

State of Washington  
 Department of Ecology  
 Office of Columbia River  
 TERM PERMIT G4-33079P

File NR G4-33079  
 WR Doc ID 5523576

PRIORITY DATE  
 11/19/2012

WATER PERMIT APPLICATION NUMBER  
 G4-33079

MAILING ADDRESS  
 Washington Department of Natural Resources  
 SE Regional Office  
 713 Bowers Rd  
 Ellensburg, WA 98926-9341

SITE ADDRESS (IF DIFFERENT)  
 Canoe Ridge area, near Paterson, WA.  
  
 See Place of Use description below.

**Quantity Authorized for Withdrawal**

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
1350	GPM	300

Total withdrawals from all sources must not exceed the total quantity authorized for withdrawal listed above.

**Purpose**

PURPOSE	WITHDRAWAL RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Irrigation	1350		GPM	300		03/01 - 11/30

**REMARKS**

- (1) Water used under this authorization is mitigated by water being leased by the applicant from Ecology under an associated water service contract. Mitigation water is subject to the terms of Ecology's lease contract with the Port of Walla Walla (Contract C 1100119).
- (2) Mitigation water for this Term Permit is provided from water formerly used under G3-21039C.
- (3) In a letter dated December 12, 2012, the Port of Walla Walla (Port) indicates that a separate agreement between DNR and the Port sets aside 300 acre-feet from early withdrawal from C 1100119 for a five year period specifically for DNR.
- (4) This TEMPORARY AUTHORIZATION expires on November 30, 2020, or earlier. See *Provisions* below for details.

ADDITIVE	IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
	ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
180		0	N/A	

**Source Location**

Source	COUNTY	WATERBODY	WATER RESOURCE INVENTORY AREA
1	Benton	Groundwater	31-Rock-Glade
2	Benton	Groundwater	31-Rock-Glade
3	Benton	Groundwater	31-Rock-Glade
Proposed	Benton	Groundwater	31-Rock-Glade

**FILE COPY**

Well No.	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
1	134544000000001		05N	24E.W.M.	34	SESE		
2	134544000000001	AFL 004	05N	24E.W.M.	34	SESE		
3	134544000000001		05N	24E.W.M.	34	SESE		
Proposed	134544000000001		05N	24E.W.M.	34	S2SE		

### Place of Use

#### PARCELS

134544000000000

#### LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

S½N½ ; N½SW¼ ; N½S½SW¼ ; N½SE¼ ; and N½S½S½ SW¼ ALL in Sec. 34, T. 5 N., R. 24 E.W.M.

AND

An approximately 15-20 acre portion within the northern 400 feet and the western 1460 feet of the N½S½SE¼ Sec. 34, T. 5 N., R. 24 E.W.M.

EXCLUDING approximately 15-20 acres within the area approximately described as the southern 350 feet of the NE¼NE¼SE¼ and SE¼NE¼SE¼ of Sec. 34, T. 5 N., R. 24 E.W.M.

### Proposed Works

Three existing wells and one proposed well – to be all intertied with each other – providing water to a drip irrigation system servicing a vineyard.

### Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (By Jan 31 of the following year)
What volume should be reported?	Total annual volume in acre-feet
What rate should be reported?	Annual peak rate of withdrawal in gpm

### Provisions

#### Temporary Authorization, Termination, Cancellation

This temporary authorization relies upon mitigation water leased from Ecology under an associated water service contract and is subject to the terms of that contract.

The associated water service contract remains in effect for a maximum of eight (8) irrigation seasons yet allows for early termination under certain circumstances. As such, this temporary authorization shall remain in effect for up to eight irrigation seasons (until November 30, 2020, at the latest), or at such time as the associated water service contract is terminated.

This temporary authorization shall be subject to cancellation for non-compliance with its limitations and provisions. In such instance, should non-compliance continue, enforcement proceedings by Ecology may be initiated.

This temporary authorization shall be subject to cancellation for non-payment of lease fees as outlined in the associated water service contract. In such instance, should water use continue, enforcement proceedings by Ecology may be initiated.

#### Wells, Well Logs and Well Construction Standards

The proposed well shall be completed within the same unconsolidated sedimentary aquifer as the existing three wells.

All wells constructed in the state shall meet the construction requirements of Chapter 173-160 WAC titled "Minimum Standards for the Construction and Maintenance of Wells" and Chapter 18.104 RCW titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety, or public health hazard shall be decommissioned.

All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports in the future, reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160-291(3) is required.

**Measurements, Monitoring, Metering and Reporting**

An approved measuring device shall 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", Chapter 173-173 WAC.

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.

Chapter 173-173 WAC 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.

**Easement and Right-of-Way**

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

**Water Use Efficiency**

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

**Schedule and Inspections**

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times to the project location and to inspect at reasonable times records of water use, wells, diversions, measuring devices, and associated distribution systems for compliance with water law.

**Findings of Facts**

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 Term Permit Application No. G4-33079, 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel RD SW Ste 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> 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://www1.leg.wa.gov/CodeReviser>.

Signed at Yakima, Washington, this 29<sup>th</sup> day of July 2013.

  
 \_\_\_\_\_  
 Derek I. Sandison, Director  
 Office of Columbia River

## INVESTIGATOR'S REPORT

Application for Water Right -- WDNR

Water Right Control Number G4-33079

Thomas Perkow, Department of Ecology

### BACKGROUND

This report serves as the written findings of fact concerning Term Permit Application Number G4-33079.

**Table 1: Summary of Requested Term Permit**

<b>Applicant Name:</b>	Washington Department of Natural Resources
<b>Date of Application:</b>	11/19/2012
<b>Place of Use</b>	See <i>Term Permit</i> for description

Points of Withdrawal	County	Waterbody	WRIA
Well 1	Benton	Groundwater	31-Rock-Glade
Well 2	Benton	Groundwater	31-Rock-Glade
Well 3	Benton	Groundwater	31-Rock-Glade
Proposed Well	Benton	Groundwater	31-Rock-Glade

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation	1350	GPM	300	03/01	11/30

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well 1	134544000000001		05N	24E.W.M.	34	SE SE		
Well 2	134544000000001	AFL 004	05N	24E.W.M.	34	SE SE		
Well 3	134544000000001		05N	24E.W.M.	34	SE SE		
Proposed	134544000000001		05N	24E.W.M.	34	S2 SE		

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: NAD83/WGS84.

### Legal Requirements for Approval of Appropriation of Water

#### *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 Tri-City Herald on February 20 and February 27, 2013. No responses were received in the 30-day response period provided.

#### *Consultation with the Washington Department of Fish and Wildlife*

The Department must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. Such notice was sent to WDFW on March 21, 2013. In a letter dated April 4, 2013, WDFW indicated that they do not oppose approval of the subject application. In the letter, WDFW recognized the proportional mitigation, the instream flow benefit, and the temporary nature of the project.

### *Consultation under Chapter 173-563 WAC*

Under WAC 173-563-020(4), before any application is considered for approval or denial after July 27, 1997, Ecology must consult with appropriate local, state, and federal agencies and Indian tribes. The consultation process solicits input regarding possible impacts on fish and existing water rights. Consultation letters were sent on March 21, 2013. No responses other than the WDFW letter discussed above were received in the 30-day response period provided.

### *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 gallons per minute;
- (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.

## **INVESTIGATION**

---

### Proposed Use

Three existing wells and one proposed well – to be all intertied with each other – providing water to a drip irrigation system servicing a vineyard.

### Other Rights Appurtenant to the Place of Use

None.

### Impairment Considerations

Impairment is an adverse impact on the physical availability of water for a beneficial use that is entitled to protection. A water right application may not be approved if it would:

- Interrupt or interfere with the availability of water to an adequately constructed groundwater withdrawal facility of an existing right. An adequately constructed groundwater withdrawal facility is one that (a) is constructed in compliance with well construction requirements and (b) fully penetrates the saturated zone of an aquifer or withdraws water from a reasonable and feasible pumping lift.
- Interrupt or interfere with the availability of water at the authorized point of diversion of a surface water right. A surface water right conditioned with instream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the instream flow more frequently or for a longer duration than was previously the case.

- Interrupt or interfere with the flow of water allocated by rule, water rights, or court decree to instream flows.
- Degrade the water quality of the source to the point that the water is unsuitable for beneficial use by existing users (e.g. via sea water intrusion).

Portions of the following discussion rely on a separate Technical Memorandum authored by a Hydrogeologist licensed to practice in Washington on staff with Ecology. Water use under this authorization is mitigated by water placed into the State's Trust Water Right Program and used as instream flow. Mitigation water for this authorization predates and is therefore not subject to the Columbia River Instream Flow Rule, Chapter 173-563 WAC. Groundwater that would have been pumped by the Port of Walla Walla wells is managed as instream flow within the Columbia River. This water would offset withdrawals at the four well sites, as the four wells tap groundwater in close hydraulic connection with Columbia River surface water. Groundwater modeling indicates that any drawdown from pumping at the four well sites is not expected to interfere with the ability of surrounding well owners to fully utilize their well(s).

## Water Availability

---

For water to be available for appropriation, it must be both physically and legally available.

### *Physical availability*

For water to be physically available for appropriation there must be ground or surface water present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. In addition, the following factors are considered:

- Volume of water represented by senior water rights, including federal or tribal reserved rights or claims;
- Water right claims registered under Chapter 90.14 RCW;
- Ground water uses established in accordance with Chapter 90.44 RCW, including those that are exempt from the requirement to obtain a permit; and
- Potential riparian water rights, including non-diversionary stock water.
- Lack of data indicating water usage can also be a consideration in determining water availability, if the department cannot ascertain the extent to which existing rights are consistently utilized and cannot affirmatively find that water is available for further appropriation.

The Technical Memorandum mentioned above indicates that the unconsolidated aquifer into which the four wells would draw water from is in close hydraulic communication with the Columbia River. Additionally, the four wells are located in an area where a relative dearth of other groundwater users exists.

### *Legal availability*

To determine whether water is legally available for appropriation, the following factors are considered:

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.
- Fisheries and other instream uses (e.g. recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where further reducing the flow level of surface water would be detrimental to existing fishery resources.

- The Department may deny an application for a new appropriation in a drainage where adjudicated rights exceed the average low flow supply, even if the prior rights are not presently being exercised.

Water use under this authorization is mitigated by water in the State's Trust Water Right Program (Trust) under a lease agreement. That lease agreement (C1100119) remains in effect for a maximum of eight (8) irrigation seasons yet allows for early termination under certain circumstances. As such, this temporary authorization shall remain in effect for up to eight irrigation seasons (until November 30, 2020, at the latest), or at such time as the associated water service contract is terminated. In a letter dated December 12, 2012, the Port of Walla Walla (Port) indicates that a separate agreement between DNR and the Port sets aside 300 acre-feet from early withdrawal from C1100119 for a five year period specifically for DNR. Ecology is not a party to that separate agreement and lacks the ability to enforce the terms of that agreement.

Water use under this authorization would be mitigated by water formerly used under G3-21039C and currently held in Trust.

### Beneficial Use

---

The proposed use of water – irrigation – is defined in statute as a beneficial use (RCW 90.54.020(1)). Beneficial use also encompasses reasonable use. The proposed use of 300ac-ft/yr to irrigate 180 acres of vineyard equates to 1.67ac-ft per acre each year. Data from the Washington Irrigation Guide, Washington State University publications, and institutional knowledge support this annual quantity of irrigation for the production of wine grapes in this area under the proposed drip irrigation system. This quantity would not result in a waste of water from excess irrigation of this vineyard

### Public Interest Considerations

---

#### *Consideration of Protests and Comments*

No protests were filed against this application.

### Conclusions

---

All legal requirements have been satisfactorily addressed:

- 1) The proposal was properly noticed.
- 2) Notice was given to the Washington Department of Fish and Wildlife for consultation.
- 3) Consultation with relevant agencies and tribes was solicited.
- 4) Impairment is not expected.
- 5) Water is available through mitigation.
- 6) Water will be applied to beneficial use without waste.
- 7) The proposed water use will not be detrimental to the public interest.

### 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 above on the *Term Permit*.

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:

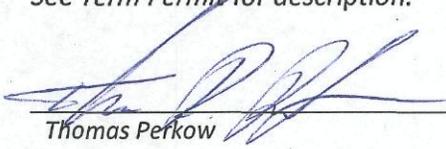
1350 gpm  
300 acre-feet per year  
For the irrigation of 180 acres of vineyard.

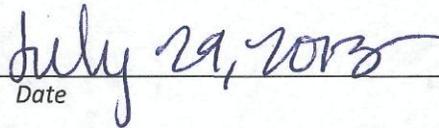
Points of Withdrawal:

Four (4) wells all located within the SE¼, Section 34, Township 05 North, Range 24 E.W.M.

Place of Use:

See *Term Permit* for description.

  
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.*