, an interest of the public (Chapter 90.54 RCW). The intent of this Trust conveyance is to provide mitigation water for a separate irrigation project located south of Wenatchee, Washington. Any benefits to aquatic life would not extend beyond the diversion for this proposed irrigation project.

Consideration of Protests and Comments

No protests were filed against this application. Concerns the Tribe has with this proposal were encapsulated in an email dated October 23, 2014, from the Tribe's consultant and are paraphrased below.

- A) From viewing Google Earth aerial photography, little if any irrigation water has been applied here since 1995.
- B) Older authorizations allocated water quantities well in excess of what today's irrigation systems would reasonably use.
- C) SWC 9231 is limited to the irrigation of 60 acres as that was the amount originally applied for and originally permitted.
- D) G4-01203C is non-additive to SWC 9231 to the extent SWC 9231 already irrigates land (up to perhaps 60 acres).
- E) A pump test on the well log indicates total drawdown after 4 hours at 800 gpm. What was the actual pumping rate?
- F) Multiple comments on the Claim relating to its validity and extent.

Ecology's responses to the Tribe's concerns follow.

- A) Eleven aerial photos and twenty one satellite images over the span 1953 to 2013 were reviewed in great detail, two site visits made, the applicant's legal counsel interviewed, and a farm worker with a history of the site dating back to the 1960s (Kenny Montanye) was interviewed to determine that 125 acres have been consistently irrigated without a five-year span of non-use.
- B) Ecology's tentative determination of validity and extent significantly reduced the values originally applied for transfer to Trust based in part on more recent irrigation practices.
- C) Ecology's tentative determination on validity and extent ascribed less than 60 acres to SWC 9231.
- D) Ecology's tentative determination on validity and extent with regard to additive/non-additive quantities is consistent with the Tribe's comment.
- E) The combined instantaneous rate of diversion/withdrawal was estimated based on system parameters, third-party published documents, and professional judgment as flow measurements were not available.
- F) Any Report of Exam and/or Permit authorizing out-of-stream use(s) that would be mitigated by water formerly used at this site would require that the irrigation component of the Claim be voluntarily relinquished before the new out-of-stream use(s) begin(s). Relinquishment of the irrigation component of the Claim addresses the Tribe's concerns germane to the Claim.

In early May 2014, Ecology received a response from WDFW recommending denial of the two applications proposing out-of-stream uses (S4-29956 and S4-31083) as the water offered as mitigation did not equal the water requested for out-of-stream uses. A concern was raised, too, over the amount of the proposed mitigation water: WDFW questioned whether the full amount proposed has actually been applied to beneficial use and, thus, available for mitigation. WDFW indicated their willingness *"...to review some out-of-kind mitigation that would protect or enhance aquatic habitat."*

Ecology's tentative determination of validity and extent significantly reduced the amount of water available for transfer to Trust and, consequently, as mitigation for new, downstream uses. Any authorization that issued based on this water as mitigation would be limited to the amounts conveyed to Trust. Other proposed Trust conveyances, if approved, would add commensurate amounts, but are not subject to this report.

CONCLUSIONS

- The public notice complies with RCWs 90.42.040(5a), 90.42.110, and 90.03.280.
- Additional notice provided to other relevant agencies and entities complies with RCW 90.42.040(5b).
- The Washington Department of Fish and Wildlife received notice under RCWs 90.42.040(5)(b), 90.42.110(2), 90.03.280, and 77.57.020.
- Electronic notice to the Okanogan County Commissioners was provided pursuant to RCW 90.03.380(10)(a).
- A tentative determination on the validity and extent of the subject right was made (see Recommendations below).
- No impairment is expected.
- Detriment to the public interest is not expected.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed in the above Report of Examination

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

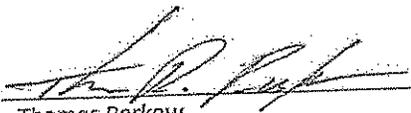
To Convey to Trust under CG4-01203C:

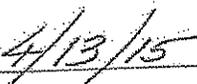
672 gpm (1.5 cfs) (Limited further by monthly breakdown of quantities and rates as presented in Table 1 of the Report of Examination above.)
283 ac-ft per year

For the purpose of instream flow as mitigation

The Place of Use begins at the confluence of Aeneas Creek and the West Fork Sanpoil River and extends downstream along the West Fork Sanpoil River, to the Sanpoil River, and then to the Columbia River, and continues downstream along the Columbia River to the points of diversion given in applications S4-29956 and S4-31083 (located near Malaga, WA). Said confluence is located at 48.57364, -119.06771 in NAD 83.

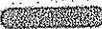
Points of Diversion or Withdrawal are not applicable for this Trust water conveyance used as instream flow.

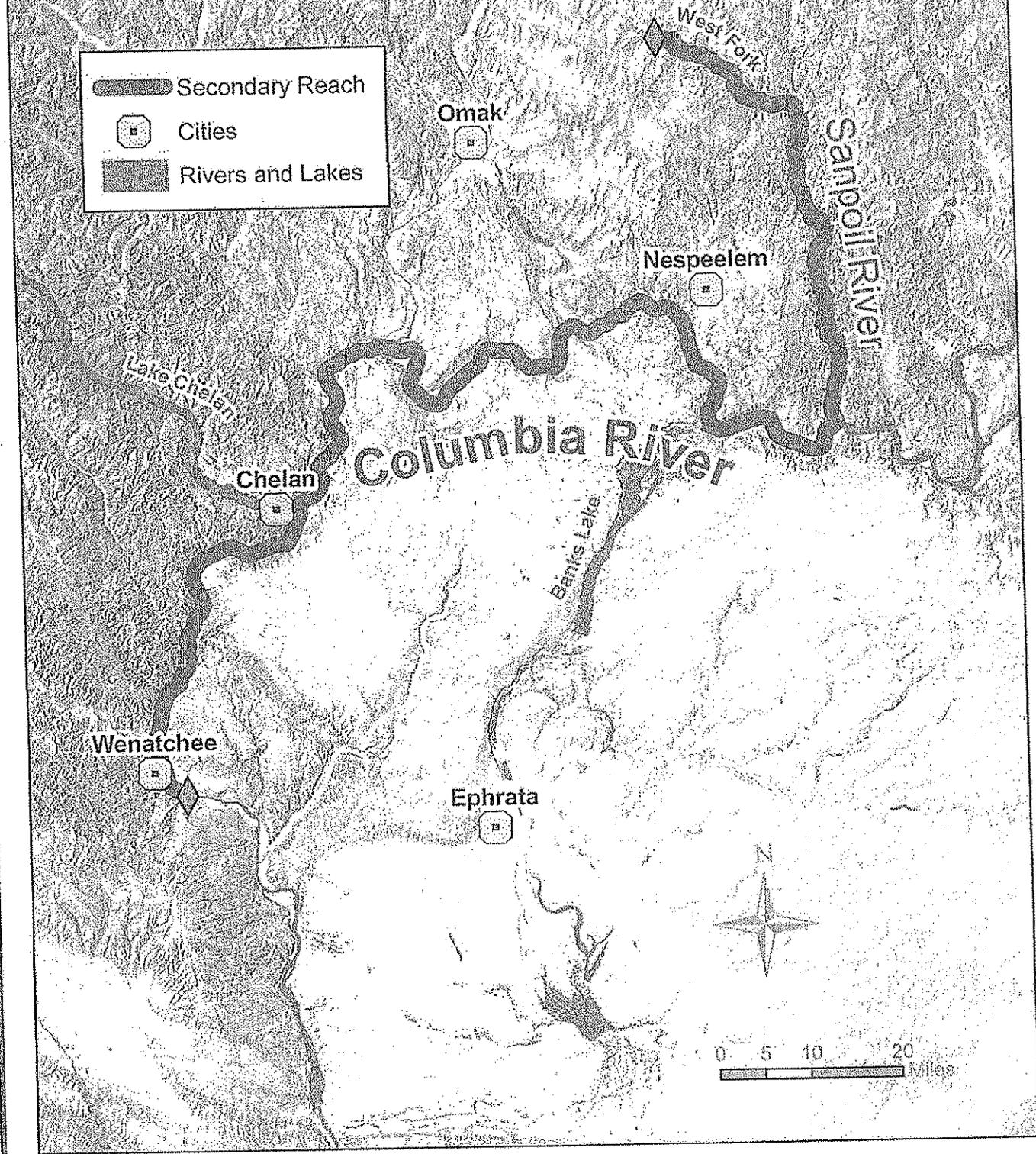

Thomas Perkow


Date

If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

CG4-01203C Place of Use

-  Secondary Reach
-  Cities
-  Rivers and Lakes



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Tom Burnett of Chelan County, Washington, on January 01, 2014, under Application No. CS4-SWC2532@1, applied to permanently transfer 0.81 cubic feet per second and 152.53 acre-feet per year into the State Trust Water Program for instream flow benefit of 25 Mile Creek, Lake Chelan, Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW¹/₄SE¹/₄ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of November 11, 1921, authorizes water for seasonal irrigation and continuous domestic use.

That the existing right proposed for change authorizes a diversion from 25 Mile Creek located within the SWSW Sec. 36, T29N, R20E in Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the **Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611**, within 30 days from:

(last date of publication to be entered above by the publisher)

STATE OF WASHINGTON, COUNTY OF Chelan

CERTIFICATE OF WATER RIGHT

in accordance with the provisions of Chapter 111, Laws of Washington for 1911, and amendments thereto, and the rules and regulations of the State Supervisor of Hydraulics (hereinafter)

This is to certify, that Hale, Ayres, Barks & Lindsay
of Lakeside State of Washington, has made
proof to the satisfaction of the State Supervisor of Hydraulics of Washington of a right to the use of
the waters of Twenty Five Mile Creek, a tributary of Lake Chelan
with point or points of diversion within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of
Sec. 36, Twp. 29 N., Range 20 E., W. M., for the purposes of
Irrigation and Domestic supply

under Appropriation Permit No. 342 issued by the State Supervisor of Hydraulics, and
that said right to the use of said waters has been perfected in accordance with the laws of Washington,
and is hereby confirmed by the State Supervisor of Hydraulics of Washington and entered of record in
Volume 6, at Page 2532, on the 10th day of July, 1946; that
the right hereby confirmed dates from November 25, 1921; that the amount of water to
which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount
actually beneficially used for said purposes, and shall not exceed
4.00 cubic feet per second.

A description of the lands under such right to which the water hereby confirmed is appurtenant,
and the place where such water is put to beneficial use, is as follows:

PLACE OF USE			LEGAL SUBDIVISION	FOR IRRIGATION	
Section	Township	Range		No. Acres Described in Permit	No. Acres Actually Irrigated
25	29 N.	20 E.W.M.	SE $\frac{1}{4}$ of NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SE $\frac{1}{4}$	30	30
30	29 N.	21 E.W.M.	Lots 2 & 3	34	33.5
30	29 N.	21 E.W.M.	SE $\frac{1}{4}$ of NW $\frac{1}{4}$ & NE $\frac{1}{4}$ of NW $\frac{1}{4}$	60	55
30	29 N.	21 E.W.M.	E $\frac{1}{2}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$ & NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40	40
20	29 N.	21 E.W.M.	Lot 3	.8	.8
19	29 N.	21 E.W.M.	Lot 1	26	26
				190.8	185.3

LOCATION OF POWER PLANT			LEGAL SUBDIVISION	ON POWER	
Section	Township	Range		H. P. Described in Part 1	H. P. Actually Developed

Section	Township	Range	LEGAL SUBDIVISION	FOR OTHER USES
			Land described above	domestic supply

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or places of use herein described, except as provided in sections 6 and 7, Chapter 111, Laws of 1911.

WITNESS the seal and signature of the State Supervisor of Hydraulics on this 10th day of July, 1946.

[Signature]
State Supervisor of Hydraulics

CONFERRED BY
[Signature]

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Tag Line: CS4-SWC2532@1 NOTICE OF APPLICA-
TION TO C

The Douglas County Empire Press is a legal newspaper published in Douglas County, Washington, and approved as such by the Superior Court of said County and State. Serving the county of Douglas.

PUBLISHED ON: Empire Press 03/27/14
Empire Press 04/03/14

TOTAL COST: \$164.34

Subscribed and sworn to before me on 04/02/14

Linda K. Barta

Notary Public in and for the State of Washington, residing in Wenatchee



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Payments & Credits:	<table border="1"> <tr> <td>Empire Press</td> <td>03/27/14</td> <td>\$82.17</td> </tr> <tr> <td>Empire Press</td> <td>04/03/14</td> <td>\$82.17</td> </tr> </table>	Empire Press	03/27/14	\$82.17	Empire Press	04/03/14	\$82.17
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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A
WATER RIGHT

Order #: 0
Ad Name:
CS4-SWC2532@1 NOTICE OF
APPLICATION TO C

TAKE NOTICE:

That Tom Burnett of Chelan County, Washington, on January 01, 2014, under Application No. CS4-SWC2532@1, applied to permanently transfer 0.81 cubic feet per second and 152.53 acre-feet per year into the State Trust Water Program for instream flow benefit of 25 Mile Creek, Lake Chelan, Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31063. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW1/4SE1/4 of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of November 25, 1921, authorizes the use of surface water for seasonal irrigation and continuous domestic use.

That the existing right proposed for change authorizes a diversion from 25 Mile Creek located within the SW1/4SW1/4 Sec. 36, T. 29 N., R. 20 E.W.M. in Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, P.O. Box 47611, Olympia WA 98504-7611, within 30 days from: April 3, 2014.

Published in the Douglas County Empire Press on March 27, 2014, and April 3, 2014.

Invoice

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District of Chelan, Washington, on November 27, 2013, under Application No. CS4-04590C@1, applied to permanently transfer 0.039 cubic feet per second and 8.2 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of August 24, 1925, and, as previously changed in March of 2012, authorizes the use of water for continuous municipal water supply purposes.

That the existing right authorizes two diversions located on Lake Chelan within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the **Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611**, within 30 days from:

(last date of publication to be entered above by the publisher)

THE WENATCHEE WORLD, WENATCHEE, WASHINGTON
AFFIDAVIT OF PUBLICATION
STATE OF WASHINGTON
COUNTY OF CHELAN

PETERSON & MARQUIS LAW OFFICE
1227 FIRST STREET
WENATCHEE, WA 98801

REFERENCE INFORMATION:

Account # 137355
Ticket # 176248
Tag Line: No. CS4-04590C@1 STATE OF WASHING-
TON DEP

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Douglas, Grant & Okanogan.

PUBLISHED ON: Wenatchee World 03/07/14
Wenatchee World 03/14/14

TOTAL COST: \$231.54

Subscribed and sworn to before me on 03/13/14

Linda K. Barta

Notary Public in and for the State of Washington, residing in Wenatchee



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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

Ad Name:
No. CS4-04590C@1 STATE OF
WASHINGTON DEP

TAKE NOTICE:

That Bear Mountain Water District of Chelan, Washington, on November 27, 2013, under Application No. CS4-04590C@1, applied to permanently transfer 0.039 cubic feet per second and 8.2 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29959 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW¼SE¼ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of August 24, 1925, and, as previously changed in March of 2012, authorizes the use of water for continuous municipal water supply purposes.

That the existing right authorizes two diversions located on Lake Chelan within the SEMSW¼ of Section 8, and the NW¼NW¼ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611, within 30 days from March 14, 2014.

Invoice

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District of Chelan, Washington, on November 27, 2013, under Application No. CS4-04590C@1, applied to permanently transfer 0.039 cubic feet per second and 8.2 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW¼SE¼ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of August 24, 1926, and, as previously changed in March of 2012, authorizes the use of water for continuous municipal water supply purposes.

That the existing right authorizes two diversions located on Lake Chelan within the SE¼SW¼ of Section 8, and the NW¼NW¼ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611, within 30 days from: March 14, 2014.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

March 23, 2012

Bear Mountain Water District
C/O Mark Peterson
1227 First Street
Wenatchee WA 98801-1915

MARK PETERSON
PETERSON LAW OFFICE
103 PALOUSE ST STE 31
WENATCHEE WA 98801

RE: Water Right Change Application No. CS4-04590C (CHEL-08-08)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has modified the decision of the Board and the proposed change/transfer of water right is approved under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
0.039	17.5	8.2	Continuous municipal water supply				
SOURCE						TRIBUTARY OF (IF SURFACE WATER)	
Lake Chelan						Chelan	
AT A POINT LOCATED (PARCEL NO.)	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY
272208705125	SE	SW	8	27	22 E	47	Chelan
272216220050	NW	NW	16	27	22 E		
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD							
The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.							
			SECTION	TOWNSHIP N.	RANGE		
			7, 8, 16, and 17	27 N	22 EWM		
DEVELOPMENT SCHEDULE							
BEGIN PROJECT BY THIS DATE			COMPLETE PROJECT BY THIS DATE			WATER TO PUT TO FULL USE BY THIS DATE	
Begun			December 31, 2024			December 31, 2029	

COPY

Ecology has **MODIFIED** the decision of the Board as follows:

1. The following **CHANGES** are made to the table of water rights found on page 11 of the Board's decision under the "*Other water rights appurtenant to the property (if applicable)*" portion of the Investigation section, to reflect the associated quantities as previously modified under CHEL-08-10 and listed on the face of the water right documents:
 - 5182: the Qa is changed from 273.5 acre-ft/yr to 272.5 acre-ft/yr;
 - 30502: the Qi is changed from 183 gpm to 193 gpm; and
 - 120592: the Qi is changed from 57gpm to 157 gpm.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this decision. The appeal process is governed by chapter 43.21B RCW and chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in chapter 43.21B RCW and chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503 Pollution Control Hearings Board 1111 Israel Road SW, Ste 301 Tumwater WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

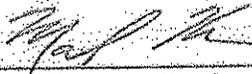
For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>

4900

Bear Mountain Water District
CS4-04590C (CHEL-08-08)
March 23, 2012
Page 3 of 3

Please send a copy of your appeal to:

Mark Kemner, Section Manager
Department of Ecology
Central Region Office
15 W Yakima Avenue Ste 200
Yakima WA 98902-3452



Mark Kemner, Section Manager
Water Resources Program/CRO

MK:IEgg/120323 CHEL-08-08

Enclosures: Your Right to Be Heard
Construction Notice

By Certified Mail: 7010 0290 0000 7131 1057

cc: Janet Rajala, Department of Ecology, Eastern Region Office (email pdf)
Lisa de Vera, Chelan County Water Conservancy Board
Mark Peterson, Peterson Law Office
Philip Rigdon, Director, Natural Resources Division, Yakama Nation
Lois Trevino, Administrator, Environmental Trust, Colville Confederated Tribes

#1

Re: J5742

CERTIFICATE RECORD No. 10 Page No. 4592

STATE OF WASHINGTON, COUNTY OF Chelan

CERTIFICATE OF SURFACE WATER RIGHT

(In accordance with the provisions of Chapter 90A, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the State Supervisor of Water Resources thereunder.)

This is to certify that O. E. GLANSON of Lakeside, State of Washington, has made proof to the satisfaction of the State Supervisor of Water Resources of Washington, of a right to the use of the waters of Lake Chelan with point or points of diversion within the Lot 1 Sec. 8, Twp. 27 N., R. 22 E., W. M., under and subject to provisions contained in Appropriation Permit No. 653 issued by the State Supervisor of Water Resources, and that said right to the use of said waters has been perfected in accordance with the laws of Washington, and is hereby confirmed by the State Supervisor of Water Resources of Washington and entered of record in Volume 10, at Page 4590, on the 26th day of March, 1952 that the priority date of the right hereby confirmed is August 24, 1925; that the amount of water under the right hereby confirmed, for the following purposes: limited to an amount actually beneficially used and shall not exceed

0.039 of a cubic foot per second for the purpose of domestic supply and the irrigation of 2.33 acres.

A description of the lands under such right to which the water right is appurtenant, and the place where such water is put to beneficial use, is as follows:

That part of the following described tract of land lying south of the present County Road known as South Lake Shore Road, to-wit:

The West 201 ft. 10 inches of the following described lands: That portion of Sect. 17, Twp. 27 N., R. 22 E., W. M., Chelan County, Washington, particularly described as follows: Beginning at the quarter section corner between Secs. 8 and 17, said Twp. and Rge., and running thence south along the north and south center line of said section 17, a distance of 325.6 feet; thence N. 11°06' E. a distance of 38.6 feet; thence N. 47°50' E. a distance of 157 feet; thence N. 60°20' E. a distance of 210.6 feet; thence N. 48°16' E. a distance of 61.9 feet; thence N. 28°02' E. a distance of 456 feet more or less to the Southwesterly slope of the Chelan; thence Northwesterly along the Southwesterly shore line of Lake Chelan to the north and south center line of said Sec. 8; thence south along said center line a distance of 419 feet more or less to the point of beginning.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-09550C@5, applied to permanently transfer 0.274 cubic feet per second and 92.7 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of June 9, 1965, and, as previously changed in September of 2013, BMWD's portion of the right authorizes the use of water for continuous municipal purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the **Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611**, within 30 days from:

(last date of publication to be entered above by the publisher)

THE WENATCHEE WORLD, WENATCHEE, WASHINGTON
AFFIDAVIT OF PUBLICATION
STATE OF WASHINGTON
COUNTY OF CHELAN

PETERSON & MARQUIS LAW OFFICE
1227 FIRST STREET
WENATCHEE, WA 98801

REFERENCE INFORMATION:

Account # 137355

Ticket # 176249

Tag Line: No. CS4-09550C@5 STATE OF WASHINGTON DEP

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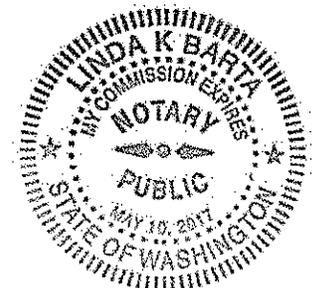
PUBLISHED ON: Wenatchee World 03/07/14
Wenatchee World 03/14/14

TOTAL COST: \$245.84

Subscribed and sworn to before me on 03/13/14

Linda K. Barta

Notary Public in and for the State of Washington, residing in Wenatchee



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-09550085, applied to permanently transfer 0.274 cubic feet per second and 92.7 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of June 9, 1965, and, as previously changed in September of 2013, BMWD's portion of the right authorizes the use of water for continuous municipal purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611, within 30 days from: March 14, 2014.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

March 7, 2014

Bear Mountain Water District
PO Box 3091
Chelan, WA 98816

RE: Amended Water Right Change Application No. CS4-09550C@4 (CHEL-13-03)

This modification is amended to correct an administrative error in the instantaneous quantities listed in the summary table.

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has modified the decision of the Board and the proposed change/transfer of water right is approved under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/ SECOND		MAXIMUM GAL/MINUTE		MAXIMUM ACRE-FT/YR		TYPE OF USE, PERIOD OF USE	
A) 0.274 cfs B) 0.020 cfs				A) 92.7 B) 0.5* *consumptive		A) Continuous Municipal (BMWD) B) Continuous Domestic (Burnstead)	
SOURCE				TRIBUTARY OF (IF SURFACE WATER)			
Lake Chelan				Chelan River			
¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.	
A) SE	SW	8	27 N	22 EWM	47	Chelan	
A) NW	NW	16	27 N	22 EWM	47	Chelan	
B) NW	SE	12	27 N	21 EWM	47	Chelan	
AT A POINT LOCATED: PARCEL NO.							
A) 3,725 ft west and 720 ft north of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272208705125).							
A) 1,150 ft south and 870 ft east of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272216220050).							
B) Parcel No. 272112430550.							

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD					
A) The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.					
B) Portion of Gov. Lot 44 in Section 12, T. 27 N., R. 21 E.W.M. in Chelan County, Washington					
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE
A) Multiple			Multiple	27 N.	22 E.W.M.
B) 272112430550	SW & NW	SE	12	27 N.	21 E.W.M.
DEVELOPMENT SCHEDULE					
BEGIN PROJECT BY THIS DATE		COMPLETE PROJECT BY THIS DATE		WATER TO PUT TO FULL USE BY THIS DATE	
A) Begun		12/1/24		12/1/29	
B) Begun		12/31/2017		12/31/2018	

Ecology has **MODIFIED** the decision of the Board as follows:

- 1.) The Board's decision has been modified as noted in the table above.
- 2.) The Board's decision table is amended to reflect that Lake Chelan is tributary to the Chelan River.
- 3.) The authorized points of diversion for the portion of the water right to be retained by BMWD are **CHANGED** to the following in the Board's decision table and throughout the Report of Examination. The change is to reflect the complete descriptions authorized under CS4-09550C (CHEL-08-10).
 - A) 3,725 ft west and 720 ft north of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272208705125).
 - B) 1,150 ft south and 870 ft east of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272216220050).
- 4.) The authorized place of use for the portion of the water right to be retained by BMWD is **CHANGED** to the following in the Board's decision table and throughout the Report of Examination. The change reflects the complete description as authorized under CS4-09550C (CHEL-08-10).
 The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.
- 5.) The authorized place of use for the Bumstead place of use is change in the decision table to read as follows:
 The SW¼ SE¼ AND the NW¼ SE¼ of Section 12, T. 27 N., R. 21 E.W.M. Chelan County Parcel No. 272112430550.

6.) The following provision is ADDED to the Provisions Section under Decision (B):

The purpose of use for the portion of water right CS4-09550C granted is changed from municipal use to domestic use and is no longer protected from relinquishment by Determined Future Development or municipal water law. Policy 1280 addresses Ecology's interpretation of development schedules and the applicability of relinquishment under Chapter 90.14 RCW.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

- File your appeal and a copy of this Decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

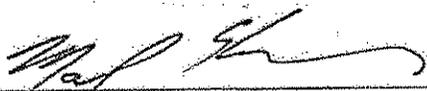
You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>



Mark Kemner, LHG, Section Manager
Water Resources Program, Central Region Office

Mk:ST:ba / 140337

Enclosures: Your Right to Be Heard
Construction Notice

By certified mail: 7009 2250 0004 4950 3558

cc: Marc Marquis, Attorney, Peterson & Marquis Law Office
Lisa De Vera, Chelan County Conservancy Board
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lois Trevino, Water Administrator, Colville Confederated Tribes



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

September 6, 2013

Bear Mountain Water District
PO Box 3091
Chelan, WA 98816

RE: Water Right Change Application No. CS4-09550C@3 (CHEL-13-01)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has **MODIFIED** the decision of the Board and the proposed change/transfer of water right is **APPROVED** under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/ SECOND		MAXIMUM GAL/MINUTE		MAXIMUM ACRE-FT/YR		TYPE OF USE, PERIOD OF USE	
A) 0.294cfs B) 0.066cfs				A) 93.2 B) 3.5* *consumptive		A) Continuous Municipal (BMWD) B) Continuous Domestic (Lewis)	
SOURCE					TRIBUTARY OF (IF SURFACE WATER)		
Lake Chelan					Chelan River		
Point of Diversion ¼	¼	SECTION	TOWNSHIP N	RANGE	WRIA	COUNTY	
A) SE	SW	8	27 N	22 EWM	47	Chelan	
A) NW	NW	16	27 N	22 EWM	47	Chelan	
B) SW	NE	24	29 N	20 EWM	47	Chelan	
AT A POINT LOCATED: PARCEL NO.							
A) 3,725 ft west and 720 ft north of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272208705125).							
A) 1,150 ft south and 870 ft east of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272216220050).							
B) Parcel No. 292024820080.							

5.) The following provision is ADDED to the Provisions Section under Decision (B):

The purpose of use for the portion of water right CS4-09550C granted is changed from municipal use to domestic use and is no longer protected from relinquishment by Determined Future Development or municipal water law. Policy 1280 addresses Ecology's interpretation of development schedules and the applicability of relinquishment under Chapter 90.14 RCW.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

- File your appeal and a copy of this Decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.ehl.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeRevisor>

Mark Kemner, Section Manager

Mark Kemner, LHG, Section Manager
Water Resources Program, Central Region Office

MK:MD:ba/130903

Enclosures: Your Right to Be Heard
Policy 1280
Construction Notice

By Certified Mail: 7009 2250 0004 4950 3022

cc: Marc Marquis, Attorney, Peterson & Marquis Law Office
Mark Dunbar, Ecology, Central Regional Office (email pdf)
Lisa De Vera, Chelan County Conservancy Board
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lois Trevino, Water Administrator, Colville Confederated Tribes



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W. Yakima Ave., Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

July 5, 2012

Bear Mountain Water District
C/O Mark Peterson
1227 First Street
Wenatchee WA, 98801-1913

RE: Water Right Change Application No. CS4-09551C (CHEL-08-12)

Department of Ecology has **AMENDED** the previous Water Conservancy Board Modification Order issued on June 7, 2012, to correctly state the Water Right Change Application No. above.

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has modified the decision of the Board and the proposed change/transfer of water right is approved under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
0.0877 (BMWD) 0.0223 (Reynolds)	39.37 (BMWD) 10 gpm (Reynolds)	20.5 (BMWD) 0.5 (Reynolds)	Continuous Municipal Supply, Continuous Domestic Supply and Irrigation.				
Note: The annual consumptive quantity (ACQ) under the BMWD portion of the right shall not exceed 16.2 acre-feet. Note: The annual consumptive quantity (ACQ) under the Reynolds portion of the right shall not exceed 0.5 acre-feet.							
SOURCE						TRIBUTARY OF (IF SURFACE WATER)	
Lake Chelan						Chelan	
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY
272208705125 (1: BMWD)	SE	SW	8	27	22 E	47	Chelan
272216220050 (1: BMWD)	NW	NW	16	27	22 E		
292128320155 (2: Reynolds)	NW	SW	28	29	21 E		
2160 feet north of SW corner of Section 28							

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD

(1) **BMWD:** The place of use shall be the service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of expanding the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.

The place of use for the BMWD portion of this water right is expected to conform to any subsequently approved Bear Mountain Water District Water System Plan. Until such approval is obtained, the place of use of this water right shall be confined to the existing approved plan of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006.

(2) **Reynolds:** Parcel 292128320155 in the NW ¼ of the SW ¼ of Section 28, and the NE ¼ of the SE ¼ of Section 29, T. 29 N., R. 21 E.W.M., described more specifically as follows:

“Lot 2, Certificate of Exemption 2005-018 filed under Auditor’s File Number 2203177, Chelan, County, Washington. Except therefrom that portion of said lot 2 lying Easterly of the following described line A; Beginning at a brass cap W.P.M.C., said point being on the West line of said section, thence South 72 29’ 35” East a distance of 112.27 feet to the True Point of Beginning for said described Line A; thence South 11 05’ 23” West a distance of 135.24 feet, more or less, to the Northerly right of way for C.R.P. 480, said road being known as South Lake Shore Road, said point being the end of described line A. Line A shall extend northerly to the line of the high water mark.”

PARCEL NO.	SECTION	TOWNSHIP N.	RANGE
Multiple (BMWD) 292128320155 (Reynolds)	7, 8, 16, 17	27	22 E
	28, 29	29	21 E

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER TO PUT TO FULL USE BY THIS DATE:
Begun (BMWD) 12/31/2015 (Reynolds)	12/31/2024 12/31/2016	12/31/2029 12/31/2017

Ecology has **MODIFIED** the decision of the Board as follows:

1. On the following pages of the Report of Exam, reference to “Certificate 4590” will be replaced with “Certificate 9551”:
 - The last sentence of paragraph 5, on page 12.
 - The first sentence of the second bullet of paragraph 2, on page 16.
 - The last sentence of paragraph 3, on page 16.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. “Date of receipt” is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

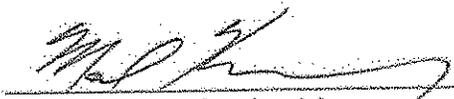
- File your appeal and a copy of this Decision with the PCHB (see addresses below).
Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>



Mark Kemmer, Section Manager
Water Resources Program
Central Region Office

MK:ST:ss/120701

Enclosures: *Your Right to Be Heard*

By Certified Mail: 7009 2250 0004 4952 1767

cc: Bear Mountain Water District
Janet Rajala, Department of Ecology, Easter Region Office (email pdf)
Lisa De Vera, Chelan County Conservancy Board
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lois Trevino, Water Administrator, Colville Confederated Tribes



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

November 30, 2012

Bear Mountain Water District
PO Box 3091
Chelan, WA 98816

RE: Water Right Change Application No. CS4-09550C@2 (CHEL-12-04)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has modified the decision of the Board and the proposed change/transfer of water right is approved under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/ SECOND		MAXIMUM GAL/MINUTE		MAXIMUM ACRE-FT/YR		TYPE OF USE, PERIOD OF USE	
A) 0.36cfs B) 0.02cfs				A) 96.7 B) 1.5* *consumptive		A) Continuous Municipal B) Continuous Domestic	
SOURCE				TRIBUTARY OF (IF SURFACE WATER)			
Lake Chelan				Chelan River			
¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.	
A) SE	SW	8	27 N	22 EWM	47	Chelan	
A) NW	NW	16	27 N	22 EWM	47	Chelan	
B) S1/2	NW	21	28 N	21 EWM	47	Chelan	
AT A POINT LOCATED: PARCEL NO.							
A) 3,725 ft west and 720 ft north of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272208705125).							
A) 1,150 ft south and 870 ft east of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272216220050).							
B) Parcel No. 282121841080.							



LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD.					
<p>A) The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.</p> <p>B) The north half of lot 16 and all of lot 17 of the Plat of Shrine Beach, and the North half of lot 16 and all of lot 17, of First Addition to Shrine Beach, excepting therefrom the west 45 feet conveyed to Chelan County for road purposes, according to the recorded plats thereof in the office of the Auditor of Chelan County, Washington.</p>					
PARCEL NO.	¼	¼	SECTION	TOWNSHIP P.N.	RANGE
A) Multiple			Portions of 7, 8, 16 and	27 N.	22 E.W.M.
B) 282121841080	S1/2	NW	17	28 N.	21 E.W.M.
B) 282121842075	S1/2	NW	21	28 N.	21 E.W.M.
			21		
DEVELOPMENT SCHEDULE					
BEGIN PROJECT BY THIS DATE:		COMPLETE PROJECT BY THIS DATE:		WATER TO PUT TO FULL USE BY THIS DATE:	
A) Begun		12/1/24		12/1/29	
B) December 31, 2015		December 31, 2016		December 31, 2017	

Ecology has **MODIFIED** the decision of the Board as follows:

- 1.) The Board's decision has been modified as noted in the table above.
- 2.) The Board's decision table is amended to reflect that Lake Chelan is tributary to the Chelan River.
- 3.) The authorized points of diversion for the portion of the water right to be retained by BMWD are **CHANGED** to the following in the Board's decision table and throughout the Report of Examination. The change is to reflect the complete descriptions authorized under CS4-09550C (CHEL-08-10).
 - A) 3,725 ft west and 720 ft north of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272208705125).
 - A) 1,150 ft south and 870 ft east of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272216220050).
- 4.) The authorized place of use for the portion of the water right to be retained by BMWD is **CHANGED** to the following in the Board's decision table and throughout the Report of Examination. The change reflects the complete description as authorized under CS4-09550C (CHEL-08-10).
 - A) The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.

- 5.) The following provision is ADDED to the Provisions Section under Decision (B):
The purpose of use for the portion of water right CS4-09550C granted is changed from municipal use to domestic use and is no longer protected from relinquishment by Determined Future Development or municipal water law. Policy 1280 addresses Ecology's interpretation of development schedules and the applicability of relinquishment under Chapter 90.14 RCW.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

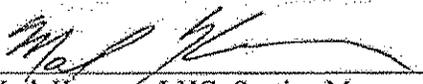
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You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website:
<http://www.leg.wa.gov/CodeReviser>


Mark Kemner, LHG, Section Manager
Water Resources Program, Central Region Office

MK:MD:ss/121123

Enclosures: Your Right to Be Heard
Policy 1280
Construction Notice

By Certified Mail: 7009 2250 0004 4952 2078

cc: Marc Marquis, Attorney, Peterson & Marquis Law Office
Keith Stoffel, Department of Ecology, Easter Region Office (email pdf)
Lisa De Vera, Chelan County Conservancy Board
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lois Trevino, Water Administrator, Colville Confederated Tribes



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

November 30, 2012

Bear Mountain Water District
PO Box 3091
Chelan, WA 98816

RE: Water Right Change Application No. CS4-09550C@1 (CHEL-12-02)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has modified the decision of the Board and the proposed change/transfer of water right is approved under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/ SECOND		MAXIMUM GAL/MINUTE		MAXIMUM ACRE-FT/YR		TYPE OF USE, PERIOD OF USE	
A) 0.38cfs B) 0.02cfs C) 0.02cfs D) 0.02cfs				A) 98.2 B) 3.3* C) 1.5* D) 1.0* *consumptive		A) Continuous Municipal B) Continuous Domestic C) Continuous Domestic D) Continuous Domestic	
SOURCE					TRIBUTARY OF (IF SURFACE WATER)		
Lake Chelan					Chelan River		
¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.	
A) SE	SW	8	27 N	22 EWM	47	Chelan	
A) NW	NW	16	27 N	22 EWM	47	Chelan	
B) SE	NE	13	29 N	20 EWM	47	Chelan	
C) NW	SE	33	29 N	21 EWM	47	Chelan	
D) SW	SE	04	27 N	22 EWM	47	Chelan	



AT A POINT LOCATED: PARCEL NO:					
A) 3,725 ft west and 720 ft north of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272208705125).					
A) 1,150 ft south and 870 ft east of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272216220050).					
B) Parcel No. 292013110075.					
C) Parcel No. 292133515020.					
D) Parcel No. 272204734045.					
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD					
A) The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.					
B) PART W1/2E1/2NE; Chelan County Parcel No. 292013110075.					
C) CORYS ROCK ACRE TRACTS LOT 3, ACRES 0.5000; Chelan County Parcel No. 292133515020.					
D) NORTH SHORE HOMES SECONDS LOT 7s LOTS 7 & 8 EXCEPT E 30's ACRES 0.7200; Chelan County Parcel No. 272204734045.					
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE
A) Multiple			Portions of 7, 8, 16 and 17	27 N.	22 E.W.M.
B) 292013110075	SE	NE	13	29 N.	20 E.W.M.
C) 292133515020	NW	SE	33	29 N.	21 E.W.M.
D) 272204734045	SW	SE	04	27 N.	22 E.W.M.
DEVELOPMENT SCHEDULE					
BEGIN PROJECT BY THIS DATE:		COMPLETE PROJECT BY THIS DATE:		WATER TO PUT TO FULL USE BY THIS DATE:	
A) Begun		December 1, 2024		December 1, 2029	
B) December 31, 2015		December 31, 2016		December 31, 2017	
C) December 31, 2015		December 31, 2016		December 31, 2017	
D) December 31, 2015		December 31, 2016		December 31, 2017	

Ecology has **MODIFIED** the decision of the Board as follows:

- 1.) The Board's decision has been modified as noted in the table above.
- 2.) The Board's decision table is amended to reflect that Lake Chelan is tributary to the Chelan River.
- 3.) The authorized points of diversion for the portion of the water right to be retained by BMWD are **CHANGED** to the following in the Board's decision table and throughout the Report of Examination. The change is to reflect the complete descriptions authorized under CS4-09550C (CHEL-08-10).

A) 3,725 ft west and 720 ft north of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272208705125).

A) 1,150 ft south and 870 ft east of the SE corner of Section 8, T. 27 N., R. 22 E.W.M. (Parcel No. 272216220050).

- 4.) The authorized place of use for the portion of the water right to be retained by BMWD is CHANGED to the following in the Board's decision table and throughout the Report of Examination. The change reflects the complete description as authorized under CS4-09550C (CHEL-08-10).

A) The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.

- 5.) The following provision is ADDED to the Provisions Sections of (B), (C), and (D):
The purpose of use for the portion of water right CS4-09550C granted is changed from municipal use to domestic use and is no longer protected from relinquishment by Determined Future Development or municipal water law. Policy 1280 addresses Ecology's interpretation of development schedules and the applicability of relinquishment under Chapter 90.14 RCW.

YOUR RIGHT TO APPEAL

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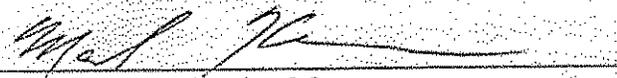
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Mark Kemner, Section Manager
Water Resources Program
Central Region Office

MK:MD:ss/121122

Enclosures: Your Right to Be Heard
Policy 1280
Construction Notice

By Certified Mail: 7009 2250 0004 4952 2078

cc: Marc Marquis, Attorney, Peterson & Marquis Law Office
Keith Stoffel, Department of Ecology, Easter Region Office (email pdf)
Lisa De Vera, Chelan County Conservancy Board
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lois Trevino, Water Administrator, Colville Confederated Tribes

Certificate Record No. 20, Page No. 9550State of Washington, County of Chelan**CERTIFICATE OF SURFACE WATER RIGHT**

(In accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the State Supervisor of Water Resources thereunder.)

This is to certify that CHARLES OLIVER CLARK and MARY ELLIOTT
of Chelan, State of Washington, has made
proof to the satisfaction of the State Supervisor of Water Resources of Washington, of a right to the use
of the waters of Lake Chelan, ~~with point or points of diversion within the~~
with point or points of diversion within THE LOT I of PLAT OF MINNEAPOLIS BEACH
Sec. 6, Twp. 27 N., R. 22 E. W. M., under and subject to provisions contained in
appropriation Permit No. 14033 issued by the State Supervisor of Water Resources, and
that said right to the use of said waters has been perfected in accordance with the laws of Washington,
and is hereby confirmed by the State Supervisor of Water Resources of Washington and entered of
record in Volume 20, at Page 9550, on the 16th day of January, 1966
that the priority date of the right hereby confirmed is June 9, 1963; that the
amount of water under the right hereby confirmed, for the following purposes is limited to an amount
actually beneficially used and shall not exceed 0.04 cubic feet per second, 24 acre-feet
per year, continuously each year for group domestic supply; and 0.40 cubic
feet per second, 60 acre-feet per year, during irrigation season each year
for the irrigation of 20 acres.

A description of the lands under such right to which the water right is appurtenant, and the
place where such water is put to beneficial use, is as follows:

Point of beginning northwest corner of SW^{1/4} Sec. 17, T. 27 N., R. 22
E. W. M.; thence west 150 feet; thence south 1320 feet parallel to the
north-south section line to southerly line of the Rd.; thence east approx-
imately 430 feet to west right of way P.S.H. No. 10; thence northeasterly
along P.S.H. No. 10 right of way approximately 600 feet to the "Norway"
road; thence northeasterly along the Norway road to point of beginning.
Also the NE^{1/4} Sec. 17, T. 27 N., R. 22 E. W. M.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of
use herein described, except as provided in Sections 6 and 7, Chapter 122, Laws of 1929.

WITNESS the seal and signature of the State Supervisor of Water Resources affixed this
16th day of January, 1966.

D. G. Walker
State Supervisor of Water Resources.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-05182C@1, applied to permanently transfer 0.76 cubic feet per second and 103.5 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of December 10, 1951, and, as previously changed in July of 2011, authorizes the use of water for irrigation from April 1 to October 31 and for continuous domestic and municipal purposes.

That BMWD's portion of the existing right proposed for change authorizes two diversions from Lake Chelan located (1) 3725 feet west and 720 feet north from the SE corner of Section 8, Township 27 N., R. 22 E.W.M. and (2) 1150 feet south and 870 feet east of the SE corner of said Section 8, Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the **Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611**, within 30 days from:

(last date of publication to be entered above by the publisher)

THE WENATCHEE WORLD, WENATCHEE, WASHINGTON
AFFIDAVIT OF PUBLICATION
STATE OF WASHINGTON
COUNTY OF CHELAN

PETERSON & MARQUIS LAW OFFICE
1227 FIRST STREET
WENATCHEE, WA 98801

REFERENCE INFORMATION:

Account # 137355

Ticket # 176252

Tag Line: No. CS4-05182C@1 STATE OF WASHING-
TON DEP

The Wenatchee World is a legal newspaper
published in Chelan County, Washington, and
approved as such by the Superior Court of said
County and State. Serving the counties of Chelan,
Douglas, Grant & Okanogan.

PUBLISHED ON: Wenatchee World 03/07/14
Wenatchee World 03/14/14

TOTAL COST: \$245.84

Subscribed and sworn to before me on 03/13/14

Linda K. Barta

Notary Public in and for the State of Washington, residing in Wenatchee



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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

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That the existing right has a priority date of December 30, 1951, and, as previously changed in July of 2011, authorizes the use of water for irrigation from April 1 to October 31 and for continuous domestic and municipal purposes.

That BMWD's portion of the existing right proposed for change authorizes two diversions from Lake Chelan located (1) 3725 feet west and 720 feet north from the SE corner of Section 8, Township 27 N., R. 22 E.W.M. and (2) 1150 feet south and 870 feet east of the SE corner of said Section 8, Chelan County, Washington.

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Ad Name:

No. CS4-05182C@1 STATE OF
WASHINGTON DEP

Invoice

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT**

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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

July 15, 2011

Bear Mountain Water District
PO Box 1705
Chelan WA 98816-1705

RE: Water Right Change Application No. CS4-05182C (CHEL-08-09)

This Modification Order **SUPERSEDES** the previous Order dated November 09, 2010. This Superseding Modification Order is a result of Agreed Stipulation between parties with regard to the Pollution Control Hearings Board Appeal No. 10-158 on the above referenced water right change. The original Order issued in accordance with RCW 90.80.080, which reversed and denied the Chelan County Water Conservancy Board's (the Board's) Report of Examination (ROE) and Record of Decision (ROD) leading to the referenced appeal. This Superseding Modification Order approves the Conservancy Board's ROE and ROD, with modifications as detailed below.

Summary of Department of Ecology's Final Order

MAXIMUM CFS	MAX GPM	MAXIMUM AC-FT/YR	TYPE OF USE, PERIOD OF USE			
1.0		303*	213.3 acre-feet (ac-ft) for the irrigation of 76 acres from April 1 to October 31, 87.2 ac-ft for Municipal Water Supply, 2.5 ac-ft for domestic supply			
SOURCE			TRIBUTARY OF (IF SURFACE WATER)			
Lake Chelan			Columbia River			
AT A POINT LOCATED	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY	
282128635350	28	28 N.	21 E.W.M	47	Chelan	
272112340160	12	27 N.				
272216220050	16		22 E.W.M.			
272208705125	08					
272208340150						
272208705123						
272208705125						
272208705126						

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD				
Ownership	Place of Use	Qi (cfs)	Qa (ac-ft)	Purpose of use
Courtney L. Cox	282128635350	0.02	0.5	Domestic
John C. Kelly	272112340160	0.02	0.5	Domestic
Alvin Seyster	272208705123	0.02	0.5	Domestic
243 LLC	272208705126	0.02	0.5	Domestic
Fuller Family Investments	272208340150	0.02	0.5	Domestic
Bear Mountain Holdings	272217506690	0.14	28	Irrigation of 7 acres
Bear Mountain Water District	2005 Lakeview Utilities LLC approved service area	.076	272.5	87.2 for Municipal Supply Purposes 185.3 for irrigation of 69 acres of vineyard
Place of use of BMWD irrigated acres	Clos Chevalle Vineyard Tracts J, 6, L, M, H, 5-A, K, 3, D, E, A, , and 1, Section 17, T. 27 N, R. 22 E.W.M., Chelan County, WA, together with Lot B, BA#99-108, Chelan County, WA. Parcels 272217506720, 272217506006, 272217506660, 272217507001, 272217507002, 272217506670, 272217506005, 272217506700, 272217506630, 272217506003, 272217506001, 272217506730 and 272217310100.			

*Collectively between all purposes of use under the water right, consumptive use shall not exceed 243.2 ac-ft/yr.

The Department of Ecology (Ecology) has **MODIFIED** the decision of the Board as follows:

1. The new purpose of use is **CHANGED** to irrigation, domestic, and municipal supply purposes.
2. The authorized maximum number of acre-feet(ac-ft) has been **REDUCED** from 304 to 303 in order to account for the annual and consumptive quantities allocated to Cox's and Kelly's, and was deducted from the irrigation quantities authorized by the Board to the Bear Mountain Water District (BMWD).
3. The portion of Certificate No. 5182 retained for agricultural irrigation purposes (69 acres) will be the sole source of irrigation on the parcels identified in the irrigation place of use on page nine of the ROE, unless otherwise amended through a subsequent change approval. Other overlapping rights (Certificate Nos. 30502, 9550, 9551, and 4590) will not be used for agricultural irrigation on that place of use, and will be the subject of other future water right transfers to other purposes and places of use. Ecology does not warrant or preclude in any way the outcome of such future transfers.

4. The Determined Future Development for the BMWD portion of this water right, upon which the extent and validity of this right depends, became fixed on August 5, 2008.
5. Consumptive use of the portions of the right allocated to BMWD for irrigation purposes shall not exceed 131.1 ac-ft on 69 acres. Diversion up to the full quantities allocated for irrigation (186.3 ac-ft) can be certificated at the time of Ecology's proof exam, if the water right holder can demonstrate the historic return flow associated with this right is being beneficially used and returned to Lake Chelan without any reduction in quantity. This requirement shall survive the certification of the right and be evaluated by BMWD in each subsequent water plan review. In order to ensure that consumptive use does not increase, BMWD will monitor and report on compliance with acreage limits (69 acres) and the types of crops and irrigation application methods employed on each parcel designated to receive irrigation water pursuant to this change. BMWD will, by certified mail, inform irrigators of the 69 acres of vineyards that neither acreage expansion nor rotation to a more intensive crop shall be allowed unless expressly requested by the user and authorized by the BMWD. In the event of such a request, BMWD will consult with Ecology on whether a water right modification is required to facilitate such a change.
6. The place of use for the municipal portions of the right authorized herein shall be the service area authorized in the latest approved form of what was the Lakeview Utilities Company, Inc.'s Water System Plan. The District is in the process of revising and consolidating this plan to conform to the service area projected in its DFD.

The place of use for the municipal portion of this water right is expected to conform to any subsequently approved Bear Mountain Water District Water System Plan reflecting such DFD. Until such approval is obtained, the place of use of this right shall be confined to the existing approved plan for the Lakeview water system as acquired by the District.

7. The quantities authorized for change are further broken down by ownership in the following tables:

BMWD

Name on Certificate:	Bear Mountain Water District
Priority Date:	December 10, 1951
Instantaneous Quantity:	0.76 cubic feet per second (cfs), 341 gallons per minute (gpm)
Annual Quantity:	272.5 acre-feet per year (ac-ft/yr)
Source:	Lake Chelan
Points of Diversion:	From the SE corner of Section 8 T. 27 N., R. 22 E.W.M, Chelan County: 3725 feet West and 720 feet North, Parcel No. 272208705125 And 1150 feet South and 870 feet East, Parcel No. 272216220050
Purpose of Use:	87.2 ac-ft for Municipal use and 185.3 ac-ft for the irrigation of 69 acres. Consumptive use shall not exceed 218.3 ac-ft.
Period of Use:	Continuous for municipal and April 1 to October 31 for irrigation
Place of Use:	<p>Municipal Use: The place of use shall be the service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is, and remains, in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.</p> <p>Irrigation Use: Clos Chevalle Vineyard Tracts J, 6, L, M, H, 5-A, K, 3, D, E, A, and 1, Section 17, T. 27 N., R. 22 E.W.M., Chelan County, WA, together with Lot B, BA#99-108, Chelan County, WA. Parcels 272217506720, 272217506006, 272217506660, 272217507001, 272217507002, 272217506670, 272217506005, 272217506700, 272217506630, 272217506003, 272217506001, 272217506730 and 272217310100</p>

Cox

Name on Certificate, Claim, Permit:	Courtney L. Cox
Priority Date, First Use:	December 10, 1951
Instantaneous Quantity:	0.02 cfs, 9 gpm
Annual Quantity:	.5 ac-ft/yr (0.5 ac-ft consumptive)
Source:	Lake Chelan
Points of Diversion:	From the SW corner of Section 28, T. 28 N., R. 21 E.W.M., Chelan County: 230 feet East and 1145 feet North, Parcel No. 282128635350
Purpose of Use:	Domestic
Period of Use:	Continuous
Place of Use:	Joshua Green Lots 71 and 72 BA 2005-119 Section 28, T. 28 N., R. 21 E.W.M., Chelan County, WA. Parcel No. 282128635350

Kelly

Name on Certificate, Claim, Permit:	John C. Kelly
Priority Date, First Use:	December 10, 1951
Instantaneous Quantity:	0.02 cfs, 9 gpm
Annual Quantity:	.5 ac ft/yr (0.5 ac-ft consumptive)
Source:	Lake Chelan
Points of Diversion:	From the SE corner of Section 12, T. 27 N., R. 21 E.W.M., Chelan County: 2585 feet West and 1510 feet North, Parcel No. 272112340160
Purpose of Use:	Domestic
Period of Use:	Continuous
Place of Use:	Lot 2 of Short Plat for Shanon Kollmeyer AFN#751680 Section 12, T. 27 N., R. 21 E.W.M., Chelan County, WA Parcel No. 272112340160

Alvin Seyster

Name on Certificate, Claim, Permit:	Alvin Seyster
Priority Date, First Use:	December 10, 1951
Instantaneous Quantity:	0.02 cfs, 9 gpm
Annual Quantity:	.5 ac-ft/yr (0.5 ac-ft consumptive)
Source:	Lake Chelan
Points of Diversion:	From the SW corner of Section 8, T. 27 N., R. 22 E.W.M., Chelan County: 1408 feet East and 850 feet North, Parcel No. 272208705123
Purpose of Use:	Domestic
Period of Use:	Continuous
Place of Use:	Parcel 2 of Short Subdivision #904, Section 8, T. 27 N., R. 22 E.W.M., Chelan County, WA Parcel No. 272208705123

243 LLC

Name on Certificate, Claim, Permit:	243 LLC
Priority Date, First Use:	December 10, 1951
Instantaneous Quantity:	0.02 cfs, 9 gpm
Annual Quantity:	.5 ac-ft/yr (0.5 ac-ft consumptive)
Source:	Lake Chelan
Points of Diversion:	From the SW corner of Section 8, T. 27 N., R. 22 E.W.M., Chelan County 1530 feet East and 800 feet North, Parcel No. 272208705126
Purpose of Use:	Domestic
Period of Use:	Continuous
Place of Use:	Within Minneapolis Beach Lot I, the West portion of TRT Survey 35/99, Section 8, T. 27 N., R. 22 E.W.M., Chelan County, WA. Parcel No. 272208705126

Fuller Family Investments

Name on Certificate, Claim, Permit:	Fuller Family Investments
Priority Date, First Use:	December 10, 1951
Instantaneous Quantity:	0.02 cfs, 9 gpm
Annual Quantity:	.5 ac-ft/yr (0.5 ac-ft consumptive)
Source:	Lake Chelan
Points of Diversion:	From the SW corner of Section 8, T. 27 N., R. 22 E.W.M., Chelan County 2445 feet East and 430 feet North, parcel # 272208340150
Purpose of Use:	Domestic
Period of Use:	Continuous
Place of Use:	Portion of Lot K Minneapolis Beach, Section 8, T. 27 N., R. 22 E.W.M., Chelan County, WA Parcel No. 272208340150

Bear Mountain Holdings

Name on Certificate, Claim, Permit:	Bear Mountain Holdings
Priority Date, First Use:	12/10/1951
Instantaneous Quantity:	0.14 cubic feet per second, 62.8 gallons per minute
Annual Quantity:	28 acre feet
Source:	Lake Chelan
Points of Diversion:	From the SE corner of Section 8, T. 27 N., R. 22 E.W.M., Chelan County 3725 feet West and 720 feet North, Parcel No. 272208705125
Purpose of Use:	Irrigation of 7 acres. Consumptive use shall not exceed 22.4 ac-ft.
Period of Use:	April 1 through October 31
Place of Use:	ClosChevalle Vineyard G, Section 17, T. 27 N., R. 22 E.W.M., Chelan County, WA Parcel No. 272217506690

If you have any questions or concerns on the above information, please call Scott Turner, Department of Ecology, (509) 457-7106.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Rd SW Ste 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>

Please send a copy of your appeal to:

Robert F. Barwin, Acting Section Manager
Department of Ecology/CRO
15 W Yakima Ave., Ste 200
Yakima WA 98902-3452

Sincerely,



Robert F. Barwin, Acting Section Manager
Water Resources Program/CRO

RFB:ST:gg/110715

Enclosures: Your Right To Be Heard
Water Measurement Requirements and Form 1
Notice of Construction Form

Sent by Certified Mail: 7007 2560 0001 9535 1225

cc: Mark Peterson, Peterson Law Office
Lisa de Vera, Chelan County Water Conservancy Board
Janet Rajala, Department of Ecology, Eastern Region Office (pdf/email)
Philip Rigdon, Deputy Director, Natural Resources Division, Yakama Nation
Lois Trevino, Water Administrator, Office of Environmental Trust, Colville Confederated Tribes
Steve North, Assistant Attorney General, Office of Attorney General (pdf/email)

STATE OF WASHINGTON, COUNTY OF

Chelan

CERTIFICATE OF SURFACE WATER RIGHT

In accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the State Supervisor of Water Resources thereunder:

This is to certify that

O. T. CLANSON

of Lakeside

State of

Washington

has made

proof to the satisfaction of the State Supervisor of Water Resources of Washington, of a right to the use

of the waters of Lake Chelan

with point or points of diversion within ~~the~~ Lot "1", Minneapolis Beach Flat

Sec. 8, Twp. 27 N., R. 22 E., W. M., under and subject to provisions contained in

Appropriation Permit No. 7965 issued by the State Supervisor of Water Resources, and

that said right to the use of said waters has been perfected in accordance with the laws of Washington,

and is hereby confirmed by the State Supervisor of Water Resources of Washington and entered of

record in Volume 11, at Page 5182, on the 13th day of April, 1952

that the priority date of the right hereby confirmed is December 10, 1951 that the

amount of water under the right hereby confirmed, for the following purposes, is limited to an amount

actually beneficially used and shall not exceed

1.0 cubic foot per second for the purposes of the

irrigation of 76 acres and domestic supply.

A description of the lands under such right to which the water right is appurtenant, and the

place where such water is put to beneficial use, is as follows:

- (1) The NW $\frac{1}{4}$ of Sec. 17, Twp. 27 N., Rge. 22 E.W.M.
- (2) Lots "1" and "1" and the E $\frac{1}{2}$ of Lot "1" of the Minneapolis Beach Flat; and
- (3) The East 1 $\frac{1}{2}$ rods of the SW $\frac{1}{4}$, all being in Sec. 8, Twp. 27 N., Rge. 22 E.W.M.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in Sections 6 and 7, Chapter 122, Laws of 1929.

WITNESS the seal and signature of the State Supervisor of Water Resources given this

13th day of April

19 52.

Clayton J. ...
State Supervisor of Water Resources

f

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-30502C(A)@1, applied to permanently transfer 0.41 cubic feet per second and 67.4 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of December 17, 1990, and, as previously changed in October of 2011, BMWD's portion of the right authorizes the use of water for continuous municipal purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

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(last date of publication to be entered above by the publisher)

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AFFIDAVIT OF PUBLICATION
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COUNTY OF CHELAN

PETERSON & MARQUIS LAW OFFICE
1227 FIRST STREET
WENATCHEE, WA 98801

REFERENCE INFORMATION:

Account # 137355

Ticket # 176250

Tag Line: No. CS4-30502C(A)@1 STATE OF WASH-
INGTON

The Wenatchee World is a legal newspaper
published in Chelan County, Washington, and
approved as such by the Superior Court of said
County and State. Serving the counties of Chelan,
Douglas, Grant & Okanogan.

PUBLISHED ON: Wenatchee World 03/07/14
Wenatchee World 03/14/14

TOTAL COST: \$238.68

Subscribed and sworn to before me on 03/13/14

Linda K. Barta

Notary Public in and for the State of Washington, residing in Wenatchee



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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

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That the existing right has a priority date of December 17, 1990, and, as previously changed in October of 2011, BMWD's portion of the right authorizes the use of water for continuous municipal purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE/4SW/4 of Section 8, and the NW/4NW/4 of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611, within 30 days from: March 14, 2014.

Ad Name:

No. CS4-30502C(A)@1 STATE OF WASHINGTON

Invoice

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-30502C(A)@1, applied to permanently transfer 0.41 cubic feet per second and 67.4 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW¼SE¼ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of December 17, 1990, and, as previously changed in October of 2011, BMWD's portion of the right authorizes the use of water for continuous municipal purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE¼SW¼ of Section 8, and the NW¼NW¼ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611, within 30 days from March 14, 2014.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

October 25, 2011

Bear Mountain Water District
PO Box 1705
Chelan WA 98816-1705

RE: Water Right Change Application No. CS4-30502C (CHEL-08-11)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has modified the decision of the Board and the proposed change/transfer of water right is approved under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/SECOND		MAXIMUM GAL/MINUTE		MAXIMUM ACRE-FT/YR		TYPE OF USE, PERIOD OF USE	
0.43		193		67.9		Continuous Municipal and Domestic	
SOURCE						TRIBUTARY OF (IF SURFACE WATER)	
Lake Chelan						Chelan	
¼	¼	SECTION	TOWNSHIP	RANGE	WRJA	COUNTY	
1) SE	SW	8	27 N	22 EWM	47	Chelan	
2) NW	NW	16	27 N	22 EWM			
3) NE	SW	16	28 N	21 EWM			
AT A POINT LOCATED:							
3725 feet west and 720 feet North from the southeast corner of Section 8, T. 27 N., R. 22 E.W.M. Chelan County Parcel No. 272208705125.							
1150 feet south and 870 feet east from the southeast corner of Section 8, T. 27 N., R. 22 E.W.M. Chelan County Parcel No. 272216220050							
1400 feet east and 1400 feet north form the southwest corner of Section 16, T. 28 N., R. 21 E.W.M. Chelan County Parcel No. 282116510010							
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD							
0.02 cfs and 0.5 acre-feet per year of continuous single domestic supply for Lot Two, Replat of Cottage Beach, Lake Chelan, Chelan County, Washington, and Parcel No. 282116510010.							
All other quantities are authorized for continuous municipal supply purposes for:							
The service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.							

DEVELOPMENT SCHEDULE		
BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER TO PUT TO FULL USE BY THIS DATE:
Domestic supply: December 31, 2012	December 31, 2014	December 31, 2015
Municipal supply: N/A	December 31, 2014	December 31, 2031

Ecology has **MODIFIED** the decision of the Board as follows:

- 1) The following is **DELETED** from the Investigation section, subsection (i) on page 7 of the Board's decision:

"The applicant requests that the development schedule reflect a 20 year planning horizon. POL 1280 (at page 7) requires that municipal development scheduling be integrated with Department of Health review of water system planning efforts to this decision will adopt the 2029 date as the date beneficial use must be achieved absent an extension of this date as the result of the plan review process."

and **REPLACED** with:

"The applicant requests that the development schedule of 20 years, reflecting the possible duration of the water right lease."

- 2) The following is **DELETED** from the Investigation section, subsection (i) on page 8 under the heading Enlargement/ Annual Consumptive Quantities of the Board's decision:

"Since the right proposes to add a use the annual consumptive quantities for the highest two of the last five years of continuous use are evaluated."

and **REPLACED** with:

"Since the applicant proposes to change the purpose of use to domestic and municipal, and change the season of use, a consumptive analysis must be done."

- 3) The following is **DELETED** from the Investigation section, subsection (i) on page 8 under the heading Enlargement/ Annual Consumptive Quantities of the Board's decision:

"Thus the calculation of historic annual consumptive use must be made from the two highest of these years. As noted above, the highest two years would have been when the orchard was still in full operation. The methods herein would be the same for 2000-2004 so averaging the two highest years will produce the same number as calculating the quantity for one of those years."

and **REPLACED** with:

"Thus the calculation for historic consumptive use will be calculated from the highest use from the years 2000 – 2004."

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

- File your appeal and a copy of this Decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903



Mark Kemner, LHG, Section Manager
Water Resources Program/CRO

MK:ST:gg/111025

Enclosures: Your Right to Be Heard
Construction Notice (2)
Water Measuring Requirements

By Certified Mail: 7007 2560 0001 9535 5940

cc: Janet Rajala, Department of Ecology, Easter Region Office (email pdf)
Lisa de Vera, Chelan County Water Conservancy Board
Mark Peterson, Peterson Law Office
Lois Trevino, Administrator, Environmental Trust, Colville Confederated Tribes
Philip Rigdon, Director, Natural Resources Division, Yakama Nation

Lakeview Orchards Inc
 1101 Stan Willcox Road
 Palouse WA 99161-9754



STATE OF WASHINGTON
 CERTIFICATE OF WATER RIGHT

Document Title: Certificate of Water Right

Agency: Department of Ecology
 Central Regional Office
 15 West Yakima Avenue Suite 200
 Yakima WA 98902-3452

Applicant: Lakeview Orchards Inc
 1101 Stan Willcox Road
 Palouse WA 99161-9754

Reference Number:

PRIORITY DATE	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
December 17, 1990	S4-30502	S4-30502P	S4-30502C

This is to certify that the herein named applicant has made proof to the satisfaction of the Department of Ecology of a right to the use of the public waters of the State of Washington as herein defined, and under and specifically subject to the provisions contained in the Permit issued by the Department of Ecology, and that said right to the use of said waters has been perfected in accordance with the laws of the State of Washington, and is hereby confirmed by the Department of Ecology and entered of record as shown, but is limited to an amount actually beneficially used.

PUBLIC WATERS TO BE APPROPRIATED

SOURCE	TRIBUTARY OF (IF SURFACE WATERS)		
Lake Chelan	Chelan River		
MAX. CUBIC FEET PER SECOND	MAX. GALLONS PER MINUTE	MAX. ACRE-FOOT PER YEAR	
0.43		67.9	

QUANTITY/TYPE OF USE/PERIOD OF USE

0.43 cubic feet per second, 64.5 acre-feet per year for irrigation of 21.5 acres from April 1 through October 31; 3.4 acre-feet per year for frost protection on 5.5 acres from April 1 through June 1.

LEGAL DESCRIPTION OF LOCATION OF DIVERSION/WITHDRAWAL

1/4 1/4	SECTION	TOWNSHIP N.	RANGE (E OR W) W.M.	W.R.I.A.	COUNTY
Lot 1 of Minneapolis Beach in the SE 1/4 SW 1/4	8	27	22 E.	47	Chelan

PARCEL NO.: 272208 705120

ADDITIONAL LEGAL IS ON PAGE 2

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

1/4 1/4	SECTION	TOWNSHIP N.	RANGE (E. OR W.) W.M.	W.R.I.A.	COUNTY
N 1/4	17	27	22 E.	47	Chelan

PARCEL NO.: 272217 200050

ADDITIONAL LEGAL IS ON PAGE 2

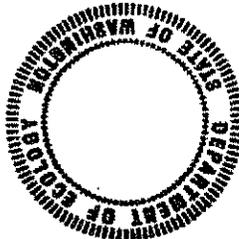
FILE COPY

Robert F. Barwin, Section Supervisor

By

[Handwritten Signature]

Linda Hoffman
Department of Ecology



ECY 040-1-2 (Rev. 8-97)

DATA REVIEW
OK *[Handwritten Initials]*

Given under my hand and the seal of this office at Yakima, Washington, this 12th day of July, 2004.

This certificate of water right is specifically subject to relinquishment for non-use of water as provided in RCW 90.14.

The right to use of the water aforesaid hereby conferred is restricted to the lands or place of use herein described, except as provided in RCW 90.03 380, 90.03 390, and 90.44 100

All conditions and requirements contained in reports of examination or permits previously issued apply to this certificate unless specifically noted below.

This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and gamefish screening criteria (pursuant to RCW 77.16.220, RCW 77.55.040 and RCW 77.55.070). Please contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Program, Phone: (360) 902-2534, or call (509) 575-2734 for the Yakima Construction Shop to obtain technical assistance for your project. Juvenile salmon screening criteria are attached to the Report of Examination if applicable to your diversion.

This water right is exercised through a common point of diversion and irrigation distribution system with Surface Water Certificate No's. 4590, 5182, 9550, and 9551 for a total irrigated acreage of 132.39. The total instantaneous diversion for irrigation under the five water rights shall not exceed 1,959 cubic feet per second.

A suitable measuring device approved by the Department of Ecology shall be installed and maintained in accordance with WAC 173-173.

PROVISIONS

CONTINUED LEGAL DESCRIPTION FOR PROPERTY ON WHICH WATER IS TO BE USED
21.5 acres within the NW¼ and the W½ of the NW¼SW¼, all being within Section 17, T. 27 N., R. 22 E., W.M., lying northwesterly of State Highway 97A in Chelan County, Washington.

CONTINUED LEGAL DESCRIPTION FOR LOCATION OF DIVERSION/WITHDRAWAL
1575 feet east and 750 feet north of the southwest corner of Section 8

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-09551C(A)@1, applied to permanently transfer 0.0877 cubic feet per second and 20.5 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of June 9, 1965, and BMWD's portion of the right authorizes the use of water for continuous municipal supply purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the **Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611**, within 30 days from:

(last date of publication to be entered above by the publisher)

THE WENATCHEE WORLD, WENATCHEE, WASHINGTON
AFFIDAVIT OF PUBLICATION
STATE OF WASHINGTON
COUNTY OF CHELAN

PETERSON & MARQUIS LAW OFFICE
1227 FIRST STREET
WENATCHEE, WA 98801

REFERENCE INFORMATION:

Account # 137355

Ticket # 176253

Tag Line: No. CS4-09551C(A)@1 STATE OF WASH-
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approved as such by the Superior Court of said
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Douglas, Grant & Okanogan.

PUBLISHED ON: Wenatchee World 03/07/14
Wenatchee World 03/14/14

TOTAL COST: \$231.54

Subscribed and sworn to before me on 03/13/14

Linda K. Barta

Notary Public in and for the State of Washington, residing in Wenatchee



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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

Ad Name:
No. CS4-09551C(A)@1 STATE OF
WASHINGTON

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-09551C(A)@1, applied to permanently transfer 0.0977 cubic feet per second and 20.5 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River, and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29886 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW¼SE¼ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of June 9, 1965, and BMWD's portion of the right authorizes the use of water for continuous municipal supply purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE¼SW¼ of Section 8, and the NW¼NW¼ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611, within 30 days from March 14, 2014.

Invoice

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

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That Bear Mountain Water District (BMWD) of Chelan, Washington, on November 27, 2013, under Application No. CS4-09551C(A)@1, applied to permanently transfer 0.0877 cubic feet per second and 20.5 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of June 9, 1965, and BMWD's portion of the right authorizes the use of water for continuous municipal supply purposes.

That BMWD's portion of the existing right authorizes two diversions located on Lake Chelan within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 27 N., R. 22 E.W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611, within 30 days from: March 14, 2014.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W. Yakima Ave., Ste 200 • Yakima, WA 98902-3452 • (509) 373-2490

July 5, 2012

Bear Mountain Water District
C/O Mark Peterson
1227 First Street
Wenatchee WA, 98801-1913

RE: Water Right Change Application No. CS4-09551C (CHEL-08-12)

Department of Ecology has AMENDED the previous Water Conservancy Board Modification Order issued on June 7, 2012, to correctly state the Water Right Change Application No. above.

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Chelan County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has modified the decision of the Board and the proposed change/transfer of water right is approved under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CUB FT/SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
0.0877 (BMWD) 0.0223 (Reynolds)	39.37 (BMWD) 10 gpm (Reynolds)	20.5 (BMWD) 0.5 (Reynolds)	Continuous Municipal Supply, Continuous Domestic Supply and Irrigation.				
Note: The annual consumptive quantity (ACQ) under the BMWD portion of the right shall not exceed 16.2 acre-feet. Note: The annual consumptive quantity (ACQ) under the Reynolds portion of the right shall not exceed 0.5 acre-feet.							
SOURCE						TRIBUTARY OF (IF SURFACE WATER)	
Lake Chelan						Chelan	
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY
272208705125 (1: BMWD)	SE	SW	8	27	22 E	47	Chelan
272216220050 (1: BMWD)	NW	NW	16	27	22 E		
292128320155 (2: Reynolds) 2160 feet north of SW corner of Section 28	NW	SW	28	29	21 E		

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD

(1) **BMWD:** The place of use shall be the service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of expanding the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.

The place of use for the BMWD portion of this water right is expected to conform to any subsequently approved Bear Mountain Water District Water System Plan. Until such approval is obtained, the place of use of this water right shall be confined to the existing approved plan of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006.

(2) **Reynolds:** Parcel 292128320155 in the NW ¼ of the SW ¼ of Section 28, and the NE ¼ of the SE ¼ of Section 29, T. 29 N., R. 21 E.W.M., described more specifically as follows:

“Lot 2, Certificate of Exemption 2005-018 filed under Auditor’s File Number 2203177, Chelan, County, Washington. Except therefrom that portion of said lot 2 lying Easterly of the following described line A; Beginning at a brass cap W.P.M.C., said point being on the West line of said section, thence South 72 29’ 35” East a distance of 112.27 feet to the True Point of Beginning for said described Line A; thence South 11 05’ 23” West a distance of 135.24 feet, more or less, to the Northerly right of way for C.R.P. 480, said road being known as South Lake Shore Road, said point being the end of described line A. Line A shall extend northerly to the line of the high water mark.”

PARCEL NO.	SECTION	TOWNSHIP N.	RANGE.
Multiple (BMWD)	7, 8, 16, 17	27	22 E
292128320155 (Reynolds)	28, 29	29	21 E
DEVELOPMENT SCHEDULE			
BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER TO PUT TO FULL USE BY THIS DATE:	
Begun (BMWD)	12/31/2024	12/31/2029	
12/31/2015 (Reynolds)	12/31/2016	12/31/2017	

Ecology has **MODIFIED** the decision of the Board as follows:

- On the following pages of the Report of Exam, reference to “Certificate 4590” will be replaced with “Certificate 9551”:
 - The last sentence of paragraph 5, on page 12.
 - The first sentence of the second bullet of paragraph 2, on page 16.
 - The last sentence of paragraph 3, on page 16.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. “Date of receipt” is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

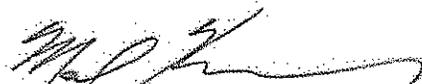
- File your appeal and a copy of this Decision with the PCHB (see addresses below).
Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>



Mark Kemmer, Section Manager
Water Resources Program
Central Region Office

MK:ST:ss/120701

Enclosures: *Your Right to Be Heard*

By Certified Mail: 7009 2250 0004 4952 1767

cc: Bear Mountain Water District
Janet Rajala, Department of Ecology, Easter Region Office (email pdf)
Lisa De Vera, Chelan County Conservancy Board
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lois Trevino, Water Administrator, Colville Confederated Tribes

STATE OF WASHINGTON, COUNTY OF Chelan

CERTIFICATE OF SURFACE WATER RIGHT

(in accordance with the provisions of Chapter 122, Laws of Washington for 1929, and amendments thereto, and the rules and regulations of the State Supervisor of Water Resources thereunder)

This is to certify that CHARLES GLEUGH CLARK
of Chelan, State of Washington, has made
proof to the satisfaction of the State Supervisor of Water Resources of Washington, of a right to the use
of the waters of Lake Chelan, ~~at the~~
with point or points of diversion within PER Lot 7, Plat of Minnesapella Beach
Sec. 8, Twp. 27 N., R. 22 E., W. M., under and subject to provisions contained in
appropriation Permit No. 14024 issued by the State Supervisor of Water Resources, and
that said right to the use of said waters has been perfected in accordance with the laws of Washington,
and is hereby confirmed by the State Supervisor of Water Resources of Washington and entered of
record in Volume 20, at Page 9551, on the 14th day of January, 1968.
that the priority date of the right hereby confirmed is June 9, 1935; that the
amount of water under the right hereby confirmed, for the following purposes is limited to an amount
actually beneficially used and shall not exceed 0.61 cubic feet per second, two acre-feet
per year, continuously for domestic supply; and 0.10 cubic feet per second,
20 acre-feet per year, during irrigation season for the irrigation of
5 acres.

A description of the lands under such right to which the water right is appurtenant, and the
place where such water is put to beneficial use, is as follows:
Lot J and W₂ of Lot E of Plat of Minnesapella Beach Plat, within Sec. 8,
T. 27 N., R. 22 E., W.M.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or places of
use herein described, except as provided in Sections 6 and 7, Chapter 122, Laws of 1929.

WITNESS the seal and signature of the State Supervisor of Water Resources affixed this
14th day of January, 1968.
M. G. Walker
State Supervisor of Water Resources.

158

A

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on February 25, 2014, under Application No. CS4-30542P(B)@1, applied to permanently transfer 15 cubic feet per second and 119 acre-feet per year into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 19, T. 22 N., R. 21 E.W.M. in Chelan County, Washington.

That the existing right has a priority date of January 09, 1991 and is authorized to provide for frost protection.

That the existing right authorizes two diversions from Lake Chelan located within Gov. Lot 4, Sec. 16, T27N, R22E.W.M and Gov. Lot 3, Sec.07, T27N, R22E.W.M for continuous for frost protection within Section 17, the E1/2 of Section 18, and the N1/2 of Section 20 all in T27N, R22EWM, Chelan County, WA. .

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the **Department of Ecology, Cashiering Unit, PO Box 47611, Olympia WA 98504-7611**, within 30 days from:

(last date of publication to be entered above by the publisher)

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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON

NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

TAKE NOTICE:

That Bear Mountain Water District (BMWD) of Chelan, Washington, on February 14, 2014, under Application No. CS4-30542(PB)01, applied to permanently transfer 15 cubic feet per second (cfs) and 119 acre-feet per year (ac-ft/yr) into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new out-of-stream uses per approval of new water right applications S4-29956 and S4-31083. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW1/4SE1/4 of Sec. 19, T. 22 N., R. 21E.W.M. in Chelan County, Washington.

That the subject permit has a priority date of January 9, 1991, and authorizes the use of 15 cfs and 119 ac-ft/yr of water for frost protection for up to 142 acres of orchard.

That the subject permit authorizes the use of two diversions located on Lake Chelan within the SW1/4SW1/4 of Section 07, and the NW1/4NW1/4 of Section 16, Township 27 N., R. 22E. W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable. Protests must be accompanied by a \$50 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 47611, Olympia, WA 98504-7611, within 30 days from June 27, 2014.

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STATE OF WASHINGTON DEPARTMENT
OF EC

Invoice

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AFFIDAVIT OF PUBLICATION
STATE OF WASHINGTON
COUNTY OF CHELAN

PETERSON & MARQUIS LAW OFFICE
1227 FIRST STREET
WENATCHEE, WA 98801

REFERENCE INFORMATION:

Account # 137355

Ticket # 183978

Tag Line: STATE OF WASHINGTON DEPARTMENT
OF EC

The Wenatchee World is a legal newspaper
published in Chelan County, Washington, and
approved as such by the Superior Court of said
County and State. Serving the counties of Chelan,
Douglas, Grant & Okanogan.

PUBLISHED ON: Wenatchee World 06/20/14
Wenatchee World 06/27/14

TOTAL COST: \$119.34

Subscribed and sworn to before me on 06/27/14



Notary Public in and for the State of Washington, residing in Wenatchee





STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
YAKIMA, WASHINGTON
NOTICE OF APPLICATION TO CHANGE A WATER RIGHT

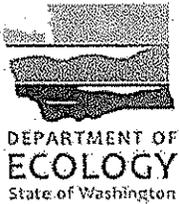
TAKE NOTICE:

The Bear Mountain Water District (BMWD) of Chelan, Washington, on February 14, 2014, under Application No. CS4-30542P(5)/61, applied to permanently transfer 15 cubic feet per second (cfs) and 119 acre-feet per year (ac-ft/yr) into the State Trust Water Program for instream flow benefit of Lake Chelan, the Chelan River, and the Columbia River; and for the mitigation of new cut-of-stream uses per approval of new water right applications S4-29956 and S4-31093. These applications propose the use of water for the purposes of irrigation and frost protection from a diversion located within the SW1/4SE1/4 of Sec. 19, T. 22 N., R. 21E.W.M. in Chelan County, Washington.

That the subject permit has a priority date of January 9, 1991, and authorizes the use of 15 cfs and 119 ac-ft/yr of water for frost protection for up to 142 acres of orchard.

That the subject permit authorizes the use of two diversions located on Lake Chelan within the SW1/4SW1/4 of Section 07, and the NW1/4NW1/4 of Section 16, Township 27 N., R. 22E. W.M., Chelan County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections. All letters of protest will become public record. Cash shall not be accepted. Fees must be paid by check or money order and are non-refundable. Protests must be accompanied by a \$80 recording fee payable to the Department of Ecology, Cashiering Unit, PO Box 41611, Olympia, WA 98504-7611, within 30 days from June 27, 2014.



File NR S4-30542(B)
WR Doc-ID 5767482

State of Washington
SUPERSEDING WATER RIGHT PERMIT
Supersedes Permit dated June 25, 2013

PRIORITY DATE
1/9/1991

WATER RIGHT NUMBER
S4-30542(B)P

MAILING ADDRESS
BEAR MOUNTAIN WATER DISTRICT
PO BOX 1705
CHELAN WA 98816-1705

SITE ADDRESS (IF DIFFERENT)

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
15	CFS	119

Total withdrawals or diversions from all sources must not exceed the total quantity authorized for withdrawal or diversion listed above.

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Frost protection as required for up to 142 acres of orchard	15		CFS	119		

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
CHELAN	LAKE CHELAN	CHELAN RIVER/ COLUMBIA RIVER	47-CHELAN

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
#1 LAKE CHELAN			27N	22E	16	NWNW		
#2 LAKE CHELAN			27N	22E	07			

Datum: NAD83/WGS84

#1 800 feet east and 1500 feet north of the west quarter corner of Section 16 located within Gov't Lot 4 (NW¼ NW¼).

#2 100 feet east and 3000 feet north of the southwest corner of Section 7 located within Gov't Lot 3.

Place of Use

PARCELS (NOT LISTED FOR SERVICE AREAS)

272217130051; 272217410050; 272217240050; 272217506730; 272217506630; 272217310100; 272217506670; 272217506660; 272217130050; 272217507002; and 272217506640

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Section 17, the E½ of Section 18, and the N½ of Section 20 all in T. 27 N., R. 22 E.W.M., Chelan County, WA.

SUPERSEDING WATER RIGHT PERMIT

Proposed Works

Submersible pumps in Lake Chelan with a buried power box; booster pumps used to distribute water to the orchards.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	February 1, 2014	February 1, 2015

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or cfs)

Provisions

Noise pollution and noise suppression shall be considered in the design and placement of any pumps and switching mechanisms.

The installation of any pumps, pipelines, and/or associated structures that may be constructed subsequent to the subject application shall consider the aesthetic quality of such installations and shall be consistent with the general surroundings and other existing structures, pipelines, and pumps installed in the vicinity.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.

Department of Fish and Wildlife Requirement(s)

The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

Proof of Appropriation

The water right holder shall file the notice of Proof of Appropriation of water (under which the Certificate of Water Right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The Certificate will reflect the extent of the project perfected within the limitations of the Permit. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

This Permit Subject to Cancellation

This permit shall be subject to cancellation should the permittee fail to comply with the above development schedule and/or to give notice to the Department of Ecology on forms provided by the Department documenting such compliance.

Given under my hand and the seal of this office at Yakima, Washington this 9 day of July, 2013.

Department of Ecology

OK 

by  _____

Mark Kemner, LHG
Section Manager
Water Resources Program