



**SPOKANE COUNTY  
WATER CONSERVANCY BOARD  
Application for Change/Transfer  
Record of Decision**

<p>For Ecology Use Only</p> <p><b>RECEIVED</b></p> <p>Received: <b>APR 25 2012</b> Date Stamp</p> <p><b>DEPARTMENT OF ECOLOGY EASTERN REGIONAL OFFICE</b></p>
<p>Reviewed by: _____</p> <p>Date Reviewed: _____</p>

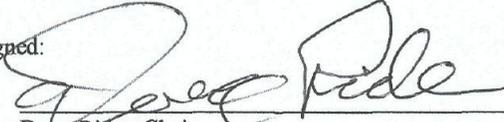
Applicant: Key Rock Construction, Inc.

Application Number: SPOK-11-11

This record of decision was made by a majority of the board at an open public meeting of the Spokane County Water Conservancy Board held on April 23, 2012 the undersigned board commissioners certify that they each understand the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that each commissioner, having reviewed the report of examination, knows and understands the content of the report.

**Approval:** The Spokane County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on April 23, 2012 and submits this record of decision and report of examination to the Department of Ecology for final review.

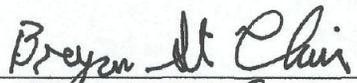
**Denial:** The (board name) Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on (date report of exam was signed) and submits this record of decision to the Department of Ecology for final review.

Signed:   
 \_\_\_\_\_  
 Doug Rider, Chair  
 Spokane County Water Conservancy Board

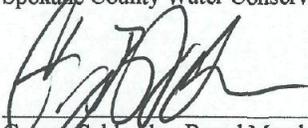
Date: 4-23-12  
 Approve   
 Deny   
 Abstain   
 Recuse   
 Other

\_\_\_\_\_  
 Craig Schwyn, Secretary  
 Spokane County Water Conservancy Board

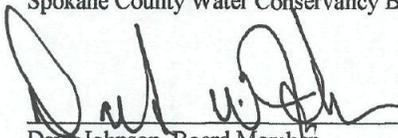
Date: 4-23-12  
*See attached e-mail 4-22-12*  
 Approve   
 Deny   
 Abstain   
 Recuse   
 Other

  
 \_\_\_\_\_  
 Stan Scholtz, Vice Chair  
 Spokane County Water Conservancy Board

Date: 4/23/12  
 Approve   
 Deny   
 Abstain   
 Recuse   
 Other

  
 \_\_\_\_\_  
 George Schlender, Board Member  
 Spokane County Water Conservancy Board

Date: 4/23/12  
 Approve   
 Deny   
 Abstain   
 Recuse   
 Other

  
 \_\_\_\_\_  
 Dave Johnson, Board Member  
 Spokane County Water Conservancy Board

Date: 4/23/2012  
 Approve   
 Deny   
 Abstain   
 Recuse   
 Other

Mailed with all related documents to the Dept of Ecology (regional office name) Regional Office, and other interested parties on (date mailed).

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer



**Spokane County  
WATER CONSERVANCY BOARD**  
Application for Change/Transfer  
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF  
THE STATE OF WASHINGTON

**RECEIVED**

APR 25 2012

DEPARTMENT OF ECOLOGY  
EASTERN REGIONAL OFFICE

**Report of Examination**

**NOTE TO APPLICANT:** Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology makes a final decision affirming, in whole or in part, the board's recommendation. It is advised that the applicant not proceed until the appeal period of Ecology's decision is complete.

**NOTE TO AUTHOR:** Read the instructions for completing a water conservancy board report of examination. Use the F11 key to move through the form.

<b>X</b>	<b>Surface Water</b>		<b>Ground Water</b>
DATE APPLICATION RECEIVED July 25, 2011	WATER RIGHT DOCUMENT NUMBER (i.e., claim, permit, certificate, etc. 031022CL)	WATER RIGHT PRIORITY DATE 1862 and 1890	BOARD-ASSIGNED CHANGE APPLICATION NUMBER SPOK-11-11

NAME Key Rock Construction, Inc			
ADDRESS (STREET) 9404 S. Cheney-Spokane Rd.	(CITY) Cheney	(STATE) WA.	(ZIP CODE) 99004-9532

**Changes Proposed:**     Change purpose     Add purpose     Add irrigated acres     Change point of diversion/withdrawal  
 Add point of diversion/withdrawal     Change place of use     Other (Temporary, Trust, Interties, etc.) \_\_\_\_\_

**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     Not exempt

**BACKGROUND AND DECISION SUMMARY**

**Existing Right (Tentative Determination)**

MAXIMUM CUB FT/ SECOND 3.5 cfs	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 400	TYPE OF USE, PERIOD OF USE Irrigation season for 150 acres				
SOURCE Marshall Creek			TRIBUTARY OF (IF SURFACE WATER) Marshall Creek				
AT A POINT LOCATED: PARCEL NO.	¼	¼ SW NW NW	SECTION 22 22 27	TOWNSHIP N. 24N 24N 24N	RANGE 42E 42E 42E	WRIA 56 56 56	COUNTY. SPOKANE SPOKANE SPOKANE
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED W ½ SECTION 22 AND NW ¼ SECTION 27, T24N, R42E. W.M.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,		
24225.9054		SW	22	24N	42E	42E	
24222.9053	S ½	NW	22	24N	42E	42E	
24223.9041	S ½	SW	22	24N	42E	42E	
24223.9043	S ½	SW	22	24N	42E	42E	
24272.9049	NE	NW	27	24N	42E	42E	
24272.9054	NE	NW	27	24N	42E	42E	
24272.9054	NE	NW	27	24N	42E	42E	

**Proposed Use**

MAXIMUM CUB FT/ SECOND 0.4 cfs	MAXIMUM GAL/MINUTE 180	MAXIMUM ACRE-FT/YR 44.26	TYPE OF USE, PERIOD OF USE Continuously for Industrial Supply				
SOURCE Marshall Creek Drainage			TRIBUTARY OF (IF SURFACE WATER) Marshall Creek				
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
24153.9046	SW	SW	15	24N	42E	56	SPOKANE
24153.9009	SW	SW	15	24N	42E	56	SPOKANE
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED The proposed place of use is within the property of Key Rock Construction, Inc. gravel pit. See Below.							

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
24153.9046	SW	SW	15	24N	42E
24153.9008	SW	SW	15	24N	42E
24153.9009	SW	SW	15	24N	42E
24155.9083	W ½	W ½	15	24N	42E
24164.9040	NE	SE	16	24N	42E
24164.9038	SE	SE	16	24N	42E
24161.9039	SE	NE	16	24N	42E

### Board's Decision on the Application

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
0.4 cfs		44.26	Continuously for Industrial Supply				
SOURCE			TRIBUTARY OF (IF SURFACE WATER)				
2 Wells			Marshall Creek Drainage				
AT A POINT LOCATED:							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
24153.9046	SW	SW	15	24N	42E	56	SPOKANE
24153.9009	SW	SW	15	24N	42E	56	SPOKANE

**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD**

The proposed place of use is within the property of Key Rock Construction, Inc. gravel pit. See Below.

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
24153.9046	SW	SW	15	24N	42E
24153.9008	SW	SW	15	24N	42E
24153.9009	SW	SW	15	24N	42E
24155.9083	W ½	W ½	15	24N	42E
24164.9040	NE	SE	15	24N	42E
24164.9038	SE	SE	15	24N	42E
24161.9039	SE	NE	15	24N	42E

DESCRIPTION OF PROPOSED WORKS

Key Rock Construction, Inc. proposes groundwater diversions of the transferred portion of the Claim from two wells: Proposed Groundwater Well #1, SW ¼, SW ¼, Section 15, T24N, R42E.W.M. and Proposed Groundwater Well #2, SW ¼, SW ¼, Section 15, T24N, R42E.W.M., Parcels #24153.9046 and/or #24153.9009.

DEVELOPMENT SCHEDULE

Table with 3 columns: BEGIN PROJECT BY THIS DATE, COMPLETE PROJECT BY THIS DATE, COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE.

REPORT

NOTE TO AUTHOR: This form reflects the minimum regulatory requirements as required in WAC 173-153-130(6). In accordance with WAC 173-153-130(5), "It is the responsibility of the water conservancy board to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." Completion solely of the minimum regulatory requirements may not constitute a fully documented decision.

BACKGROUND [See WAC 173-153-130(6)(a)]

On July 25, 2011 Keith Geschke/Key Rock Construction of Cheney, WA filed an application for change purpose of use; change point of withdrawal; change/transfer place of use under Water Right Claim #031022CL. The application was accepted at an open public meeting on July 25, 2011, and the board assigned application number SPOK 11-11. Water Right Claim #031022CL claimed the use of 3.5cfs and 400 acre ft/year to irrigate 150 acres during irrigation season and continuously for Domestic and was filed with Washington State Department of Ecology dated 5/4/1973 by Albert A. Peters. The Claim states that the water was first put to use in 1862 and 1890. Since that time the property has been divided into 20 different parcels and there are 12 distinctive property owners. 6 additional points of diversion have been added since the original claim without officially changing the Claim, these points of diversion are typically a "check dam" used to back up the water in the creek and allow the creek to top its banks and sheet flood the fields. In addition, several stream overflow canals are also present along the reach of the creek on the Laurence R. Shepherd parcel. These canals distribute and sheet flood the fields when the creek is backed up. No meters are present on the site and the existing and historical irrigation practices have consisted of flooding the fields. Water is conveyed through hand dug canals, typically no more than one foot deep and 2 +/- feet wide, 50 to 100 feet from the creek where it is sheet flooded out across the fields. No detailed infrastructure exists at the site. The canals typically were maintained in the past, however, over the past several years, they have not been maintained and are beginning to silt in. Laurence R. Shepherd, proposes to move his portion of the claim (parcel #24223.9041, purpose - Irrigation, 0.4 cfs, 44.26 acre ft/year to irrigate 16.42 acres during irrigation season), down stream to the gravel pit owned by Keith Geschke / Key Rock Construction, Inc. to be used for an Industrial use, continuously, on parcels, #24153.9046, #24153.9008, #24153.9009, #24155.9083, #24164.9040, #24164.9038 and #24161.9039. Key Rock Construction, Inc. proposes ground water diversions of the transferred portion of the Claim from two wells; Proposed Groundwater Well #1, SW ¼, SW ¼, Section 15, T24N, R42E.W.M. and Proposed Groundwater Well #2, SW ¼, SW ¼, Section 15, T24N, R42E.W.M., Parcels #24153.9046 and/or #24153.9009.

This proposed transfer is only for that portion of the water claim which is utilized on Mr. Shepherd's property.

Attributes of the water right as currently documented

Name on certificate, claim, permit: Albert A. Peters

Water right document number: 031022CL

As modified by certificate of change number:

Priority date, first use: 1862 and 1890

Water quantities: Qi: 3.5 cfs Qa: 400 acre ft./ year

Source: Marshall Creek

Point of diversion/withdrawal: 1300 feet East and 2000 feet North from the SW corner of Section 22, T24N, R42E.W.M.

Purpose of use: Continuously for Domestic/During irrigation season

Period of use: 3.5 cfs, 400 acre ft/year

Place of use: SW ¼ of Section 22, T24N, R42E.W.M.; NW ¼ of Section 22, T24N, R42E.W.M.; NW ¼ of Section 27, T24N, R42E.W.M.

Existing provisions:

None Known

Tentative determination of the water right

The tentative determination is provided on the front page of this report.

History of water use

The applicant supplied the Board with aerial photograph analyses utilizing and Aerials Express 2009 photograph. The aerial photograph analyses shows the project site, and the area within the Claim place of use, is being utilized as agricultural lands.

Numerous ditches and canals can be seen throughout the area which diverts surface water from Marshall Creek. In addition, the applicant retained Environmental Data Resources, Inc. to conduct a search of historical aerials for this project area. Their search uncovered historical photographs for the years 1946, 1962, 1972, 1975, 1982 and 1991.

On the 1946 aerial pictures, the lands appear to be used for agriculture. Near the northern extent of the Shepard parcel, the stream channel has been straightened into a linear channel. The aerial photographs from 1962 and 1972 are starting to exhibit more diversions and channels to flood irrigate the fields. Years 1975 and 1982 are not of high quality and are hard to observe features. The 1991 photograph appears to be very similar to the existing conditions which are visible in the 2009 aerial photograph.

The applicants submitted a video from the Marshall Historical Society. The video describes the early history of the settlement of the Town of Marshall and has references to the property identified in the Claim. The references include uses of the land identified as the "fields" south of town, and modifications to the stream for diversion and conveyance of water to the subject site.

Mr. Shepherd provided the following anecdotal information regarding the use of water at both properties:

- Irrigation has occurred on the property since the late 1800's to early 1900's using surface water claims from Marshall Creek
- The surface water claim has been used on the property and the water right claim is not known to have gone 5 years non-use.
- The previous property owners and the Shepherds irrigated primarily for pasture on the land for grazing cattle and livestock.
- The irrigation system on the Shepherd parcel consisted of various canals from the creek and use of on "check dam" at the bridge. The check dam was used to back up the creek and sheet flood the fields.
- No meter or gauging device was installed in the diversion system to record the amount of water diverted.
- The water was always used for agricultural purposes.
- Irrigation methods have varied over the last 100 years of irrigation, dependent upon creek flows and characteristics.
- There has always been some volume of water in the creek and the creek does not dry up. It tends to flow at near the same rate year round.

*Previous changes*

None known.

*SEPA*

The board has reviewed the proposed project in its entirety. The proposed water transfer application will not require SEPA, and falls within the exemptions set forth within the State of Washington regulations. In accordance with WAC 197-11-800; Categorical Exemptions (4) Water Rights, Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of groundwater, for any purpose. The proposed transfer includes a proposed withdrawal of 179.04 gallons per minute, thus falling within the exemption to conduct SEPA. However, a SEPA was conducted for the proposed gravel pit operation at the new place of use. During this SEPA process, it was determined that a water right would be needed, thus triggering this water right transfer process. Therefore, the SEPA conducted for permitting of the gravel pit was submitted with the application. The Board considered this SEPA information.

*Other*

**The information or conclusions in this section were authored and/or developed by Commissioner Johnson.**

**COMMENT AND PROTESTS** [See WAC 173-153-130(6)(b)]

Public notice of the application was given in the Cheney Free Press on October 27 and November 3, 2011. Protest period ended on November 24, 2011.

There were no protests received during the 30 day protest period. Oral and written comments were received at an open public meeting of the board on December 19, 2011 and January 23, 2012.

Date: December 19, 2011 and January 23, 2012

This was recognized by the board as a  Protest  Comment

Name/address of protestor/commenter: Mr. Michael Crabb/ South West County Coalition

Issue: The December 19, 2011 comment was directed more toward the gravel pit's impact on the traffic and the environmental impact that the gravel pit's operation would have on the surrounding area. The January 23, 2012 comment disputed Mr. Shepherd's continued use of the claim.

Board's analysis: The Board took into account both Mr. Crabb/South West County Coalition and Mr. Shepherd's testimony. The Board felt that the claim is valid and has not been relinquished.

*NOTE to author: Repeat this table as necessary to describe each protest or comment*

*Other*

<Provide any other pertinent information relative to the comments and protests received>

**The information or conclusions in this section were authored and/or developed by Commissioners Johnson and Schwyn.**

**INVESTIGATION [See WAC 173-153-130(6)(c)]**

The following information was obtained from a site inspection conducted by David Johnson, Spokane County Conservancy Board; Doug Rider, Spokane County Conservancy Board; Herm Spangle, Washington State Department of Ecology, Gene St. Godard, WNR Group; Keith Geschke, Key Rock Construction, Inc.; Tim Marshall, Knife River on October 19, 2011. The Key Rock Construction, Inc. site (gravel pit) where water will be transferred was inspected for the location of the two new points of withdrawal. The existing place of use (Mr. Shepherd's property), approximately 1.5 miles upstream from the proposed place of use (Key Rock Construction, Inc. gravel pit) was then inspected. The property was at that time flooded from natural high flow in Marshall Creek, 2 to 8 inches of water covered the property. The "check dam" was located and was not in use at the time, the distribution canals were full of water, however it was evident that the canals had not been maintained for several years.

*Proposed project plans and specifications*

The proponent seeks the following changes to Claim 031022, specifically to the Shepherd parcel # 24223.9041:

- Change purpose of use
- Change/Add points of withdrawal
- Change/transfer place of use
- Change season of use (seasonal irrigation to continuous)

**Change Purpose of Use**

The transfer is seeking to change that portion of the water Claim 031022 which is appurtenant to Mr. Shepherd's property. The portions of the claim will remain on the property owners property's and will remain attached to the property. That portion for transfer to the Key Rock Construction gravel pit will be changed for use as industrial supply purposes. Therefore, this portion of the proposed transfer will be identified as an additional purpose of use to the entire claim, but a full change to that portion on the Shepherd's property. Water transferred to the Key Rock Construction gravel pit will be used annually for industrial supply purposes within the area mined by the Key Rock Construction.

**Change in Place of Diversion/Withdrawal**

It is proposed to change point of withdrawals. The current Claim diverts surface water from Marshall Creek. The new place of use at the Key Rock Construction gravel pit will change the surface water diversion to a ground water withdrawal from two groundwater wells (one main well and one backup well) located on the Key Rock Construction property. The new point of withdrawals will be located in the SW ¼, SW ¼, of Section 15.

**Change in Place of Use**

Claim 031022 is issued for the beneficial use for irrigation for 150 acres in the Marshall Creek Valley. The proponent has requested that a portion of the existing irrigation water right be transferred to the Key Rock Construction gravel pit for industrial supply purposes. Water transferred to the Key Rock Construction gravel pit will be used annually for industrial supply purposes. The new place of use will be within the parcels #24153.9008 (4.13 acres), #24153.9046 (8.61 acres), #24153.9009 (3.0 acres), #24164.9040 (32.8 acres), #24164.9038 (35.4 acres), #24161.9039 (19.08 acres) and #24155.9083 (79.74 acres).

**Change in Period of Use**

The proposed change in Period of Use is from a portion of the irrigation right used from May through October of each year to be transferred to the Key Rock Construction gravel pit to be used annually for industrial supply purposes within the area of the Key Rock Construction gravel pit.

Only Mr. Shepherd's portion of Claim #031022CL will be transferred to the Key Rock Construction, Inc. project. All remaining portions of this Claim will not be affected.

*Public Interest (groundwater only)*

The proposed transfer is subject to RCW 90.44.100 and therefore, cannot be detrimental to the public interest, including impacts on any watershed planning activities. The proposed transfer from irrigation to industrial supply is beneficial and not wasteful and thus not detrimental to the public interest.

*Tentative Determination*

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page 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: The Board has made a tentative determination that Claim #031022 is a valid Claim and not subject to relinquishment and that 0.4 cfs and 44.26 acre ft/year are available for transfer to the fixed future plan of providing industrial supply to the Key Rock Construction, Inc. grave pit.

*Geologic, Hydrogeologic, or other scientific investigations (if applicable)*

The geology and hydrogeology of the site vicinity is summarized in the attached WNR Group draft report dated October 15, 2011. Additional information that complements the report includes local well drillers reports. These sources of information are attached to this ROE.

Water Right Claim #031022 is for surface water rights appurtenant to lands located approximately one mile south of the Town of Marshall, Washington. The proposed transfer would move a portion of the surface right claim to the Key Rock Construction gravel pit, located downstream of the existing use in Marshall Creek drainage. The proposed point of withdrawal would be from a groundwater source. Therefore, the transfer is contingent on the surface and ground water sources being in hydraulic continuity. When hydraulic continuity is present, the surface and ground water can be considered a single source, because withdrawal from one will affect the other.

The Claim allows for a surface water diversion from Marshall Creek in the Marshall Creek Drainage. Marshall Creek follows a gently sloping valley and flows from south to north and northeast, and is a major tributary to Hangman Creek. The confluence of Marshall Creek and Hangman Creek is roughly five miles northeast of the proposed point of withdrawal.

According to the Washington Division of Geology and Earth Resources Geologic Map GM-39 for northeastern Washington the valley walls consist of Miocene Wanapum basalt and Precambrian metasedimentary rocks of the Ravalli Group. Well drillers reports indicate that granitic bedrock may also be present at depth. Unconsolidated glacial deposits of glaciofluvial and glaciolacustrine origin overlay the basalt, metasedimentary and granitic rocks and fill the valley bottom. A shallow soil cover, described as the Hesseltine stony silt loam by the NRCS, is present in the valley floor of the Marshall Creek Drainage and overlies the glacial sediments.

Based on a review of local drillers well reports, and summary of several hydrogeologic reports summarized in the WNR Group Draft Report, the glacial sediments consist of unconsolidated sand and gravel deposits up to 200 feet thick. The boring log for well GR-2 located just south of the proposed quarry, indicated that groundwater was present in the glacial sediments approximately 165.65 feet below the surface in April 1989.

The proposed point of ground water withdrawal is from the unconfined aquifer contained in the glacial sediments. The gravel soils appear to have a very high permeability. The ground water and surface water are not in direct hydraulic continuity; however, the surface water of Marshall Creek likely infiltrates the permeable soils and recharges the unconfined aquifer.

Ground water in the unconfined aquifer beneath the site is inferred to flow to the north, following the path of Marshall Creek Valley. The bedrock constraints of the Marshall Creek Valley likely force the waters of the unconsolidated glacial deposit aquifer and Marshall Creek to intercept in the vicinity of the Latah Creek drainage. Though the surface and ground water are not in direct continuity at the site, they are interpreted to become interconnected downstream of the site and both eventually discharge to the Spokane Valley Rathdrum Prairie Aquifer/Spokane River System. Ground water in the bedrock aquifer(s) is not considered part of this interconnected system, though there is likely some interchange between the two systems.

Based on this interpretation of the hydrogeologic system, the surface water of Marshall Creek and the ground water source within the unconsolidated glacial deposits of glaciofluvial and glaciolacustrine origin are likely in hydraulic continuity. Therefore, from a hydrogeologic perspective the proposed transfer is legitimate.

On March 19, 2012, the Board requested a technical review and opinion from John Covert, department of Ecology Hydrogeologist as to whether the Boards assumptions and assessment was correct. Mr. Covert's response (attached email dated March 22, 2012) indicated that he also believes that the surface water and aquifer are hydraulically connected.

*Other*

No metering was conducted on the subject site. Therefore, in order to determine a potential transferable amount of water, consumptive use values were used for the pasture on the property. Values were determined for 16.42 acres of pasture irrigation on the Shepherd property, that portion of the water Claim being sought for transfer.

The Washington Irrigation Guide (USDA, 1990) was used for the property, WIG numbers used for the area near Spokane, Washington. Crop irrigation requirements were used for pasture at latitude of 47.63. The irrigation season is documented beginning on May 15<sup>th</sup> and ending October 10<sup>th</sup> in the WIG. The net irrigation requirements for pasture near Spokane, Washington is 28.21 inches (2.35 feet) per acre of land. The water rights were used for irrigation on approximately 16.42 acres on the Shepherd property from May through October of each year through flood irrigation. A 5% evaporation rate was added to the consumptive use (Ecology Guide 1210, 2005)

The total irrigation requirement (TIR) for the 16.42 acres (used for irrigation by surface water right) on the Shepherd property is 110.29 acre-feet and total consumptive use (Cu) is 44.12 for pasture.

Therefore for Water Right Claim No. 031022, and estimate of 44.12 acre-feet of water may be available for transfer assuming 16.42 acres were irrigated, with a crop requirement of 28.21 inches per acre as defined in the WIG and a 5% evaporation allocation. A proposed 179 gpm is also requested for transfer which will be reduced from the total irrigation allotment of 3.5 cfs on the existing claim.

**The information or conclusions in this section were authored and/or developed by Commissioner Johnson.**

**CONCLUSIONS [See WAC 173-153-130(6)(d)]**

*Tentative determination (validity and extent of the right)*

The Board has reviewed the current and proposed points of withdrawal and has determined that the withdrawals are within the same body of public waters and are in hydraulic connection. Therefore, the proposed change of use would not significantly change existing impacts to the drainage and may enhance instream flows in Marshall Creek.

*Relinquishment or abandonment concerns*

It is determined that there are no relinquishment or abandonment concerns in regard to this action.

*Hydraulic analysis*

None

*Consideration of comments and protests*

N/A

*Impairment*

Few wells are located in the area, the aquifer appears to have a high transmissivity, and impairment to other users is not indicated.

*Public Interest*

The Board considers the transfer to be in the public's interest. Key Rock will use the water efficiently and will recycle wash water to conserve water used on site.

*Other*

All attached documents are part of this ROE.

**DECISION [See WAC 173-153-130(6)(e)]**

The Board has examined Claim 031022CL for the portion of the claim to be transferred to Key Rock Construction, Inc. The Board has determined that 0.4 cfs and 44.26 acre ft/year is eligible for transfer to the Key Rock Construction, Inc. gravel pit through two points of withdrawal and that the purpose of use be changed from seasonal irrigation to continuous Industrial supply.

<Provide any other pertinent information relative to the board's decision>

**The information or conclusions in this section were authored and/or developed by David Johnson.**

**PROVISIONS [See WAC 173-153-130(6)(f)]**

*Conditions and limitations*

An approved measuring device shall be installed and maintained for each of the sources 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 maintained by the property owner for a minimum of five years, and shall be promptly submitted to Ecology upon request.

The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required.

The water source and/or water transmission facilities are not wholly located upon the land owned by the applicant. Issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtainment of such right is a private matter between applicant and owner of that land.

This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations.

The installation of an access port, described in Ground Water Bulletin #1, shall be required prior to issuance of a final certificate of water right. In addition, an airline and pressure gauge shall be installed and maintained in operating condition. The pressure gauge shall be equipped with a standard tire valve and placed in an accessible location. The airline shall extend from land surface to the top of the pump bowls and the total airline length shall be reported to the Department of Ecology upon completion of the pump system.

All water wells constructed 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).

A well log of the completed well shall be submitted by the driller to the Department of Ecology within thirty (30) days of completion of this well. This well log shall be complete and all information concerning the static water level in the completed well in addition to any pump test data shall be submitted as it is obtained

Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities

*Construction Schedule*

DEVELOPMENT SCHEDULE		
BEGIN PROJECT BY THIS DATE: <At least 75 days after Board's ROD issuance>	COMPLETE PROJECT BY THIS DATE: December 31, 2017	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: December 31, 2022

*Conditions and limitations*

The new extraction well(s) shall be screened in the unconsolidated aquifer and must not penetrate the bedrock aquifers.

*Mitigation (if applicable)*

The proposed transfer is to move an existing surface water gravity flow flood irrigation system to a groundwater withdrawal. In order to move the claimed water to the new place of use, existing flood irrigation must cease on the existing property in order to assure the water right Claim will not be enhanced. In order to complete the transfer, the existing irrigation at the site consists on one check dam and three overflow canals. The mitigation would consist of removing all structures that enhance flooding on the property, and abandon the canals to stop the conveyance of water for sheet flooding across the fields. Specifically, the following mitigation measures must be taken:

1. The check dam located at the bridge on the site will be dismantled and removed from the site.
2. There are three main canal diversions on the site. One near the southern property line which conveys water to the eastern portion of the property; one immediately upstream of the bridge/check dam which conveys water the southwestern area of the site, and a third near the northern property line which conveys water to the northwestern portion of the property. In order to mitigate these canals, the conveyance trenches shall be filled in with a low permeable soil and/or clay to the existing ground surface level. The canal shall be filled in for approximately 10 to 20 feet from the existing channel bank.
3. On the property south of parcel No. 24223.9041, there is a diversion which diverts water along the eastern portion of the property. The diversion empties into a return canal which runs along the southern property line being evaluated under this application. Currently the return canal is in poor condition, and floods water into the southeastern portion of the Shepherd parcel. In order to mitigate these diverted waters onto the Shepherd parcel, the return flow canal shall be cleaned out and rehabilitated so the waters will flow back to Marshall Creek.
4. The applicant must submit a mitigation plan stamped by a licensed engineer or hydro geologist and that plan must be completed prior to the water being beneficially used on the Key Rock Site.

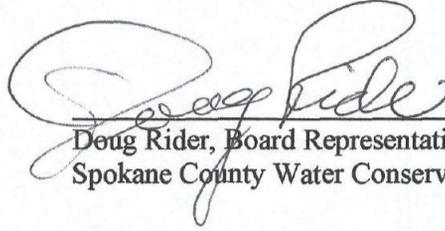
*Other*

<Provide any other pertinent information relative to provisions>  
040-106(0208)

**The information or conclusions in this section were authored and/or developed by Dave Johnson, Spokane County Conservancy Board.**

The undersigned board commissioner certifies that he/she understands the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Spokane, Washington  
This 23 day of April, 2012



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Doug Rider, Board Representative  
Spokane County Water Conservancy Board

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*If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).*

*Ecology is an equal opportunity employer*