DEPARTMENT OF ECOLOGY
State of Washington

WATER RESOURCES

Application for Change/Transfer of Water Right

For Ecology Use (Date Stamp)

DEPT OF ECOLOGY Received MAR 20 2015 CENTRAL REGION OFFICE

For filing with the Department of Ecology *or* with County Conservancy Boards

A NON-REFUNDABLE MINIMUM FEE OF $50.00 MUST ACCOMPANY THIS APPLICATION IF FILED WITH THE DEPARTMENT OF ECOLOGY

(Check all that apply.)

- ☐ Change purpose(s) of use
- ☐ Add purpose(s) of use
- ☒ Change point(s) of diversion/withdrawal
- ☐ Add point(s) of diversion/withdrawal
- ☐ Change/transfer place of use
- ☐ Other (i.e. consolidation, intertie, trust water)

Explain: Permanent Water Right POD Change Application

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS (PLEASE PRINT OR TYPE CLEARLY)*

FOR OFFICIAL USE ONLY

DATE APPLICATION RECEIVED 03-20-2015
CHECK NO. 0 FEE $ 0
DATE ACCEPTED 03-26-2015 BY S
CHANGE NO. CS4-01942563@2
COUNTY KITTITAS WRIA 39
SPECIAL AREA
01942 CFO - S4-83787-J
SEPA: ☐ EXEMPT ☐ NOT EXEMPT
ECY CODING: 001-002-WR10285-000011
APP NO. PERMIT NO.
CERT NO. CERT OF CHG NO.

☒ **I have participated in a pre-application conference with Ecology.**

1. Applicant Information

APPLICANT/BUSINESS NAME	PHONE NO.	FAX NO.
T. Olin Nichols	(509) 674-7480 and (206) 852-0258	(509) 674-5952
ADDRESS: PO Box 577		
CITY: Cle Elum	STATE: WA	ZIP CODE: 98922-0577
EMAIL ADDRESS (IF AVAILABLE)		

CONTACT (IF DIFFERENT FROM ABOVE)	PHONE NO.	FAX NO.
U.S. Bureau of Reclamation Attn: Stan Isley	***(509) 575-5848, ext. 281***	(509) 454-5611
ADDRESS: 1917 Marsh Road		
CITY: Yakima	STATE: WA	ZIP CODE: 98901-2058
EMAIL ADDRESS (IF AVAILABLE): sisley@usbr.gov		

LEGAL LAND OWNER or PART OWNER OF PROPOSED PLACE OF USE	PHONE NO.	FAX NO.
T. Olin Nichols	***(509) 674-7480 and (206) 852-0258***	(509) 674-5952
ADDRESS: PO Box 577		
CITY: Cle Elum	STATE: WA	ZIP CODE: 98922-0577
EMAIL ADDRESS (IF AVAILABLE)		

2. Water Right Information

Court Claim 01942
Sub 3 Teanaway
Priority: June 30, 1885
CFO: S4-83787-J

CS4-01942 563 @ 2

POD

WATER RIGHT OR CLAIM NUMBER	RECORDED NAME(S)
Court Claim No. 01942, Subbasin 3 (Teanaway)	T. Olin & Nanci Nichols
DO YOU OWN THE RIGHT TO BE CHANGED? ☒ YES ☐ NO IF NO, PROVIDE OWNER(S) NAME and ADDRESS: ***n/a***	
HAS THE WATER BEEN PUT TO BENEFICIAL USE IN THE LAST FIVE (5) YEARS? ☒ YES ☐ NO	

Please attach copies of any documentation that demonstrates consistent, historical use of water since the right was established. Also, if you have a water system plan or conservation plan, please include a copy with your application.

3. Point(s) of Diversion/Withdrawal:

A. Existing

SOURCE	NO.	¼	¼	SEC.	TWP.	RGE.	PARCEL #	WELL TAG #
Teanaway River (Haida-Peterson Ditch POD)	1	SW	SW	13	20N	16E	706336	
Teanaway River (new TRROA pump site POD - temporary authorization by court OPL)	2	NW	NE	25	20N	16E	910436	

B. Proposed

SOURCE	NO.	¼	¼	SEC.	TWP.	RGE.	PARCEL #	WELL TAG #
Teanaway River new TRROA pump site POD - permanent authorization.	1	NW	NE	25	20N	16E	910436	

DO YOU OWN THE EXISTING AND PROPOSED POINT(S) OF DIVERSION/WITHDRAWAL?

EXISTING: ☐ YES ☒ NO PROPOSED: ☐ YES ☒ NO – IF NO, PROVIDE OWNER(S) NAME: Existing (defunct) Haida-Peterson Ditch POD is on land owned by Greg Goodwin; new Teanaway River Ranch Owners Association (TRROA) pump site is on land now owned by Terry Abeyta.

Please include copies of all water well reports involved with this proposal. Also, if you know the distances from the nearest section corner to the above point(s) of diversion/withdrawal, please include that information in Item No. 6 (remarks) or as an attachment.

4. Purpose of Use:

A. Existing

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
Irrigation of 75.24 acres and stock water	1.050 cfs	203.148	May 1 through September 15 each year

B. Proposed

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
Irrigation of 75.24 acres and stock water	1.050 cfs	203.148	May 1 through September 15 each year

5. Place of Use:

A. Existing

LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED:							
Parcels C-1 and C-2 of that certain Survey recorded November 13, 1991 in Book 18 of Surveys at pages 81-84, under Auditor's file No. 544641, being a portion of the N1/2 of Section 24 and the SW1/4 of Section 13, T. 20 N., R. 16 E.W.M.							
¼	¼	SEC.	TWP.	RGE.	COUNTY	PARCEL #	# OF ACRES
		24&13	20 N.	16E.	Kittitas	704935, 264835, and 920436	75.24

DO YOU OWN ALL THE LANDS IN THE EXISTING PLACE OF USE? ☒ YES ☐ NO

IF NO, PROVIDE OWNER(S) NAME: _____

B. Proposed

LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED:							
Parcels C-1 and C-2 of that certain Survey recorded November 13, 1991 in Book 18 of Surveys at pages 81-84, under Auditor's file No. 544641, being a portion of the N1/2 of Section 24 and the SW1/4 of Section 13, T. 20 N., R. 16 E.W.M.							
¼	¼	SEC.	TWP.	RGE.	COUNTY	PARCEL #	# OF ACRES
		24&13	20 N.	16 E.	Kittitas	704935, 264835, and 920436	75.24

DO YOU OWN ALL THE LANDS IN THE PROPOSED PLACE OF USE? ☒ YES ☐ NO

IF NO, PROVIDE OWNER(S) NAME: _____

Attach a detailed map of your proposed change/transfer. The map should show existing and proposed point(s) of diversion/withdrawal, place of use and any other features involved with this application. If platted property, please include a certified copy of the plat map.

Are there any ADDITIONAL WATER rights OR CLAIMS RELATED to the same property as the ONE PROPOSED FOR CHANGE/TRANSFER?

☐ YES ☒ NO – IF YES, PROVIDE THE WATER RIGHT/CLAIM NUMBER(S):_____

6. Remarks and Other Relevant Information:

The new Seaton Water Users Association (SWUA) pump site POD is on the west (right) bank of the Teanaway River, immediately upstream (northerly) of the Lambert Road Bridge, approximately 50 feet north and 50 feet west of the SE¼ corner of Section 33, being within the SE¼SE¼ of Section 33, T. 20 N., R. 16 E.W.M.

The new Teanaway River Ranch Associates (TRRA, now Teanaway River Ranch Owners Association, TRROA) pump site POD is on the east (left) bank of the Teanaway River, immediately downstream (southerly) of the Red Bridge Road Bridge, approximately 900 feet south and 2,100 feet west of the NE¼ corner of Section 25, being within the NW¼NE¼ of Section 25, T. 20 N., R. 16 E.W.M.

The Adjudication Court confirmed individual water rights to the several members of SWUA and to the several members of TRROA with the entry of the CFO for Subbasin No. 3 (Teanaway River) on 2-08-2001.

BPA and Reclamation entered a contract in 1999 with SWUA members, and also entered a contract in 1999 with TRROA members, initially assigning 30% of their several 1882-1891 priority (SWUA members) and 1885 & 1894 priority (TRROA members) water rights to instream flow enhancement trust water right use, in perpetuity, in the Teanaway River (primary reach only) upon completion of new irrigation systems for SWUA and TRROA funded by BPA, and then later to assign 'up to an additional 20%' of their water rights to permanent instream flow trust water use after a 5-year trial period, if not needed for their off-stream water use.

Though the Court confirmed the right to divert surplus water, when available, to five (5) SWUA members' water rights (I. Osmonovich 1882, Montgomery 1885, I. Osmonovich 1885, Pratt/Bergstrom 1885, and Stephenson 1885), and to all of the TRROA members' water rights, those water right holders agreed to forego their use of surplus water from the new SWUA and TRROA irrigation systems, and the new irrigation systems were subsequently designed and built, and have been operated, to not deliver any surplus water to the SWUA or TRROA members. SWUA and TRROA members have not used any surplus water since 2000 and those SWUA member and TRROA member surplus water rights have been abandoned and relinquished. These new SWUA and TRROA irrigation systems were completed during the year-2000 irrigation season.

The transfer of the 30% portion and the 'up to an additional 20%' portion of the SWUA and TRROA members' water rights to instream flow use was temporarily accomplished by the Court's 3-09-2000 and 6-14-2007 Orders Pendente Lite.

The 5-year trial period showed that the SWUA members and the TRROA members used, and shall retain, 70% of their instantaneous diversion rate in cfs, and 50% of their base annual water quantity (not including any surplus water) in af/yr. Thus 30% of the instantaneous diversion rate and 50% of the base annual water quantity (not including any surplus water) of the SWUA and TRROA members' water rights are to be transferred permanently to instream flow trust water use in the Teanaway River.

The Washington State Department of Ecology and each of the SWUA and TRROA members are submitting Joint Motions to Divide and Substitute Party to the Yakima Adjudication Court, transferring those 30% instantaneous diversion rate (cfs) and 50% base annual water quantity (af/yr) (not including any surplus water) portions of the Court-confirmed SWUA and TRROA members' water rights to Ecology for instream flow trust water use. Those Ecology portions of each of the SWUA and TRROA members' water rights are now the subject of the group of SWUA and TRROA members' permanent trust water right change applications submitted by Ecology concurrently with this application.

THIS APPLICATION: The Ecology instream flow trust water portion of the Court-confirmed T. Olin Nichols 1885 water right totals 0.450 cfs, 203.148 acre-feet of water per year, to be used for permanent instream flow enhancement in the Teanaway River from the location of the upstream Haida-Peterson Ditch POD to the location of the downstream new TRROA pump site POD below the Red Bridge Road Bridge.

Mr. Nichols (TRROA member) retains his 70% instantaneous (cfs) and 50% base annual (af/yr) portions of his Court-confirmed 1885 water right for continued use for irrigation of 75.24 acres and stock water during the irrigation season by way of the new, more-efficient TRROA irrigation delivery system. TRROA members have stopped (in year 2000) diverting water at the now-defunct Haida-Peterson Ditch POD, and have temporarily changed their Teanaway River POD to the new downstream TRROA pump site POD below the Red Bridge Road Bridge under authority of the 3-09-2000 Court Order Pendente Lite. The Nichols retained portion of his Court-confirmed 1885 water right will be permanently diverted from the new TRROA pump site POD, in total not to exceed 1.050 cfs, 203.148 acre-feet of water per year.

The Nichols abandoned/relinquished surplus water portion of his Court-confirmed 1885 water right totals 1.500 cfs, 82.764 af/yr.

T. Olin Nichols is currently seeking Adjudication Court approval for the division of his retained portion of his one (1) irrigation and stock water right into two (2) water rights, each solely appurtenant to a different one of the 2 Nichols parcels/lots, with both of the 2 divided water rights remaining in his name, as follows:
1) Parcel C-1, 0.692 cfs, 133.974 af/yr, for irrigation of 49.62 acres and stock water; and,
2) Parcel C-2, 0.358 cfs, 69.174 af/yr, for irrigation of 25.62 acres and stock water.
Both of the 2 divided water rights will continue to use the TRROA pumpsite POD from the Teanaway River for their continuing irrigation and stock water uses from May 1 through September 15 each year.

The place of use in the Teanaway River (primary reach only) for the Ecology permanent instream flow trust water rights derived from the SWUA members' 1882-1891 priority water rights is:
from the original authorized point of diversion, the Seaton Ditch, situated in the NE¼SE¼ of Section 26, T. 20 N., R. 16 E.W.M., downstream to the new SWUA pump site location in the SE¼SE¼ of Section 33, T. 20 N., R. 16 E.W.M.
The place of use in the Teanaway River (primary reach only) for the Ecology permanent instream flow trust water rights derived from the TRROA members' 1885 & 1894 priority water rights is:
from the original authorized point of diversion, the Haida-Peterson Ditch, situated in the SW¼SW¼ of Section 13, T. 20 N., R. 16 E.W.M., downstream to the new TRROA pump site location in the NW¼NE¼ of Section 25, T. 20 N., R. 16 E.W.M.

The 1999 BPA and Reclamation contract agreements with SWUA and TRROA assign Reclamation the responsibility of obtaining all necessary water right permit approvals to permanently transfer the instream flow portion of these water rights to the Yakima Basin Trust Water Rights Program, after the completion of the 5-year trial operation period, and also to change each of the water rights' authorized diversion points to the new pump site diversion points. That is why Ecology is filing these permanent trust water right applications at this time. These trust water right applications are being filed concurrently with water right change applications for the portions of each of the SWUA and TRROA members' water rights they retain for their continuing off-stream irrigation and stock water uses, requesting the change of point of diversion (POD): 1) from the former Seaton Ditch POD to the new downstream SWUA pump site (for the SWUA members' water rights), or 2) from the former Haida-Peterson Ditch POD to the new downstream TRROA pump site (for the TRROA members' water rights).

Diversion quantities under these water rights, both the off-stream diverted portions and the instream flow enhancement portions, have been recorded by the combination of the flow meters on the SWUA and TRROA irrigation pipelines and the USBR gaging station on the Teanaway River above Lambert Road. Stream Patrolman Stan Isley (appointed by the Court's 8/27/1998 Order Pendente Lite Re: Metering, Measuring and Reporting Requirements, Teanaway River and Big Creek, Kittitas County) monitors these two water right portions each year. These two portions of the SWUA and TRROA members' water rights have been fully exercised since construction of the new SWUA and TRROA irrigation systems was completed and operation began, certainly in the 2001 and subsequent irrigation seasons up to the present date.

IF FOR SEASONAL OR TEMPORARY, START DATE ___/___/____ END DATE **n/a**/___/____

Certain applications may incur a Real Estate Excise Tax liability for the seller of the water rights. The Department of Revenue has requested notification of potential taxable water right related actions and therefore may be provided with a copy of this request. For further information, contact: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia, WA 98504-7477. Phone (360) 570-3265.

7. Signatures:

I certify that the information above is true and accurate to the best of my knowledge. I understand that in order to process my application, I hereby grant staff from the Department of Ecology or the County Conservancy Board access to the above site(s) for inspection and monitoring purposes. If assisted in preparing this above application, I understand that all responsibility for the accuracy of the information rests with me.

T. Olin Nichols - OWNER *Applicant Printed Name – Title*	 *Applicant Signature*	2/21/2015 *(Date)*
T. Olin Nichols *Water Right Holder Printed Name*	 *Water Right Holder Signature*	2/21/2015 *(Date)*
T. Olin Nichols *Land Owner of Existing Place of Use Printed Name*	 *Land Owner of Existing Place of Use Signature*	2/21/2015 *(Date)*
" *Land Owner of Proposed Place of Use Printed Name*	" *Land Owner of Proposed Place of Use Signature*	"/ / *(Date)*

I AM The Sole OWNER - NANCI UNAVAILABLE

Please check the region in which the project is located:

***Submit your application to:** DEPARTMENT OF ECOLOGY CASHIERING SECTION PO BOX 47611 OLYMPIA, WA 98504-7611	☒ Central Regional Office 15 W Yakima Avenue, Suite 200 Yakima, WA 98902-3463 (509) 575-2490	☐ Eastern Regional Office 4601 N. Monroe Street Spokane, WA 99205-1265 (509) 329-3400
	☐ Northwest Regional Office 3190 – 160th Avenue SE Bellevue, WA 98008-5452 (425) 649-7000	☐ Southwest Regional Office PO Box 47775 Olympia, WA 98504-7775 (360) 407-6300

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

☐ APPLICATION FEE NOT ENCLOSED ☐ MAP NOT INCLUDED or INCOMPLETE

☐ ADDITIONAL SIGNATURES REQUIRED ☐ SECTION _____ IS INCOMPLETE

☐ OTHER/EXPLANATION:_____

STAFF: _____ ***DATE:*** ____/____/____