| For Ecology Use Only |
|---|
| Received: |
| Date Stamp |

DEPT OF ECOLOGY Received OCT 09 2012 CENTRAL REGION OFFICE

**Benton County**
**WATER CONSERVANCY BOARD**

BENT-12-03

## Record of Decision

Applicant: City of Kennewick Application Number: CG4-GWC093-D for Claim 131

The attached Report of Examination has been reviewed by the BCWCB members; and this Record of Decision was made at an open public meeting of the Benton County Water Conservancy Board held on October 1, 2012, with any changes to ROE/ROD based on information received from the applicant and WADOE staff.

**(X) Approval:**

The Benton County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination and submits this record of decision and report of examination to the Department of Ecology for final review or consideration.

**( ) Denial:**

The Benton County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination and submits this record of decision to the Department of Ecology for final review or consideration.

Signed Original Date: 10/01/2012
Darryll Olsen, Ph.D., Chairman
Benton County Water Conservancy Board

*Approves*
~~Denies~~
Recused
Abstains
Excused Absence

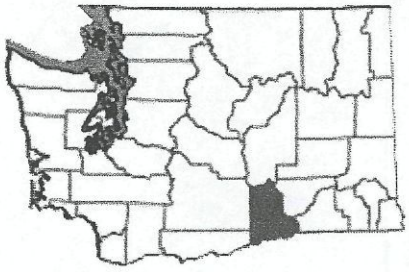
Signed Original Date: 10/01/2012
Scott Revell, Appointed Board Member
Benton County Water Conservancy Board

*Approves*
Denies
Recused
Abstains
Excused Absence

Signed Original Date: 10/01/2012
Matt Berg, Treasurer
Benton County Water Conservancy Board

*Approves*
Denies
Recused
Abstains
Excused Absence

Final ROE/ROD Mailed to the Department of Ecology, Regional Office of Ecology, via tracked mail, and other interested parties on or before 10/16/2012.



# BENTON COUNTY
# WATER CONSERVANCY BOARD

*Application/Review for Change/Transfer*

OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF THE STATE OF WASHINGTON

DEPT OF ECOLOGY
Received
OCT 09 2012
CENTRAL REGION OFFICE

## Report of Examination

**Prepared by Members of the Benton County Water Conservancy Board**

☒ Surface Water  Ground Water

| DATE APPLICATION RECEIVED | WATER RIGHT DOCUMENT NUMBER | WATER RIGHT PRIORITY DATE | BOARD-ASSIGNED CHANGE APPLICATION NUMBER |
|---|---|---|---|
| (April 2012) | CG4-GWC093-D<br>For Claim 131 | November 4, 1944 | BENT-12-03 |

NAME
Attention: Mr. Gary Deardorff, City of Kennewick

| ADDRESS (STREET) | (CITY) | (STATE) | (ZIP CODE) |
|---|---|---|---|
| P.O. Box 6108 City of Kennewick | Kennewick | WA | 99336 |

**Changes Proposed:** ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☒ Change point of diversion/withdrawal
☐ Other (Temporary, Trust, Interties, etc.) X No Change to Place of Use, City of Kennewick Water Service Territory.

**SEPA**

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt (water right) Not exempt (proposed project)

The direct water right change/transfer described herein is exempt from SEPA review, as the water amount involved is under the SEPA threshold criteria.

# BACKGROUND AND DECISION SUMMARY

**Prepared by Members of the Benton County Water Conservancy Board**

## Existing Water Right

| MAXIMUM CUB FT/ SECOND | MAXIMUM GAL/MINUTE | MAXIMUM ACRE-FT/YR | TYPE OF USE, PERIOD OF USE |
|---|---|---|---|
| | 400 gpm | 70 | Municipal and Domestic Use, Year-Round Use |

| SOURCE | TRIBUTARY OF (IF SURFACE WATER) |
|---|---|
| Groundwater | |

| AT A POINT LOCATED: PARCEL NO. (See Attachments) | ¼ | ¼ | SECTION | TOWNSHIP N. | RANGE | WRIA | COUNTY. |
|---|---|---|---|---|---|---|---|
| Diversion Point(s): (and as described on certificate). | SW1/4 | SW1/4 | 6 | 8N | 29 EWM | | Benton |

AND: As stated on Existing claim/certificate

**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED**

All within: As stated on Existing Certificate and all within:

All within the municipal service area of City of Kennewick, and as described on claim/certificate—originally for the Layton Park Addition area (used within City of Kennewick Service Territory).

## Proposed Use Under Change Application

| MAXIMUM CUB FT/ SECOND | MAXIMUM GAL/MINUTE | MAXIMUM ACRE-FT/YR | TYPE OF USE, PERIOD OF USE |
|---|---|---|---|
| | 400 gpm | 70 | Municipal and Domestic Supply (Municipal Water Supply Purposes), Year-Round Use |

| SOURCE | TRIBUTARY OF (IF SURFACE WATER) |
|---|---|
| Groundwater—Kennewick ASR Well | |

| AT A POINT LOCATED: PARCEL NO. (See Attachments) | ¼ | ¼ | SECTION | TOWNSHIP N. | RANGE | WRIA | COUNTY. |
|---|---|---|---|---|---|---|---|
| Diversion Point(s): (and as described on certificate) | NE1/4 | SE1/4 | 17 | 8N | 29 EWM | | Benton |

AND:

See parcel number: 117894000001004

**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED**

All within:

City of Kennewick Water Service Area as Described by City of Kennewick Water Supply and Conservation Plan.

## Water Board Decision

| MAXIMUM CUB FT/ SECOND | MAXIMUM GAL/MINUTE | MAXIMUM ACRE-FT/YR | TYPE OF USE, PERIOD OF USE |
|---|---|---|---|
| | 400 gpm | 70 | Municipal and Domestic Supply (Municiapl Water Supply Purposes), Year-Round Use |

| SOURCE | TRIBUTARY OF (IF SURFACE WATER) |
|---|---|
| Groundwater—Kennewick ASR Well | |

| AT A POINT LOCATED: PARCEL NO. (See Attachments) | ¼ | ¼ | SECTION | TOWNSHIP N. | RANGE | WRIA | COUNTY. |
|---|---|---|---|---|---|---|---|
| Diversion Point(s): (and as described on certificate) | NE1/4 | SE1/4 | 17 | 8N | 29 EWM | | Benton |

AND:
See parcel number: 117894000001004

**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED**

All within:
City of Kennewick Water Service Area as Described by City of Kennewick Water Supply and Conservation Plan.

## DESCRIPTION OF PROPOSED WORKS

The existing claim/certificate is/has been used for general operations within the City of Kennewick. The water right is in good standing and subject to the municipal water use provisions of the water code.

The water right change would involve changing the point of diversion; this new well site is being used under the City of Kennewick-Office of Columbia River (OCR), Ecology, ASR Project. The new well services the Kennewick municipal service territory.

## DEVELOPMENT SCHEDULE

| BEGIN PROJECT BY THIS DATE: | COMPLETE PROJECT BY THIS DATE: | COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: |
|---|---|---|
| Immediately | By January 1, 2016 | By January 1, 2017 |

NOTE: The Water Board establishes the development schedule, as required under RCW 90.80.070, 90.80.080, and WAC 173-153-130. The schedule may be extended by WADOE if diligence is demonstrated in the completion of this project.

## REPORT OF EXAMINATION

**Prepared by Members of the Benton County Water Conservancy Board**

### BACKGROUND

A change/transfer application for claim/certificate CG4-GWC093-D was received and accepted by the Water Board in April 2012, with further information provided during May-July. Beneficial use of the water right is based on previous use history documented by the City of Kennewick staff; and as noted within the City's Water Supply and Conservation Plan.

The existing certificate/claim has been/is being used for general water service within the City's municipal service territory—originally for the Layton Park addition within Kennewick.

The applicant seeks to consolidate the water right point of withdrawal with a new ARS Project well, allowing for greater flexibility toward the overall water service for the City.

The existing water right is in good standing.

*Attributes of the water right as currently documented:*

Name on certificate, claim, permit: Pacific Power & Light Company.

Water right document number: GWC00093-D for Claim 131

As modified by permit change number: CG4-GWC093-D for Claim 131

Priority date, first use: November 4, 1944

Water quantities: Qi: 400 gpm.

Qa: 70 acre-ft./year.

Source: Groundwater.

Point of diversion/withdrawal: See above and attachments

Purpose of use: Domestic and Municipal Use (Municipal Water Supply Purposes).

Period of use: Year-Round Use.

Place of use: See above and attachments

Existing provisions: See attached certificate.

*Tentative determination of the water right:*

See Water Board's Decision Above; water right is in certificate stage, in good standing.

*History of water use:*

The certificate has been used in conjunction with other water rights to service the City of Kennewick Municipal Water Service Area.

*Previous changes:*

No previous change/transfers noted in the Ecology file.

*SEPA:*

As noted above, the water right change request is exempt, under the threshold criteria.

**COMMENT AND PROTESTS**

Public notification for the applicant's request was filed in the Tri-City Herald. A copy is provided in the Public Notice attachments. The WADOE/Water Board did not receive a protest notice, or comments, from a third party. The application has been distributed to several state resources agencies, tribes, and interested parties. No comments have been received from these parties concerning the application.

*Issues Raised by WADOE:*

The Water Board has provided the WADOE CRO with the change/transfer application and public notice, and a Water Board representative has discussed the change request with CRO-WADOE staff, and requested an explicit identification of any issues of concern related to the change request or the Water Board's preparation of the ROE/ROD.

*Protests:*

Date: None Received.

This was recognized by the board as a ☐ Protest ☐ Comment

Name/address of protestor/commenter:

Issue:

Board's analysis:

*Other:*

**INVESTIGATION**

The following information was obtained from site inspections, technical reports and documents, research of department records, and discussions with the applicant's technical representative/consultant and other interested parties; as well as discussions with the CRO-WADOE staff.

*Proposed project plans and specifications:*

As noted above, the applicant will continue to use this water right to provide water service within the City of Kennewick Municipal Service Area. The water right will involve the use of one new groundwater well that is being used as part of the Office of Columbia River, Ecology, ARS project (see attachment).

The applicant's intent is to continue the use of the water right per the change/transfer noted above and discussed below.

**A. Key Technical Issues—Water Right Review:**

*This investigation has included several issues:*

*Tentative Determination:*

In order to make a water right change decision, the Water Board must make a tentative determination on the extent and validity of the right. The Water Board has made the tentative determination as displayed upon the first section of this report. There are several circumstances that can cause the Board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings.

First, the water right applicant holds a valid water right certificate in good standing, and it is on file with the WADOE. The water right is subject to the groundwater code provisions under 90.44, and including RCW 90.14.140, 90.03.615, and 90.03.380.

The certificate is valid as stands, subject to subsequent change actions by the Water Board and any WADOE administrative changes affecting development.

Second, the change/transfer request must be consistent with RCW 90.44.100 and 90.03.380, and related water code statutes 90.14.140 and 90.03.615. As discussed below, the Water Board has reviewed in detail this change/transfer per the applicable statutes and determined compliance thereof.

Third, under the change request, the t[redacted] amount of water withdrawal from th[redacted]isting right and proposed change cannot exceed the amount within the currently certificated water right. The change/transfer request must not exceed the existing water right limits; no enlargement of the water right is allowed.

The Water Board notes that this request requires no Qa or Qi expansion of the water right, as designated under the existing certificate. The applicant is actively using the water right, taking into account development along with other water rights within its service territory portfolio (see attached Table to application), and the change request would not directly affect other water rights owned by the applicant.

Fourth, the allowed amount (baseline) of water available for change/transfer for this municipal supply water right is subject to RCW 90.03.015, 90.03.560, 90.14.140(2)(d) and associated provisions related to RCW 90.03.380. Per this statutory direction and the water right/use information reported by the City of Kennewick under their Water Supply Plan, the Water Board concludes that:

- The water right is held by a municipal entity.
- The water right purpose conforms to definitions of municipal water supply.
- The existing certificate is in good standing per the water resources program file information.
- Per the water right's legal status, it is subject to exemption from relinquishment.
- The combined statutes and empirical conditions noted above allow for the change in point of diversion (and broader use within the existing municipal service territory) without change to the existing certificate Qi and Qa: 400 gpm, and 70 acre-ft.

And fifth, based on the above information and analyses (and Attachments), the Water Board has determined that the full amount of the said water right for change/transfer is presented within the above "Board Decision" summary, and should be the amount not exceeded by the applicant within the proof of appropriation filing and within the superseding certificate issued by WADOE.

*Hydrologic, and other technical investigations:*

First, based on a review of the water right and area well logs, the requested change/transfer will divert water from the same body of water (management area) as that allowed under the existing water right; and per the water management conditions/agreement of the OCR-Kennewick ASR Project.

Second, the change request cannot create impairment. The Water Board has reviewed with the applicant, and with a qualified professional engineer, information on potential impairment, along with the WADOE point of diversion and water right records, and concludes that impairment is not an issue for this change request. Per review with a qualified professional of the new withdrawal site, the location of any nearby wells, and the operations anticipated by the ASR project, the Water Board has not required a separate, formal (engineering) impairment analysis for this change/transfer review. The Water Board is relying on the technical work completed by OCR-Ecology and the City of Kennewick to justify non-impairment conditions.

Third, the point of withdrawal is consistent with the impairment standards under RCW 90.03.380, as a perfected water right.

Fourth, it further is noted that:

1) For this immediate area, no record/affirmation of impairment has been noted by the Water Board or WADOE.

2) The Water Board has required the applicant to review impairment issues for the applicant's change request. This review indicates that the change action will not impair other water rights.

3) Based on the public notice of this change request, the Water Board has received no impairment issue comments from other existing water right holders, including those who withdraw water from nearby sites.

And Fifth, the change will not increase water use relative to the existing allowed use, create impairment, or detrimental environmental impacts—subject to the OCR-Ecology and City of Kennewick Project agreement.

Given the above review, the Water Board concludes that the proposed action will not create impairment to other water rights per the provisions and conditions established under the existing certificate and the conditions provided within this ROE/ROD.

**B. Water Right Adjudication Process:**

Water right adjudication does not affect this application.

**C. Verification of Existing Water Right:**

As noted above, the existing water use retains a certificate of water right granted by the Washington State Dept. of Ecology. The Water Board has reviewed the water right documentation, reviewed the applicant's technical information concerning the water right, is familiar with the existing water use and land operations, and has conducted its own review of the water right relative to change/transfer conditions as discussed above. It is concluded that the water right is in good standing, and subject to the conditions contained within this ROE/ROD for change/transfer.

**D. Field Examination:**

The field examination was conducted by Dr. Darryll Olsen, Chairman, BCWCB, with on-site visits during the months of May-June 2012. Further, the Water Board is familiar with this area having recently reviewed the area with the land owner and applicant.

The field examination confirmed the information within the application request and technical information, which is more fully elaborated upon in this Report of Examination.

The field examination consisted of viewing the existing/proposed water use sites, existing pumping site, and the surrounding area. A visual examination of the site water use area was conducted, along with a review of the applicant's maps. In essence, the field investigations confirmed information provided by the applicant through personal communications and supporting application materials.

**E. Technical Information, Investigations, or Reports Reviewed:**

The Water Board has reviewed the applicant's WADOE file and records contained therein, including any reports/comments submitted by WADOE staff, and pertinent WADOE water right records.

The applicant has provided technical information, personal communications, and technical references requested by the Water Board, including data to verify the existing and proposed use areas; and the applicant has communicated extensively with individual Water Board members to answer specific questions about the change/transfer request. The Water Board has conducted a field examination to verify the information contained within the applicant's current water rights and supporting technical information. The Water Board has requested and received supplemental information from the applicant and has discussed future water usage needs with the applicant.

The Water Board has reviewed the s[redacted]ing of the water right, documentatio[redacted]ovided by the water right holder concerning land holdings and management, and aerial photography for the existing and proposed water right place of use and purpose.

The Water Board has forwarded copies of the application change/transfer request and public notice to the state Dept. of Fish & Wildlife, the Dept. of Health, the Tribes, and to all parties requesting such copies. No comments were received by these parties during the formal, and informal, public comment period for the change/transfer application.

The Water Board has reviewed this change request in detail with WADOE and Attorney General Office staff (concerning upstream changes under RCW 90.03.380).

The Water Board has reviewed the applicant's SEPA compliance needs.

**F. Associated Rights and Uses:**

The subject certificate is being beneficially used and developed, and it is being used along with several other water rights in the nearby area by the applicant. The other water rights are not affected by the proposed change/transfer.

The Water Board has identified nearby water rights adjacent to the existing and proposed place of use, as indicated within the WRATS database; and identified nearby wells and surface water pump stations, as indicated on the WADOE website and data bases (and Columbia River Water Management data sites).

**G. Review of Potential Impairment:**

Because the proposed action will not increase the existing certificated water use (with change modifications), or increase the water amount put to allowed beneficial use, or likely affect other existing water rights (or applications for new water rights), no impairment is perceptible. The applicant's technical information has been reviewed on water use within the same body of water for management purposes and potential impairment.

The proposed change/transfer will be beneficial in the conservation and management of water resources from existing practices for the following reasons: 1) there will be no increase in diversion/withdrawal on an annual basis after the change/transfer, compared to existing permitted withdrawals; and 2) better controls and monitoring on the quantity of water pumped will help ensure that the authorized quantity is not exceeded, as required under a metering and development plan.

The Water Board has published public notice of the proposed action and reviewed any potential technical issues concerning impairment.

Existing water rights located within the nearby area--within the same section and adjacent sections--were noted according to information contained within the WADOE WRATS data base system and visual inspection, and ongoing Water Board review within this area.

As noted above based on the applicant's technical information and the Water Board's review, it is concluded that no impairment would occur related to the water right change/transfer request.

The field investigation revealed that the applicant's request for change/transfer is consistent with existing land and water use practices within the immediate area, reflecting the development of and consistency with the Benton County Comprehensive Land Use Plan.

The change/transfer request is consis[redacted] with net beneficial use and return fl[redacted] considerations contained in RCW 90.03.380 and other applicable statutes. The change will not increase water diversions or net depletions from the surface water source. More specifically, the subject application for change is consistent with public policy objectives of the state to provide for efficient use of water resources, to encourage supply of new or expanding uses through change/transfer of existing water rights, and to provide greater operational control to water managers.

Given the fact that no increase in water withdrawal from the existing surface water management source will occur relative to that permitted and allowed for beneficial use, there is no reason to expect any impairments to other water sources, consistent with the conditions and provisions provided under the existing water right modification order granted by the WADOE. Also, because the change/transfer proposed by the applicant does not affect withdrawals from new water sources—without regulation--or increase existing allowed net annual withdrawals/diversions from that currently permitted, the change/transfer request does not affect local conditions surrounding the status quo for water use, as permitted by WADOE.

This application decision has no impact on WADOE's existing water right decisions, the condition of local surface water or groundwater resources based on empirical data, or the priority for water rights between junior and senior water right holders within the local area. The Water Board does include conditions within this ROE to ensure that the public interest affecting water use is protected, and that they are consistent with actions that would be pursued by WADOE to avoid future or potential impairment problems or regulation actions.

**H. Effect or Benefit to Public Interest:**

A recent Washington State Supreme Court ruling has stated that "...a 'public interest' test is not a proper consideration when Ecology acts on a change application under RCW 90.03.380." PUD No. 1 of Pend Oreille County v. Dep't of Ecology, 70372-8 (2002). By extension, neither does the Water Board have authority to apply a public interest test when evaluating a change in water right request under RCW 90.03.380. This Court decision involved a surface water right.

Nevertheless, the Water Board concludes that the requested change/transfer is not contrary to the public interest governing water use, in complying with groundwater statutes under the RCW 90.44 title.

To the extent review of public interest is applicable, the Water Board finds that the application for change is consistent with public policy objectives of the state to provide for efficient use of water resources, to encourage supply of new or expanding uses through change/transfer of existing water rights, to provide greater operational control to water managers, and to ensure no impairment exists.

Because the proposed action will not increase the existing allowed annual water use, or increase the water put to actual beneficial use, or result in an impact on other existing water rights or applications for new water rights, it does not negatively change the existing status quo for water use impacts. Thus, no impairment is perceived, because of the change/transfer requested in the application. Water use is provided consistent with statutory requirements for beneficial use.

The proposed action does provide for a continuation of the existing beneficial use as stated within the certificate of water right, increasing the economic benefits to the state and local area by allowing for continued use and development within the Municipal Service Territory. The development is taking place in the land-use management area of Benton County.

This action is consistent with the intent of RCW 90.03.380, 90.44.100, and 90.80 (amended May 10, 2001) and other applicable statutes; and it is consistent with Benton County's Comprehensive Land-Use Plan. No impairment is consistent with the public interest; all pertinent water right issues are addressed above; conditions are recommended within this ROE to further protect the public interest consistent with state water law.

The application for change/transfer is consistent with the public interest requirements for beneficial water use, and consistent with the procedural, technical, and legal review requirements by the state.

This action is consistent with the intent of RCW 90.44, 90.03.380, and 90.80 (amended May 10, 2001) and other applicable statutes; and it is consistent with Benton County's Comprehensive Land-Use Plan. No impairment is consistent with the public interest; all pertinent water right issues are addressed above; conditions are recommended within this ROE to further protect the public interest consistent with state water law.

The application for change/transfer is consistent with the public interest requirements for beneficial water use, and consistent with the procedural, technical, and legal review requirements by the state.

**I. Consideration of Pending Applications:**

The applicant's request will not affect the priority for action on pending new water rights or change/transfer applications filed with the Washington State Department of Ecology, for Benton County. Existing applications for Benton County were noted (WADOE data base); and no infringement on priority for action for these applications is perceived by (WADOE or the Water Board).

This application review also is consistent with legislative changes made in 2001 affecting the processing of change/transfer applications by the WADOE, as well as the amendments made to RCW 90.03.380.

Public notice has been provided for requesting all water right holders within the Benton County to submit existing or new water right change/transfer applications to the Benton County Water Board—or the WADOE. Applications received by the WADOE or Water Board are first reviewed for accuracy, completeness, and purpose to ensure they fall within the purview of the agency's and Board's jurisdiction. Those that are found wanting are referred back to the applicant for re-submittal or withdrawal. The remaining ones are acted on by a first-come, first-serve basis, taking into account received application's priority date and the technical/legal review requirements thereof.

**FINDINGS AND CONCLUSIONS**

1. The certificate of water right and beneficial use are verified.

2. The proposed change/transfer will result in no increase in the annual quantity of water authorized and is consistent with the requirements of RCW 90.03.010, 90.03.380, 90.03.560, 90.14.140, 90.03.615 and other provisions of the groundwater code. The change/transfer request will not increase the allowed water right; the change/transfer will not increase allowed consumptive use from the designated sources, as allowed by the water code per RCW 90.44.

3. There will be no increase in water withdrawal on an annual basis. In addition, continued monitoring of the quantity of water pumped will help ensure that allowed water withdrawals are not exceeded, for the changes requested.

4. The Water Board has determined that impairment is not an issue affecting this change request; the change is within the same body of water for management purposes per the subject operations/agreements pertaining to the OCR-Ecology and City of Kennewick ASR project.

5. Public notice has been provided for the proposed action, and any public concerns have been reviewed by the Water Board. Public notice and application submittal has been forwarded to several state resource agencies/tribes/interested parties for comment; the agencies have provided no direct comments to the application.

6. The Water Board has reviewed the proposed project for SEPA compliance.

7. The proposed action creates no perceived detrimental impacts or impairments to other water right holders or permit applicants; adequate data and information exists to make this determination with confidence.

8. No protests have been made by third parties on this application.

9. The proposed action is consistent with the intent of RCW 90.03.010, 90.03.380, 90.03.560, 90.14.140, 90.03.615, 90.44, and 90.80 (as amended May 10, 2001) and recent case reviews by the Washington State Supreme Court.

10. The proposed action supports the public interest concerned with the direct use of water rights, is consistent with allowed beneficial uses, and is consistent with local area economic development needs and land uses.

11. The Water Board has provided for specific conditions and provisions affecting the use of the water right, as identified below.

## RECOMMENDED PROVISIONS

**A. Provisions:**

The applicant's water right change for a new point of withdrawal are conditioned by the following provisions:

1. The point of withdrawal, place(s) of use, and purpose of use for the water right are designated in the summary table above (under Water Board Decision).

2. Use of water under this authorization shall be contingent upon the water right holder's utilization of up-to-date water conservation practices, and taking into account cost-effectiveness for operations and economic viability.

3. Per an issued superseding certificate for CG4-GWC093-D for Claim 131, water withdrawal shall not exceed 400 gpm, 70 acre-ft., for year-round domestic and municipal water supply (municipal water supply purposes).

4. By January 1, 2016, the applicant will notify the Water Resources Program, Central Region Office, WADOE, that project construction—with ASR operations--is completed, unless further extended for good cause.

5. Proof of appropriation (for actual beneficial use of water) is due to the Water Resources Program, Central Region Office, WADOE by January 1, 2017, unless further extended for good cause.

6. The WADOE shall undertake a proof inspection to certify actual development of the water right amended within this ROE.

7. Provisions for well construction and water use development, per the existing certificate and the provisions of the OCR-Ecology and City of Kennewick ASR Project, are maintained under this change/transfer determination. All water wells constructed (modified) within the state shall meet the minimum standards for construction and maintenance, as provided under RCW 18.104 (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC (minimum Standards for Construction and Maintenance of Water Wells). Installation and maintenance of an access port as described in Groundwater Bulletin No.1 is required. An air line and gage shall be installed in addition to the access port.

8. An approved measuring device(s) shall be installed and maintained for the sources (all points of withdrawal) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use," Chapter 173-173 WAC. Water use will be measured and recorded for municipal water supply use. Water use data shall be recorded weekly and shall be submitted annually to Ecology by January 31st of each calendar year typically.

9. The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements."

10. At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, weekly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting.

11. Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

12. Department of Ecology personnel, upon presentation of proper credentials and prior notification, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.

**B. Mitigation Requirements:**

None are required.

## DECISION

**Approvals:**

The Benton County Water Conservancy Board hereby APPROVES the water right change/transfer described within this record of examination and record of decision, and submits this certificate for conditional approval to the Director of the Washington State Department of Ecology. If the Director takes no action within forty-five days of receipt of this ROE/ROD, then the Water Board's decision, as written, is final.

Approved Unanimously by the BCWCB
Kennewick, Washington
This 1st day of October 2012

Approved and Signed on Behalf of the Water Board By:

Signed _____

Darryll Olsen, Ph.D., Chairman
Benton County Water Conservancy Board

Date Mailed to WADOE Director: on or before 10/16/2012