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**Benton County  
WATER CONSERVANCY BOARD**

BENT-13-03

**Record of Decision**

**ROE and ROD Reviewed and Approved by BCWCB Members**

Applicant: Exit 88 Orchard Estates, Application Number: Cert.No. S4-84088-J, Court Claim No. 02203  
*CS4-02203sb 29*

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 31, 2013, 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 *Darryll Oisen* Date: 10/31/2013  
Darryll Oisen, Ph.D., Chairman  
Benton County Water Conservancy Board

Approves  
Denies  
Recused  
Abstains  
Excused Absence

Signed *Scott Revell* Date: 10/31/2013  
Scott Revell, Board Member  
Benton County Water Conservancy Board

Approves  
Denies  
Recused  
Abstains  
Excused Absence

Signed *Matt Berg* Date: 10/31/2013  
Matt Berg, Treasurer  
Benton County Water Conservancy Board

Approves  
Denies  
Recused  
Abstains  
Excused Absence

Final ROE/ROD Mailed to the Department of Ecology, CRO, via tracked mail, and other interested parties on or before 11/14/2013.



# BACKGROUND AND DECISION SUMMARY

Prepared by Members of the Benton County Water Conservancy Board

## Existing Right

See attached CFO information and as described below:

MAXIMUM CUB FT/ SECOND 0.179 cfs	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 65	TYPE OF USE, PERIOD OF USE Irrigation of 13 Acres, April 15 to November 15				
SOURCE Yakima River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED:  Diversion Point: (and as described on attached CFO Information-Ecology Records)	¼ SW1/4	¼ NW1/4	SECTION 24	TOWNSHIP N. 9N	RANGE 25 EWM	WRIA SB-29	COUNTY. Benton
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED  All Within: Lots 1 and 2 of Short Plat #977, Lots 1, 2, 3, and 4 of Short Plat #3024, within NW1/4 of Section 24, T.9N, R.25 EWM.							

## Proposed Use:

See attached CFO information and as described below:

MAXIMUM CUB FT/ SECOND 0.179 cfs	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 65	TYPE OF USE, PERIOD OF USE Irrigation of 13 Acres, April 15 to November 15				
SOURCE Yakima River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED:  Diversion Point: (and as described on attached CFO Information-Ecology Records)	¼ SW1/4	¼ NW1/4	SECTION 24	TOWNSHIP N. 9N	RANGE 25 EWM	WRIA SB-29	COUNTY. Benton
	And SW1/4	NW1/4	24	9N	25 EWM	SB-29	Benton
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED  All Within: Lots 1 and 2 of Short Plat #977, Lots 1, 2, 3, and 4 of Short Plat #3024, within NW1/4 of Section 24, T.9N, R.25 EWM.							

## Water Board Decision:

See attached CFO information and as described below:

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SOURCE Yakima River			TRIBUTARY OF (IF SURFACE WATER)				
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Diversion Point: (and as described on attached CFO Information-Ecology Records)	¼ SW1/4	¼ NW1/4	SECTION 24	TOWNSHIP N. 9N	RANGE 25 EWM	WRIA SB-29	COUNTY. Benton
	And SW1/4	NW1/4	24	9N	25 EWM	SB-29	Benton
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
All Within: Lots 1 and 2 of Short Plat #977, Lots 1, 2, 3, and 4 of Short Plat #3024, within NW1/4 of Section 24, T.9N, R.25 EWM.							

### DESCRIPTION OF PROPOSED WORKS

The existing water right has one current point of diversion, and it has had a long historical use period, currently providing irrigation to small acreages of wine grapes. The right has received a conditional final order (CFO) per the Yakima County Superior Court--Acquella adjudication proceeding.

The applicant intends to continue irrigation use with the right, and to add a second point of diversion from a nearby upstream point, an adjacent, existing point of diversion for another water right (also owned by the applicant-S4-84089). The additional point of diversion is more efficient for the irrigation system given the river reach fluctuating flows, intake screening requirements, and river sand/debris accumulation that occur at the existing site.

Much of the existing (new) diversion structure will remain as is, and a mainline will be connected to the existing irrigation distribution system (existing place of use).

There will be no change to the existing place of use, Qa or Qi, purpose of use, or period of use.

### DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: Immediately	COMPLETE PROJECT BY THIS DATE: January 1, 2018	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: January 1, 2019
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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.

# BENTON COUNTY WATER CONSERVANCY BOARD

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## REPORT OF EXAMINATION

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Prepared by Members of the Benton County Water Conservancy Board

### BACKGROUND

The BCBWC received this request for an added change of point of diversion in March 2013, and has reviewed the request extensively with the applicant.

The existing water right (S4-84088-J) has one current point of diversion, and it has had a long historical use period, currently providing irrigation water to small acreages of wine grapes. The right has received a conditional final order (CFO) per the Yakima County Superior Court--Acquvella adjudication proceeding.

The applicant intends to continue irrigation use with the right, and to add a second point of diversion from a nearby upstream point, an adjacent, existing point of diversion for another water right (also owned by the applicant-S4-84089). The additional point of diversion is more efficient for the irrigation system given the river reach fluctuating flows, intake screening requirements, and river sand/debris accumulation that occur at the existing site.

Much of the existing (new) diversion structure will remain as is, and a mainline will be connected to the existing irrigation distribution system (existing place of use).

There will be no change to the existing place of use, Qa or Qi, purpose of use, or period of use.

#### *Attributes of the water rights as currently documented:*

See attached detailed documentation—conditional final order and certificate processing number per final adjudication decree. The right has received a conditional final order (CFO) per the Yakima County Superior Court--Acquvella adjudication proceeding. Existing provisions authorize: 0.179 cfs, 65 acre-ft., irrigation of 13 acres, April 1 to November 15.

#### *Tentative determination of the water right:*

See Water Board's Decision Above; and existing water right is in conditional final order stage, and it is in good standing per Ecology file information.

#### *History of water use:*

The water right use has been determined through conditional final order, and additional review by the Water Board. The irrigation use has been applied to various growth stages and plantings for wine grapes.

#### *Adjudication:*

The water right is subject to the Yakima County Superior Court--Acquvella adjudication proceeding, and it has received a conditional final order.

#### *Previous changes:*

No previous administrative actions/changes appear in the file data.

#### *SEPA:*

The water right change action is exempt; the action is below SEPA-RCW threshold criteria of 50cfs.

## 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 via the general public newspaper notice.

The application has been directly distributed to several state resources agencies, tribes, and interested parties. None of these agencies/entities provided the Water Board with any comments.

This application and ROE review has been directly discussed with WADOE staff.

### *Issues Raised by WADOE:*

The Water Board has provided the Central Region Office (CRO), Ecology, with the change/transfer application and public notice, and a Water Board representative has discussed in detail the change request with CRO 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.

Per these discussions and review herein, the project is determined to be consistent with RCW 90.03.380. and related statutes. The project relies on an existing water right.

The Water Board has determined, via applicant data records that the said water right is being beneficially used according to the conditional final use order provisions and administrative regulations, and operating under the requirements of water code.

### *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

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

The following information was obtained from the applicant's technical information and WADOE files, site inspections, available water right technical reports and documents, research of other available department records, and discussions with the applicant (and any applicant's technical representatives/consultants), and other interested parties; as well as direct discussions with the CRO-WADOE staff.

### *Proposed project plans and specifications:*

As noted above, the applicant/water right holder will continue to use the water right at the current and proposed points of diversion, with no change to place of use, the authorized water volumes, and no increase to allowed irrigated acres, per RCW 90.03.380 provisions and administrative law. The water right will involve the use of two existing surface water diversion sites and infrastructure.

The applicant's intent is to continue use of the water right at its existing place of use, as described above and herein.

#### **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. The Board's tentative determination was based upon the following findings.

First, the water right applicant holds a valid water right conditional final order in good standing, and it is on file with the WADOE (and Yakima Superior Court). The water right is subject to the surface water code provisions, including RCW 90.03.380/390 for change/transfer provisions.

The conditional final order is valid as stands, subject to subsequent change actions by the Water Board and any WADOE administrative changes affecting development—as confirmed by the (Acquavella) Yakima Superior Court.

Second, the change/transfer request must be consistent with RCW 90.03.380/390, and related water code statutes. There is no change to purpose of use or expansion of the irrigated acreage, as such no detailed annual consumptive quantity analysis is required. The existing information confirms use within authorized levels.

The applicant's information and subsequent review by the Board confirms that the full irrigated acreage of the water right has been exercised during the past five consecutive year period, and previous years, with various stages of wine grape production (or other irrigated crops). In overview, the water right's functional use is consistent with the issuance of the conditional final order.

Third, under the change request, the total amount of water withdrawal from the existing right and proposed change cannot exceed the amount within the currently authorized conditional final order. The change/transfer request must not exceed the existing water right limits; no enlargement of the water right is allowed.

And fourth, based on the above information and analyses, 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, with the added point of diversion.

##### *Hydrologic, and other technical investigations:*

First, based on technical review/discussions with CRO-WADOE staff, it is concluded that the requested change/transfer will divert water from the same body of water (management area) as that allowed under the existing water right. An existing diversion point will be used, also within the same body of water for management purposes.

Second, the change request cannot create impairment. The Water Board has reviewed with CRO/OCR-Ecology staff site information on potential impairment factors related to this type of point of diversion change (the Barker Ranch-Shaw Vineyards change/transfer). The added diversion site is located immediately upstream from the existing diversion site, and there are no other water rights within this limited reach/area, other than those owned by the applicant.

The Water Board has determined that the proposed added point of diversion is consistent with the impairment standards under RCW 90.03.380-390, as well as other provisions of the water code. Per previous discussions with CRO/OCR-Ecology, the Water Board concurs that 90.03.380 is the ruling statute for this type of change and physical circumstance.

Further, it 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 divert water from sites within the same general reach area.

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 CFO and the conditions provided within this ROE/ROD.

And third, relative to the change request, the Water Board has previously evaluated technical data and analyses related to any potential flow impacts affecting environmental resources, and determined that no empirically measurable, negative impacts will occur to environmental resources, per this change.

#### **B. Water Right Adjudication Process:**

Water right adjudication does affect this application. The existing water right received a conditional final order under the Yakima River Basin Acquavella Adjudication (Yakima County Superior Court).

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

As noted above, the existing water use retains a conditional final order of water right granted by the Washington State Dept. of Ecology and the Acquavella Superior Court administration. 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 July and October 2013. The Water Board is generally familiar with this area, and the added point of diversion site.

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 site, existing/proposed pumping sites, 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 standing of the water right, documentation provided 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 have been received by any of these parties during the formal, and informal, public comment period.

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

#### **F. Associated Rights and Uses:**

The subject water right is being beneficially used per the conditions and legal requirements of the existing conditional final use order. Other water rights are not directly affected by the proposed change/transfer. The added point of diversion (existing) also serves water right (CFO) S4-84089-J, also owned by the applicant.

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.

#### **G. Review of Potential Impairment:**

Because the proposed action will not increase the existing CFO authorized 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, as noted above.

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 withdrawals and administrative directives; 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. These factors have been reviewed jointly with CRO-Ecology staff.

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 consistent with net beneficial use and return flow considerations contained in RCW 90.03.380/390 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.

Nevertheless, the Water Board concludes that the requested change/transfer is not contrary to the public interest governing water use. 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 continuation of the existing beneficial uses stated within the permit of water right, increasing the economic benefits to the state and local area by allowing for continued use and development of irrigated lands. The development is taking place in the land-use management area of Benton County.

This action is consistent with the intent of RCW 90.03.380/390, 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 90.03.380/390.

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 conditional final order of water right and associated 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 90.03.380/390, and the surface water code. The change/transfer request will not increase the allowed water right; the change/transfer will not increase allowed consumptive use from the designated source, as allowed by the water code.
3. There will be no increase in water withdrawal on an annual or seasonal 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; and the use is allowed under RCW.90.03.380/390.
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; no agency comments have been received.
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 90.03.380/390 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 an added point of diversion is conditioned by the following provisions:

1. The place(s) of use for the water right is designated in the summary table above (under Water Board Decision).
2. The point(s) of diversion is designated in the summary table above (under Water Board Decision).
3. The annual water use for the authorized change/transfer shall not exceed the water quantities designated in the summary table above (Water Board Decision).
4. 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.
5. By January 1, 2018, the applicant will notify the Central Region Office, WADOE, that project construction is completed, unless the notification period is extended by CRO for good cause.
6. By January 1, 2019, the applicant will notify the Central Region Office, WADOE, that water has been put to full beneficial use (submit proof of appropriation), unless the project completion period is extended by CRO for good cause.
7. The applicant will provide the WADOE with measured water use data, for the existing place of use, and for each separate manifold/mainline conveying water to each separate water right place of use (CS4-84088-J and S4-84089-J) consistent with the provisions of this change decision. The metered or measured data will ensure that water usage will not exceed authorized amounts, as well as that within an adjacent water right used at the added point of diversion.
8. An approved measuring device(s) shall be installed and maintained for the sources (all points of diversion/mainline distribution) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC.

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 may accept, with prior submission approval, 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.

13. At the pump diversion sites, the applicant shall install and maintain water intake screens complying with standards prescribed by the Washington State Dept. of Fish and Wildlife (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). No additional (non-existing) dam or river weirs shall be constructed in connection with the new diversions.

**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 31<sup>st</sup> day of October 2013

Approved and Signed on Behalf of the Water Board By:

Signed



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

Date Mailed to CRO-WADOE Director: on or before 11/14/2013