

Kirk, Patricia S. (ECY)

From: Kirk, Patricia S. (ECY)
Sent: Tuesday, July 16, 2013 8:39 AM
To: Tory Wulf
Subject: Trust Donation Application on Water Right Permit S4-29870P
Contacts: Tory Wulf

Good morning Tory,

I wanted to let you know that I had once again talked to my supervisor about the above indicated surface water permit and the reason you submitted the trust water donation application. He agreed to accept the donation given the unique situation and period of time that has passed since the permit was perfected. You will be receiving the acceptance letter in the mail this week.

The donation will be considered a beneficial use of Permit S4-29870P and avoid a 5 year period of non-use of the water. Again, since the water right is still officially in the permit stage, it is not in danger of relinquishment. However, the trust statutes do not allow for donations of water rights that have not been exercised (which include donations) in the most recent (past) five year period. This basically means that the pasture irrigation portion of the permit would not relinquish; but if not donated by next year, it could not be donated as a portion of the certificate to the Trust Water Right Program since it had not been exercised in any way in the most recent 5 year period (5 years after the 2009 donation). This could be a problem if the water was still in need of protection from relinquishment.

When you have firm plans what you want to do with the portion of the permit that was used for pasture irrigation - that is the time to have a proof exam done by one of the certified proof examiners. Once the certificate issues - file a change application soon after.

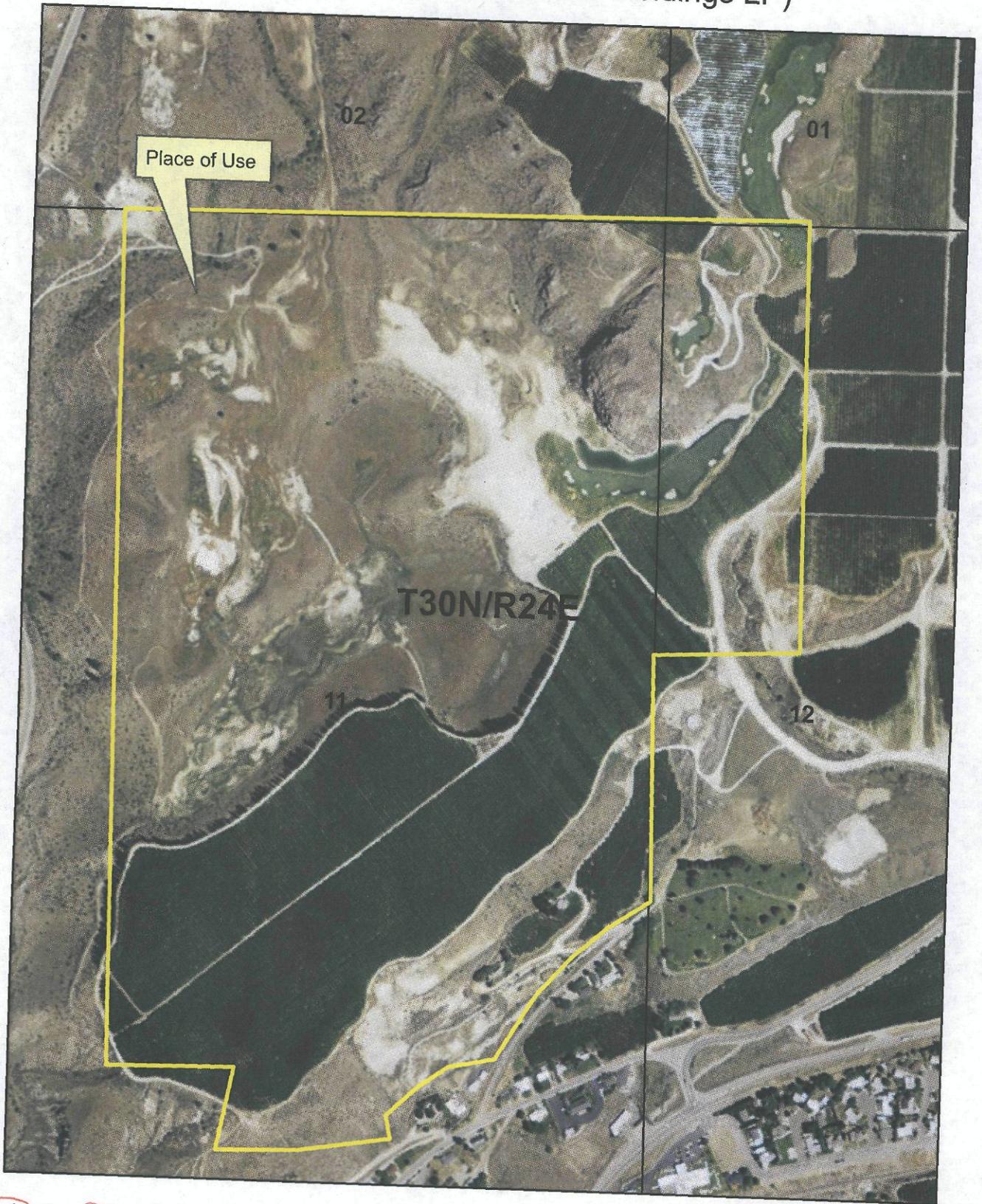
I apologize for taking so long to get this information to you. I hope that this provides options for going forward with the permit.

Patty

Patricia Kirk

Patricia Kirk, Office of Columbia River
Washington State Department of Ecology | Central Regional Office
15 W. Yakima Ave., Ste 200 | Yakima, WA. 98902
Direct 509-249-6299 | Main 509-575-2490 | Fax 509-575-2809

Gebbers Farms S4-29870P
(Now owned by Cascade Holdings LP)



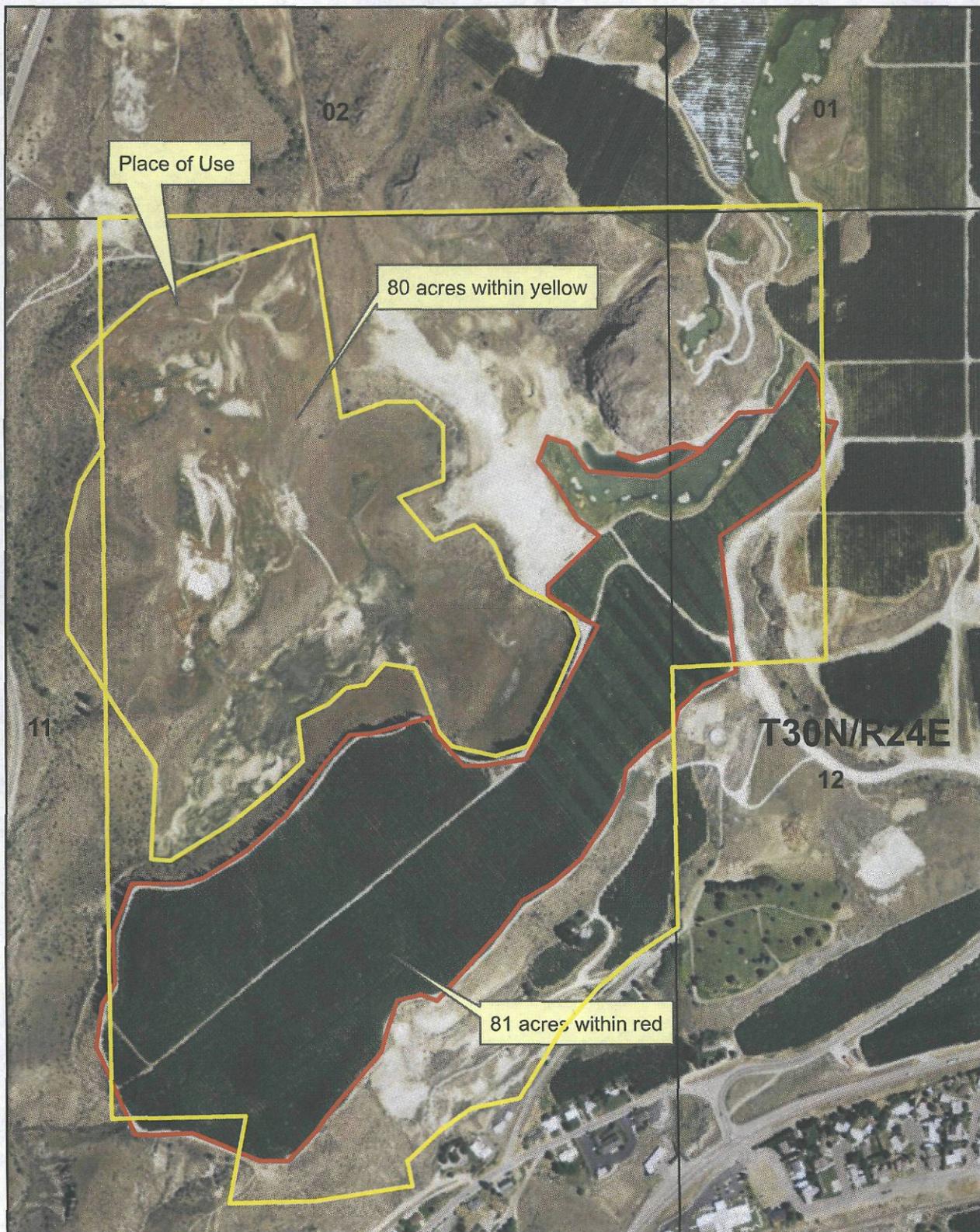
PA filed in 2005

2011 Aerial Photo

On 2005 aerial photo
85+ acres orchard
80+ acres cultivated

2006 aerial photo
patchy success irrigated
"pasture"

Gebbers Farms S4-29870P
(Now owned by Cascade Holdings LP)



2011 Aerial Photo

C

MEMO

April 22, 2013

To: File S4-29870P, Gebbers Farms LLC and File CS4-29870P, Gebbers Farms LLC (trust donation application)

From: Patty Kirk

AK

On April 18, 2013, the status of Surface Water Permit S4-29870P and the associated trust donation application submitted by Gebbers Farms in March 23, 2011, was discussed with Tory Wulf (Gebbers Farms representative) and Gene St. Godard (HG consultant for Gebbers Farms) at the offices of Gebbers Farms LLC in Brewster. I, Ron Dixon and Praveena Allena were present from Ecology. Ron and Praveena were there to discuss other unrelated applications.

At the meeting I informed Tory that Ecology will not be able to put water from the above referenced water right permit into the trust program because it is still in the permit stage. The fear of partial relinquishment was the reason for the trust water application on this permit. I let him know that the water was not in danger of relinquishing given its permit status, but the water could not be protected in the trust water program until a certificate of water right was issued. He informed me that he had been told in the past by Ecology staff that this previously perfected permit (PA had been filed) was eligible to be donated to the trust program. They have been waiting six years for a Proof Examination. Ecology did, in fact, accept a donation for a portion of this permit to the trust program for the 2009 irrigation season. Based on this, Tory assumed that Ecology would accept another donation and didn't attempt to irrigate the fallowed acreage. He is now asking Ecology to identify his options for the future use of the water that was once perfected on the fallowed acreage.

A field visit was conducted the same day looking at the POU for the above referenced surface water permit. The POU has two distinct areas totaling approximately 200 acres. The northern portion of the property, once irrigated for pasture and grain has been fallowed. Tory indicated it has been fallow for a number of years. Evidence of cleared/tilled ground was still distinguishable in the fallowed portion of the property within the POU. The main lines were still present in the field with the laterals (sprinklers still attached) piled around the edges of the open field. The soils appeared to be very sandy which was confirmed in a conversation with Tory and Gene. It was mentioned by Tory that crops were hard to grow in the existing soil. This portion of the POU was lower in elevation, almost a bowl shape, than all the surrounding landscape. He also mentioned that Gebbers Farms would like to turn this area into an extension of the golf course at some point in the future. The remaining (southern) portion of the POU is covered in mature orchard. Tory indicated that the water meter that measures flow to the POU was not exclusive to the POU for the referenced permit and therefore, not an accurate indicator of the water used on the acreage. A review of 2011 aerial photos before the field visit was consistent with what I observed on April 18th.

I let Tory know that I would send him a letter identifying the possible options and outcomes after a discussion of the situation with my supervisor.

Kirk, Patricia S. (ECY)

From: Tory Wulf [twulf@gebbersfarms.com]
Sent: Tuesday, January 31, 2012 4:20 PM
To: Kirk, Patricia (ECY)
Subject: CS4-29870P

Mrs. Kirk

I was given you letter dated Jan11 2012 today. I will review and get a response out to you as soon as I can. Thanks, Tory Wulf

No response to
letter by June 26/12
7/11/12
P. KIRK



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

January 11, 2012

Gebbers Farms, Inc.
PO Box 735
Brewster, WA 98812-0735

Re: Water Right Change Application CS4-29870P

Dear Sir or Madam:

After a review of your application to put a portion of Water Right Permit S4-29870P into the Trust Water Program a number of questions need to be answered before the Department of Ecology can make a decision on your trust donation.

The place of use described on Water Right Permit S4-29870 is limited to Okanogan County parcels numbered 3024111001, 3024111003, 3024112004, 3024110036, 3024124005, and 3024124008. Within those parcels, I identified 75 to 80 acres of irrigated orchard but little or no pasture (using a series of Land-sat photos). The acreage to the north of the orchard looks like a portion may have been irrigated for a brief period of time but has not been irrigated for several years.

The information supplied within the *Peninsula Hydro report for Gebbers Farms Inc.* dated January 17, 2008, submitted with the trust application, identifies 99.6 acres of orchard and the same amount for pasture. It also indicates the annual amount of water diverted for this acreage has exceeded the permitted amount by 16.55 acre-feet and 106.27 acre-feet for the 2006 and 2007 irrigation seasons respectively. Does water meter #1 measure only water that is to the above indicated place of use or is water being delivered to other parcels as well?

Please send an explanation of the discrepancies between the reported irrigated acreage on the application and in the Peninsula Hydro report, and what can be seen on aerial photos. I would also like an explanation of the water meter data that was supplied in the report. Since the total annual quantity of water issued on this permit is 800 acre-feet and it appears that you irrigate far less than 200 acres within the permitted place of use, how and where did you use the quantities of water reported?

P. KIRK

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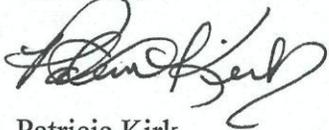


Gebbers Farms
January 11, 2012
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The amount of water that can be accepted as a donation into the trust water program is limited to those quantities specified under RCW 90.42.080(4). Ecology cannot accept water used in excess of the amount authorized under Water Right Permit S4-29870P.

If you have any questions or need clarification about what information we need please call me at (509) 249-6299 or e-mail me at pkir461@ecy.wa.gov.

Sincerely,

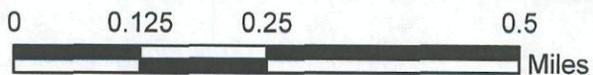


Patricia Kirk
Office of Columbia River

PK:RAZ (120112)



-  S4-29870P POU
-  S4-29870P POW
-  USGS river miles

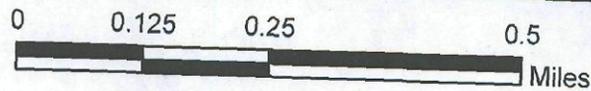


1:12,000

Map by Gary Steele
2006 NAIP Orthophoto



-  S4-29870P POU
-  S4-29870P POW
-  USGSrivermiles



1:12,000

Map by Gary Steele
2009 NAIP Orthophoto



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

March 28, 2011

Gebbers Farms, Inc.
PO Box 735
Brewster WA 98812-0735

Re: Water Right Change Application No. CS4-29870P

We have received your trust water right application and have assigned the application number shown above. Please use this number in future communications with our office.

If you have any questions, please contact Teresa Mitchell at 509-575-2597.

Sincerely,

Mark C. Schuppe
Section Manager
Water Resources Program

MCS:hd
110330

cc: W. Scott DeTro, Callaway & DeTro, PLLC

App-trustwater.doc



FILE COPY

ASSESSOR	CURRENT_OW	MAIL_2	MAIL_3	ZIP
3024124005	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024111001	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024111003	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024124008	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024110036	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024112004	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024110009	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024110014	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
3024110022	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
0150320008	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
0150210023	GEBBERS FARMS INC	PO BOX 735	BREWSTER, WA	98812-
0150320010	GEBBERS, DAN	PO BOX 7	BREWSTER, WA	98812-

