WASHINGTON STATE DEPARTMENT OF ECOLOGY

Walla Walla County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only

Received: RECEIVED
Date Stamp
NOV 16 2012
DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

Reviewed by: _____
Date Reviewed: _____

Applicant: Byerley Application Number: WALL-12-05

This record of decision was made by a majority of the board at an open public meeting of the Walla Walla County Water Conservancy Board held on 11/7/12. 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.

X **Approval:** The Walla Walla County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on 11/7/12 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Walla Walla County 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:

_____ Date: 11/7/12
Alan Kottwitz, Chair
Walla Walla County Water Conservancy Board

Approve ☒ Deny ☐ Abstain ☐ Recuse ☐ _____ Other ☐

_____ Date: 11/07/12
Mike Dobbins, Member
Walla Walla County Water Conservancy Board

Approve ☑ Deny ☐ Abstain ☐ Recuse ☐ _____ Other ☐

_____ Date: 11/7/12
Brian Worden, Member
Walla Walla County Water Conservancy Board

Approve ☑ Deny ☐ Abstain ☐ Recuse ☐ _____ Other ☐

_____ Date: _____
Drex Gauntt, Alternate
Walla Walla County Water Conservancy Board

Approve ☐ Deny ☐ Abstain ☐ Recuse ☐ _____ Other ☐

_____ Date: _____
(Name), (Title)
(Board Name) Water Conservancy Board

Approve ☐ Deny ☐ Abstain ☐ Recuse ☐ _____ Other ☐

Mailed with all related documents to the Dept of Ecology Eastern Regional Office, and other interested parties on

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WASHINGTON STATE DEPARTMENT OF ECOLOGY

WALLA WALLA 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
NOV 16 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.*

☒ Surface Water ☐ Ground Water

DATE APPLICATION RECEIVED	WATER RIGHT DOCUMENT NUMBER	WATER RIGHT PRIORITY DATE	BOARD-ASSIGNED CHANGE APPLICATION NUMBER
April 4, 2012	Walla Walla Adjudication Certificate No. 833(A)	1926 (Class 64)	WALL-12-05

NAME: SCOTT BYERLEY

ADDRESS (STREET)	(CITY)	(STATE)	(ZIP CODE)
501 W. Langdon Road	Walla Walla	Washington	99362

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	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE
0.425		82.24	0.283 cubic feet per second from 4/1 to 7/1; 0.2125 cubic feet per second from 7/1 to 10/1; 0.425 cubic feet per second from 10/1 to 4/1, 82.24 acre-feet per year, for the irrigation of 21.25 acres.

SOURCE	TRIBUTARY OF (IF SURFACE WATER)
Walla Walla River	Columbia River

AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
34-07-36-51-0053	S½	NW	36	7	34 E	32	Walla Walla

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED

See Superseding Certificate of Water Right for Walla Walla Adjudicated Surface Water Certificate 833(A), issued on December 20th, 2011 (Attached).

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
Various			25 & 36	7	34

Proposed Use – WW Adj. Cert. No. 833(A)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE
0.025		6.25	0.0166 cubic feet per second from April 1 to July 1, 0.0125 cubic feet per second from July 1 to October 1; and 0.025 cubic feet per second October 1 to April 1, 6.25 acre-feet per year, for the irrigation of 1.25 acres. (Additive)

SOURCE	TRIBUTARY OF (IF SURFACE WATER)
Walla Walla River	Columbia River

AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
340736510053	S½	NW¼	36	7	34E	32	Walla Walla

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

Bye-Far Golf LLC: Parcel A, a portion of the SW1/4 of section 25, T. 7 N., R. 34 E.W.M. Beginning at a point 847 feet north of the SW corner of section 25 on the section's west line. Thence continuing on the west line 587 feet. Thence east 2428 feet on a line parallel to the south line of section 25. Thence S. 1 °5'30" E., 400feet. Thence N. 88°37'50" W., 518 feet. Thence S. 80°03'45" W., 102 feet. Thence N. 88°37'50" W., 1075 feet. Thence along a curve with radius of 3720 feet to the left a distance of 456 feet. Thence S. 64°08'01" W., 366 feet. Thence along a curve with radius 3610 feet to the left to the POB.

Alfalfa LLC: Parcel B, a portion of the SW1/4 of section 25 and the NW1/4 of section 36, T. 7 N., R. 34 E.W.M. Beginning at a point 3010 feet west of the SE corner of section 25 on the south line. Thence N. 1°46'45" W., 580 feet. Thence east parallel to the south section line 425 feet. Thence N. 88°48'30" W., 440 feet. Thence N. 78°28'20" W., 203 feet. Thence N. 88°53'30" W., 722 feet. Thence S. 1°31'40" E., to the Hwy 12 right of way. Thence easterly along the right of way 948 feet. Thence north 554 feet to the POB.

Tax Parcel Nos.: 340725-110005, 340725-340005, 340736-510077, 340736-510076, 340736-510071, 340736-510070

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
Various			25 & 36	7	34

Proposed Use – WW Adj. Cert. No. 833(E)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE
0.400		100	0.2664 cubic feet per second from April 1 to July 1; 0.200 cubic feet per second from July 1 to October 1; and 0.400 cubic feet per second from October 1 to April 1, 100 acre-feet per year, for the irrigation of 20.0 acres. (Additive)

SOURCE	TRIBUTARY OF (IF SURFACE WATER)
Walla Walla River	Columbia River

AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
340736510053	S½	NW¼	36	7	34 E	32	Walla Walla

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

Please see Attachment A: Legal Description for J&J Golf, LLC

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
340725110006			25	7	34 E.

Board's Decision on the Application – WW Adj. Cert. No. 833 (A)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE
0.025		4.84	0.0166 cubic feet per second from April 1 to July 1; 0.0125 cubic feet per second from July 1 to October 1; and 0.025 cubic feet per second from October 1 to April 1, 4.84 acre-feet per year, for the irrigation of 1.25 acres. (Additive)

SOURCE	TRIBUTARY OF (IF SURFACE WATER)
Walla Walla River	Columbia River

AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
340736510053	S½	NW	36	7	34 E.	32	Walla Walla

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

Bye-Far Golf LLC: Parcel A, a portion of the SW1/4 of section 25, T. 7 N., R. 34 E.W.M. Beginning at a point 847 feet north of the SW corner of section 25 on the section's west line. Thence continuing on the west line 587 feet. Thence east 2428 feet on a line parallel to the south line of section 25. Thence S. 1 °5'30" E., 400feet. Thence N. 88°37'50" W., 518 feet. Thence S. 80°03'45" W., 102 feet. Thence N. 88°37'50" W., 1075 feet. Thence along a curve with radius of 3720 feet to the left a distance of 456 feet. Thence S. 64°08'01" W., 366 feet. Thence along a curve with radius 3610 feet to the left to the POB.

Alfalfa LLC: Parcel B, a portion of the SW1/4 of section 25 and the NW1/4 of section 36, T. 7 N., R. 34 E.W.M. Beginning at a point 3010 feet west of the SE corner of section 25 on the south line. Thence N. 1°46'45" W., 580 feet. Thence east parallel to the south section line 425 feet. Thence N. 88°48'30" W., 440 feet. Thence N. 78°28'20" W., 203 feet. Thence N. 88°53'30" W., 722 feet. Thence S. 1°31'40" E., to the Hwy 12 right of way. Thence easterly along the right of way 948 feet. Thence north 554 feet to the POB.

Tax Parcel Nos.: 340725-110005, 340725-340005, 340736-510077, 340736-510076, 340736-510071, 340736-510070

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
Various			25 & 36	7	34 E.

Board's Decision on the Application – WW Adj. Cert. No. 833 (E)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE
0.400		77.40	0.2664 cubic feet per second from April 1 to July 1; 0.200 cubic feet per second from July 1 to October 1; and 0.400 cubic feet per second from October 1 to April 1, 77.40 acre-feet per year, for the irrigation of 20.0 acres. (Additive)

SOURCE	TRIBUTARY OF (IF SURFACE WATER)
Walla Walla River	Columbia

AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
340736510053	S½	NW	36	7	34 E.	32	Walla Walla

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

Please see Attachment A: Legal Description for J&J Golf, LLC

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
340725110006			25	7	34 E.

The intent of this application is to divide Walla Walla Adjudication Surface Water Certificate No. 833(A) into two separate superseding certificates, Nos. 833(A) and 833(E), each authorizing a different place of use. The specific allocations approved by the Board for each of the proposed superseding certificates is outlined in Table 1, below:

Table 1: Summary of the Board Approval – Change to WW Adj. Cert. No. 833(A)

Proposed Cert. No	*Acres*	*4/1 – 7/1 (cfs)*	*7/1 – 10/1(cfs)*	*10/1 – 4/1 (cfs)*	*Acre-feet*	*Purpose*
WW Adj. Cert. No. 833(A)	1.25	0.0166	0.0125	0.025	4.84	Irrigation
WW Adj. Cert. No. 833(E)	20.0	0.2664	0.200	0.400	77.40	Irrigation
Totals	**21.25**	**0.283**	**0.2125**	**0.425**	**82.24**	

DESCRIPTION OF PROPOSED WORKS

60 HP pump, mainline, handline sprinklers (Byerley); 60 HP pump, mainline, storage reservoir, pumps, handline sprinklers/underground automatic sprinkler system (J & J Golf, LLC)

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:
Started	November 1, 2013	November 1, 2014

REPORT

BACKGROUND

On April 4, 2012, Scott Byerely of Walla Walla, Washington, filed an application for change with the Walla Walla County Water Conservancy Board, ("Board"), to change the place of use under Walla Walla Adjudication Surface Water Certificate No. 833(A) – ("Cert. No. 833(A)"). The application was accepted at an open public meeting on April 4, 2012, and the Board assigned the application number WALL-12-05.

Attributes of the water right as currently documented

Name on certificate, claim, permit:	Alfalfa LLC, Bye-Far Golf, LLC
Water right document number:	Walla Walla Adjudicated Surface Water Certificate No. 833(A)
As modified by certificate of change number:	Vol. 1-3, Page 188
Priority date, first use:	The year 1926 (Class 64)
Water quantities:	**Qi**: 0.283 cfs 4/1 – 7/1; 0.2125 cfs 7/1 – 10/1; 0.425 cfs 10/1 – 4/1
	Qa: 106.25 acre-feet per year (Additive)
Source:	Walla Walla River
Point of diversion/withdrawal:	Two pumps, both within the S½NW¼ of Sec. 36, T. 7 N., R. 34 E.W.M.
Purpose of use:	Irrigation of 21.25 acres
Period of use:	Irrigation season

Place of use:

Bye-Far Golf LLC: Parcel A, a portion of the SW1/4 of section 25, T. 7 N., R. 34 E.W.M. Beginning at a point 847 feet north of the SW corner of section 25 on the section's west line. Thence continuing on the west line 587 feet. Thence east 2428 feet on a line parallel to the south line of section 25. Thence S. 1 °5'30" E., 400feet. Thence N. 88°37'50" W., 518 feet. Thence S. 80°03'45" W., 102 feet. Thence N. 88°37'50" W., 1075 feet. Thence along a curve with radius of 3720 feet to the left a distance of 456 feet. Thence S. 64°08'01" W., 366 feet. Thence along a curve with radius 3610 feet to the left to the POB.

Alfalfa LLC: Parcel B, a portion of the SW1/4 of section 25 and the NW1/4 of section 36, T. 7 N., R. 34 E.W.M. Beginning at a point 3010 feet west of the SE corner of section 25 on the south line. Thence N. 1°46'45" W., 580 feet. Thence east parallel to the south section line 425 feet. Thence N. 88°48'30" W., 440 feet. Thence N. 78°28'20" W., 203 feet. Thence N. 88°53'30" W., 722 feet. Thence S. 1°31'40" E., to the Hwy 12 right of way. Thence easterly along the right of way 948 feet. Thence north 554 feet to the POB.

Parcel C, a portion of the NW¼ of Section 36 in T. 7 N., R. 34 E.W.M. Commencing at the NW corner of Sec. 36, thence south along the west line 408.5 feet; thence S 82°35'07" E., 329.1 feet to the POB. From the POB, S. 1°51'44" E., 1185.4 feet thence N. 83°56'40" E., 487.8 feet; thence S 76°14'33" E., 235.5 feet; thence S. 88°13'47" E., 190.5 feet; thence N 84°16'17" E., 93.0 feet; thence N 80°32'14" E., 199.2 feet; thence N. 1°20'41" W., 996.3 feet to the Hwy 12 south right-of-way. Thence northwesterly along the right-of-way to the POB.

Existing provisions:

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

"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 for the actual crop(s) grown on the number of acres and the place of use specified."

"An approved measuring device must be installed and maintained in accordance with RCW 90.03.360 and/or WAC 508-64-020 through WAC 508-64-040."

"The division of Walla Walla Adjudicated Surface water Certificate 833 into Walla Walla Adjudicated Surface Water Certificate Nos. 833(A), 833(B), 833(C), and 833(D) shall not be construed as validation as to the extent of Walla Walla Adjudicated Surface Water Certificate 833 as originally authorized. The amounts provided on the superseding portions of this water right reflect agreement among the owners of the described place of use, but are not confirmed by Ecology in the recording of the division of said right. The actual amounts authorized by the superseding certificates are subject to the historic beneficial use of water under Walla Walla Adjudicated Surface Water Certificate No. 833."

"Water may only be diverted from this additional point to the extent that water is available at the original authorized point of

diversion (Mill Creek)."

"The right to use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in RCW 90.03.380, 90.03.390, and 90.44.100."

"This superseding certificate of water right is specifically subject to relinquishment for non-use of water as provided in Chapter 90.14 RCW."

Tentative determination of the water right

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

History of water use

The subject water right, Walla Walla Adj. Cert. No. 833, was issued through the Walla Walla River Adjudication Decree No. 19075, which issued September 12, 1928. This right issued with a priority of 1926, and was placed in Priority Class 64. Adj. Cert. No. 833 originally authorized Mill Creek as the source of water, and lands within the place of use were flood irrigated by means of water conveyed to the property by the Whitman Ditch. In later years, more efficient means of irrigation were implemented and the ditch was abandoned. Irrigators subsequently moved their diversion points to individual pumping stations on Mill Creek or the Walla Walla River. The point of diversion for Adj. Cert. No. 833 was formally changed to its current location on the Walla Walla River within the S½NW¼ of Sec. 36, T. 7 N., R. 34 E.W.M. through Certificate of Change Vol. 1-3, Page 188, which issued on April 7, 1978.

The subject lands have been irrigated more or less continuously since Adj. Cert. No. 833, utilizing several different surface and ground water rights as described in more detail under the section titled "Other Water Rights". Cropping records obtained from the United States Department of Agriculture (USDA) Farm Service Agency show a variety of crops grown rotationally within the authorized place of use, including alfalfa/seed, grains, onions, and more recently turf. The production crops are irrigated primarily with hand line sprinklers, while the turf is largely irrigated by means of an underground sprinkler system.

Previous changes

There is one water right change which has previously been approved to Adj. Cert. No. 833. Certificate of Change Vol. 1-3, Page 188, issued on April 7, 1978. This authorization formally changed the point of diversion from Mill Creek to its current location on the Walla Walla River.

WW Adj. Cert. No. 833 has also gone through an administrative division process completed December 20, 2011. Through this process, the existing right was divided into four separate (833-A, B, C, & D) certificates. This proposed change pertains to the 833(A) portion of the original water right.

SEPA

The board has reviewed the proposed project in its entirety. 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.

- It is a surface water right application for more than 1 cubic feet 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;
- It is a groundwater right application for more than 2,250 gallons per minute;
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- 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);
- 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, separately or collectively in combination with other water rights proposed for change as part of this project, does not meet any of these conditions it is categorically exempt from SEPA and a threshold determination is not required.

Statutory Requirements/Authorities for Proposed Change

The following is a list of pertinent Washington State Statute and Case Law requirements that must be considered prior to authorizing the proposed change in place of use and point of withdrawal:

- RCW 90.03.380(1) states that a water right which has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

- RCW 90.14.160 states that any person entitled to divert water through an appropriation authorized through a general adjudication, who abandons or voluntarily fails, without sufficient cause, to divert all or any part of said water right for a period of five successive years after July 1, 1967, shall relinquish such water right or portion thereof, to the state.

- The Washington Supreme Court has held that when processing an application for change to a water right, a tentative determination of extent and validity of the claim or right is required. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp.*

Continued

Other

N/A

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.

COMMENT AND PROTESTS

Public notice of the application was given in the Waitsburg Times on April 26th and May 3rd, 2012. Protest period ended on June 4th, 2012.

There were no protests received during the 30 day protest period. In addition, no oral and/or written comments were received at an open public meeting of the board or other means as designated by the board.

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.

INVESTIGATION

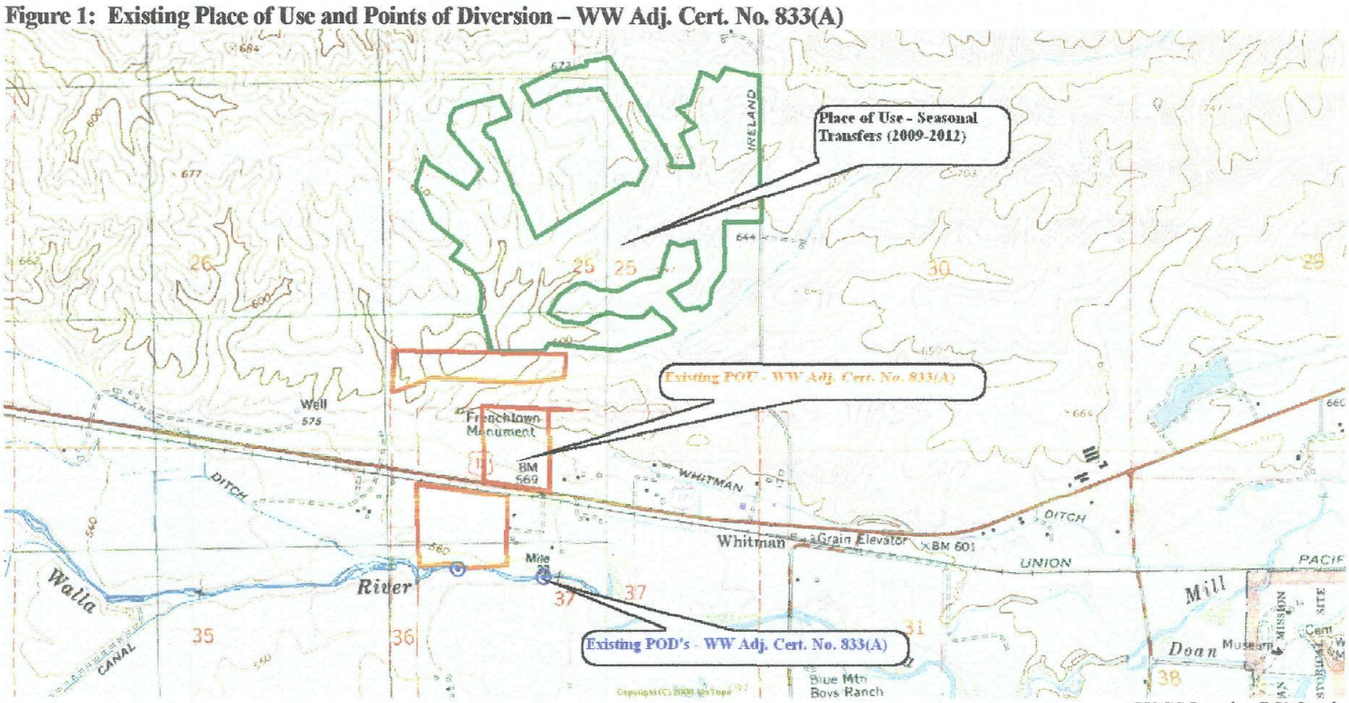
The following information was obtained from a combination of a site inspections conducted by Bill Neve on August 9, 2012 and Board Member Mike Dobbins on May 10 2012 and a review of a variety of data sources. The following are some of the primary sources of information obtained and utilized in this investigation:

- Water right files for Walla Walla Adj. Cert. No. 833
- Farm Service Agency (FSA) cropping records
- Technical reports
- U.S. Geological Survey topographic maps
- Aerial photos
- Department of Ecology's Water Right Tracking System (WRTS) database/Water Resource Explorer website
- Review of applicable laws, site visits, rules and policies
- Conversations with the applicant, Scott Byerley.

Proposed project plans and specifications

The proposed change in place of use is one of three change applications that make up the proposed project. The original project area, of which the place of use of WW Adj. Cert. No. 833 covers a portion, has been divided and portions of the property have been sold. The purpose of the proposed change to this right is to complete a permanent transfer of water rights to a golf course (Wine Valley Golf Club – J & J Golf, LLC) located just to the north of the existing place of use of WW Adj. Cert. No. 833(A). With respect to WW Adj. Cert. No. 833(A), the applicant proposes to retain 1.25 acres of the total water right with a proportionate share of associated quantities, and transfer the balance of the right to the J & J Golf, LLC. Both rights will continue to use one of the existing authorized points of diversion on the Walla Walla River. The second authorized diversion point will be eliminated for use under this right.

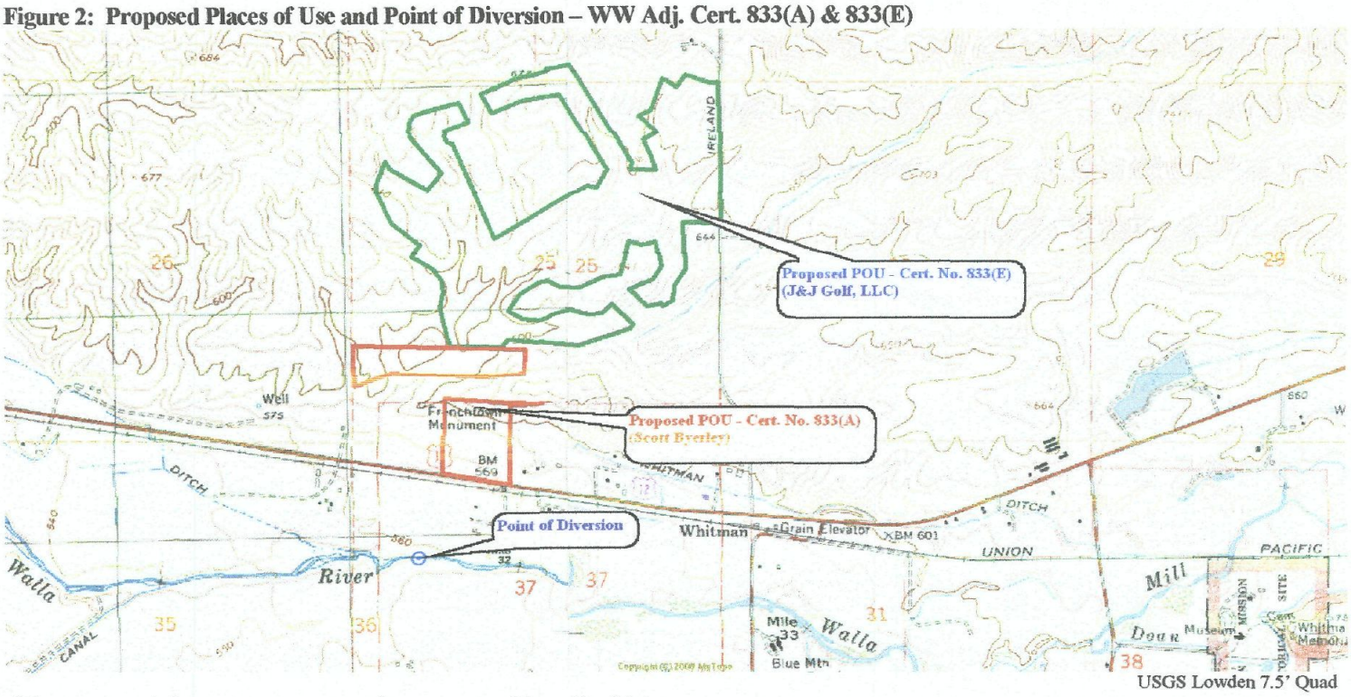
Figure 1: Existing Place of Use and Points of Diversion – WW Adj. Cert. No. 833(A)



USGS Lowden 7.5' Quad

The properties proposed as the new places of use under this change already have existing irrigation systems in place, and the subject properties are being irrigated. From 2009 to present, seasonal changes to Cert. No. 833(A) and the other two associated rights have been transferred in a manner similar to that being requested herein through seasonal transfers approved through the Dept. of Ecology. This proposal would make those transfers permanent. A two-year development schedule should be sufficient to complete the proposed changes and put the water to full beneficial use.

Figure 2: Proposed Places of Use and Point of Diversion – WW Adj. Cert. 833(A) & 833(E)



USGS Lowden 7.5' Quad

Other water rights appurtenant to the property (if applicable)

Surface Water Rights: There is one other surface water right which overlaps WW Adj. Cert. No. 833(A) and is associated with it. Walla Walla Adjudicated Surface Water Certificate No. 630(A) authorizes the diversion of water from the Walla Walla River for the irrigation of 63.75 acres, and is additive to Adj. Cert. No. 833(A). Together these two rights authorize the diversion of water from the Walla Walla River for the irrigation of 85 acres. Through this and associated changes, the applicant wishes to retain 5 acres of surface water right [1.25 acres from 833(A), 3.75 acres from 630(A)] and have the remaining right (80 acres total) convey to J & J Golf, LLC.

Ground Water Rights: There are two ground water rights which are appurtenant to at least part of the properties involved in this change. Ground Water Certificate No. 284-A(A) authorizes the withdrawal of water from 3 basalt aquifer wells for the irrigation of 85 acres. These acres are non-additive and supplemental to WW River Adj. Cert. Nos. 833(A) and 630(A). It is proposed that 5 acres of this right remain with the proposed Byerley place of use, and the remaining 80 acres convey to the J & J Golf, LLC property under a concurrent change application. Ground Water Certificate No. 6914-A(A) authorizes withdrawal of water from a gravel aquifer well for the irrigation of 21.47 acres. The authorized place of use of this right is the same as that proposed herein for the Byerley portion of this right. The applicant proposes to retain the full instantaneous portion of this right (37.4 gallons per minute), together with a disproportionate amount of the supplemental annual quantity (19.36 acre-feet) for the non-additive irrigation of 5 acres. The remaining 40.13 acre-feet under this right would then relinquish.

Table 2: Summary of Water Rights Appurtenant to Existing Place of Use (Scott Byerley)

Cert. No.	*Priority Date*	*Rate (Qi) max*	*Acre-feet (Qa)*	*Acres*	*POW*	*Notes*
WW Adj. Cert. 630(A)	1904	1.275 (cfs)	318.75	63.75	Walla Walla River	Additive
WW Adj. Cert. 833(A)	1926	0.425 (cfs)	106.25	21.25	Walla Walla River	Additive
GW Cert. 284-A(A)	1/24/1946	375 (gpm)	224.2	85	Basalt aquifer wells	Non-Additive (Qa)
GW Cert. 6914-A(A)	5/21/1968	37.4(gpm)	59.49	21.47	Gravel aquifer well	Non-Additive (Qa)
Proposed						
WW Adj. Cert. 630(A)	1904	0.025 (cfs)	6.25	1.25	Walla Walla River	Additive
WW Adj. Cert. 833(A)	1926	0.075 (cfs)	18.75	3.75	Walla Walla River	Additive
GW Cert. 284-A(A)	1/24/1946	21.0 (gpm)	13.2	5.00	Basalt aquifer wells	Non-Additive (Qa)
GW Cert. 6914-A(A)	5/21/1968	37.4 (gpm)	19.36	5.00	Gravel aquifer well	Non-Additive (Qa)

The J & J Golf, LLC property to which 20 acres of Cert. No. 833(A) are to be transferred to also enjoys other existing water rights. A summary of the existing rights, and proposed transfers, is provided in Table 3, below.

Table 3: Summary of Water Rights – Existing and Proposed – for J & J Golf, LLC

Cert. No.	*Priority Date*	*Rate (Qi) max*	*Acre-feet (Qa)*	*Acres*	*POW*	*Notes*
Existing						
G3-23614(C)	9/4/1974	346 (gpm)	212	90	Basalt wells (3)	Additive
S3-29174[1]	4/2/1992	1.7 (cfs)	170	232	Walla Walla River	Non-Additive (Qa)
G3-28030(A)[1]	8/15/1985	758 (gpm)	299.84	448.57[2]	Basalt Wells (3)	Additive
G3-28736(A)[1]	2/10/1990	1158 (gpm)	1060	448.57	Basalt Wells (3)	324.16 ac/ft - Additive
GW-2716	1/27/1954	403 (gpm)	285	0	Basalt Wells (2)	Domestic & comm./ind.
Proposed to Add						
WW Adj. Cert. 630(E)	1904	1.20 (cfs)	100	20	Walla Walla River	Additive
WW Adj. Cert. 833(E)	1926	0.40 (cfs)	300	60	Walla Walla River	Additive
GW Cert. 284-A(E)	01/24/1946	354 (gpm)	211	80	Basalt wells	Non-Additive (Qa)

[1] While the current authorized place of use of GW Cert. Nos. G3-28030(A) and G3-28736(A) include the J&J Golf, LLC property, Byerely and J & J Golf, LLC have a private agreement that these two rights, and the proportional quantities of SW Cert. No. S3-29174 associated with these two rights, are unavailable for use on J & J Golf, LLC lands and are only to be used on property outside the proposed place of use for WW Adj. Cert. No. 833(E).

[2] Of these 448.57 acres, 119.91 acre additive, the remaining 328.66 acres are non-additive. The entire Qi and Qa are additive.

Public Interest (groundwater only)

The proposed transfer is a surface water right, is not subject to RCW 90.44.100, and therefore there is no statutory requirement that the proposed change be in the public interest as a criteria for approval. However, the project does involve proposed change to a ground water right, so the public interest criteria may be considered herein.

Expressions of public interest for this proposed change potentially include: comments or protests regarding approval of the proposed change; Walla Walla County Municipal Code; the WRIA 32 Watershed Plan.

a. *Comments/Protests*: No comments or protests were received regarding potential approval of the proposed change.
b. *Walla Walla County Municipal Code (Codified as Ordinance 369, November 10, 2008)*: The place of use for the subject water right is located entirely within the Ag-Residential – 10 acre-minimum lot size zoning district. As the proposed water right change would not alter the existing county approved use of the subject lands, it is consistent with the Walla Walla County Code.
c. *WRIA 32 Watershed Plan*: The existing and proposed place of use are within Water Resources Area 32 (WRIA32), and are included with the planning area as defined in the final WRIA 32 Watershed Plan. The proposal is consistent with the locally developed and approved basin watershed plan, which expressed a desire that new water rights or changes to existing water rights not negatively impact streams, springs, or wells hydraulically connected to surface waters sources within WRIA 32.

Tentative Determination

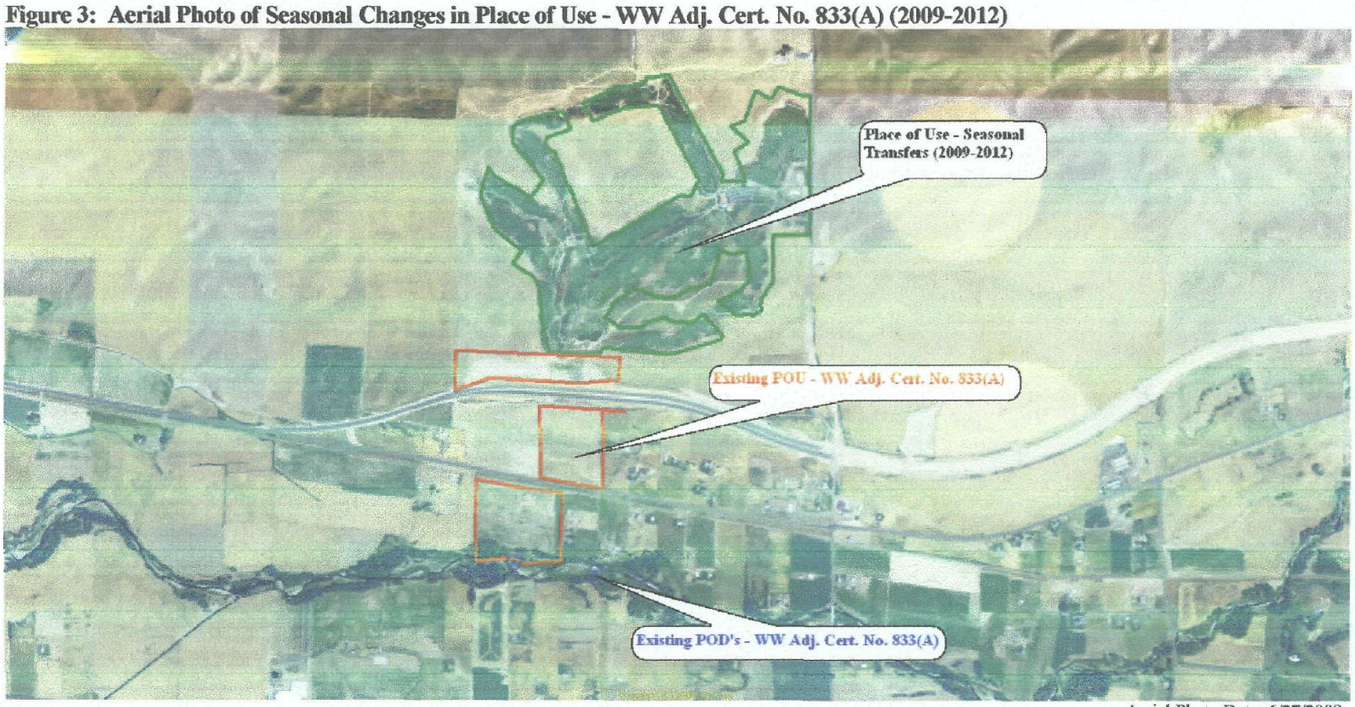
In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the board's tentative determination 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:

WW Adj. Cert authorizes a maximum diversion rate of 0.425 cubic feet per second, an annual duty of 106.25 acre-feet per year, for the irrigation of 21.25 acres. For purposes of this tentative determination, each component of water use will be evaluated separately.

Instantaneous Quantity (Qi): The pumping station used to divert water under this right currently utilizes a 60 HP pump. Water is diverted through this pump to satisfy Adj. Cert. No. 830(A) as well as water for other surface water rights. This diversion setup has the capacity to easily pump the maximum rate of 0.425 cubic feet per second (191 gallons per minute) authorized. The pumping station has been observed by Bill Neve to pump at a rate in delivery of water to the existing place of use. The full 0.425 cubic feet per second pumping rate can be considered valid and available for consideration for change under this application.

Acres: A review of Farm Service Agency records, aerial photos, and Ecology records was conducted to determine the extent of acres actually irrigated under this water right. The FSA records from 2000 through 2008 show a crop rotation including alfalfa seed, grain and onions (Table 4). More recently, from 2009 to present, seasonal changes were approved for this and associated rights to change the place of use to J & J Golf, LLC (Wine Valley Golf Course), for turf irrigation (See Figure 3). All records show that the 21.25 acres authorized for irrigation through Cert. No. 833(A) have been irrigated continuously since at least 2000. None of the information reviewed suggested that anything less than the full 21.25 acres have been irrigated on a regular basis.

Figure 3: Aerial Photo of Seasonal Changes in Place of Use - WW Adj. Cert. No. 833(A) (2009-2012)



Aerial Photo Date: 6/27/2009

It is noted that the current place use of Cert. No. 833(A) encompasses a total area of approximately 72 acres, which is less than the 85 acres authorized for irrigation under a combination of the water rights appurtenant to these lands (see Table 2). Up until 2011, the authorized place of use of Cert. No. 833 included 27.13 acres of land (Frenchtown Historic Site) to the immediate west of the existing place of use; in 2011 an Administrative Division of Cert. No. 833 was completed, which excluded those 27.13 acres from the place of use of Cert. No. 833(A), but which retained most of the water right, resulting in the acres authorized for irrigation being more than the place of use actually contained. This situation will be resolved through approval of the transfer of water right proposed herein.

Table 4: WW Adj. Cert. No. 833(A) Irrigated Crop Type: 2000 – 2012

Year	*Crop Types*
2012	Turf
2011	Turf
2010	Turf
2009	Turf
2008	Wheat, Onions
2007	Alfalfa Seed, Onions
2006	Wheat, Alfalfa Seed
2005	Wheat
2004	Alfalfa Seed
2003	Alfalfa Seed
2002	Wheat
2001	Wheat, Alfalfa Seed
2000	Wheat, Alfalfa Seed

Annual Quantity (Qa): The annual quantity authorized for use under Cert. No. 833(A) is 106.25 acre feet. As stated above, records show that crops grown over the 21.25 acres authorized for irrigation include alfalfa seed, onions, grain crops and turf. The surface water diversion is metered, but due to the fact that multiple water rights are sourced from this particular diversion station, the numbers cannot be directly related to the specific acres authorized for irrigation under Cert. No. 833(A). The State of Washington Irrigation Guide[1] was the primary reference utilized to determine irrigation requirements for these crops in this specific area. Alfalfa seed is not a crop currently referenced in the Guide; therefore crop irrigation use for alfalfa seed was determined based on the existing irrigation system and scheduling used by the grower (see Table 5).

Irrigation for alfalfa seed will vary depending on the season and stage of growth of the crop, which is typically grown on a 4-year rotation with grain. The highest irrigation water use occurs when new seeding is initially established, which generally involves a double cropping system with spring grain followed by new alfalfa seed establishment in late summer and fall. The applicant has historically used irrigation hand line to irrigate alfalfa seed on the subject lands. The line spacing used is 40 feet by 40 feet sprinkler to riser. The nozzle discharge rate averages 5 gallon per minute.

A 40 foot by 40 foot spacing, with 5 gallons per minute nozzle discharge, equates to a 0.30 inches per hour application rate. An efficiency factor to account for conveyance losses is appropriate in this situation. Department of Ecology Guidance Document GUID-1210, "Determining Irrigation Efficiency and Consumptive Use" notes that the National Irrigation Handbook, 1997, identifies the magnitude of irrigation system leaks at 1 – 10%, with the lower end of the range indicative of a well-maintained system. A ¼ mile line of 33 sprinkler heads @ 5 gpm/head has a total discharge of 165 gpm. The applicant's system is older, and system leaks at pipe gaskets, sprinkler heads, and valves are persistent. It is estimated that the average loss in a line of this type for this system is 10 gallons per minute, or a 6% efficiency factor.

The double cropping system used when establishing new seeding involves 2-24 hour sets for spring grain, followed by a 12, 24 and finally a 48 hour irrigation set for the new alfalfa seeding (Table 6). The following year typically involves a 48 hour set in the spring, followed by a 12 hour set in the summer, and another 48 hour set in the fall (Table 5).

Table 5: Irrigation Water Use Estimate – Irrigation Scheduling: Alfalfa Seed (Established)

Season	*Lateral Spacing*	*Sprinkler Spacing*	*Sprinkler Rate (gpm)*	*Irrigation Hours*	*Total Qa at 94% efficiency*
Spring	40	40	5.0	48	15.32
Summer	40	40	5.0	12	3.83
Fall	40	40	5.0	48	15.32
				Total	***34.47 (2.87ac/ft)***

Table 6: Irrigation Water Use Estimate – Irrigation Scheduling: Spring Grain + Alfalfa Seed (New Seeding)

Season	*Lateral Spacing*	*Sprinkler Spacing*	*Sprinkler Rate (gpm)*	*Irrigation Hours*	*Total Qa at 94% efficiency*
Spring (Grain)	40	40	5.0	48	15.32
Summer/Fall (New seeding)	40	40	5.0	84	26.81
Totals					***42.13 (3.51 ac/ft)***

A comparison of the crops grown on the subject lands for the crop years 2000-2012 is shown in Table 7. This table illustrates that turf irrigation, which was the beneficial use of water under this right from 2009-2102, results in the highest annual water use over the period of record. For irrigation of 21.25 acres, the total irrigation requirement equates to a total allocation of 82.24 acre-feet per year.

[1] State of Washington Irrigation Guide, 1985 (amended 1990, amended 1992 for select western Washington crops)

Table 7: Comparison of Irrigation Requirements for Crops Grown Under Cert. No. 833(A) - (2000 – 2012)

Crop Type	*Wash. St. Irr. Guide (inches)*	*Irr. Scheduling (inches)*	*Efficiency Factor*	*Total Acre-Feet*
Alfalfa Seed[a]		34.47	N/A	2.87
Alfalfa Seed (New Seed)[a]		26.81	N/A	2.23
Spring Grain (Irr. Sch.)		15.32	N/A	1.28
Spring Grain (Irr. Guide)	20.85		0.70	2.48
Onions	30.92		0.70	3.68
Turf	34.83		0.75	3.87

[a] No irrigation requirement included for alfalfa seed in the current Irrigation Guide. Figures based on irrigation scheduling calculations.

Washington State law provides that any person entitled to divert water through an appropriation authorized through a general adjudication, who abandons or voluntarily fails, without sufficient cause, to divert all or any part of said water right for a period of five successive years after July 1, 1967, shall relinquish such water right or portion thereof, to the state (RCW 90.14.160). In this particular case, the portion of the right subject to relinquishment is the difference between that quantity determined to be valid through an extent and validity review, and those quantities allocated through the water right. Table 8, below, compares the tentative determination outlined above with the quantities allocated through Cert. No. 833(A) to determine that portion of the right subject to relinquishment.

Table 8: Tentative Determination vs. Quantities Allocated in Cert. No. 833(A)

	Qi (4/1 – 7/1)	*Qi (7/1 – 10/1)*	*Qi (10/1 – 4/1)*	*Acre-feet*	*Acres Irrigated*
WW Adj. Cert. No. 833(A)	0.283	0.2125	0.425	106.25	21.25
Actual Use (Tent. Det.)	0.283	0.2125	0.425	82.24	21.25
Subject to Relinquishment	***0***	***0***	***0***	***24.01***	***0***

The quantities tentatively determined to be valid and available for consideration for change are 0.283 cubic feet per second from April 1 to July 1; 0.125 cubic feet per second from July 1 to October 1; and 0.425 cubic feet per second from October 1 to April 1, 82.24 acre-feet per year, for the irrigation of 21.25 acres. There are 24.01 acre-feet determined to be subject to relinquishment for non-use without sufficient cause.

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

This change eliminates an existing authorized point of diversion, and changes the place of use of the subject right. Given that the remaining point of diversion is downstream of the site that will be removed, the quantities of water beneficially used under this right will not change, and the new place of use is within the immediate vicinity of the existing place of use, no hydraulic analysis/investigation is necessary to evaluate the proposed changes.

Statutory Requirements

Applications for change to surface water certificates are governed by RCW 90.03.380 and court interpretations thereof, which hold in part that: the right to the use of water may be transferred to another and become appurtenant to any other land or place of use, and the point of diversion of water may be changed, provided that:

- The change must not cause detriment or injury to existing rights;
- A valid right/claim exists that is eligible to be changed;
- The change shall not allow for the enhancement of the right perfected under the original certificate

No Detriment/Impairment to Existing Rights:

"Impair" or "impairment" means to: 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200), and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

The proposed change in place of use for a portion of the water right, to lands in the same vicinity as the existing place of use, will not impair existing rights. The quantities used and acres irrigated will not be increased beyond what has been tentatively determined to be valid through an extent and validity analysis. The change also proposes to remove a pumping station as authorized point of diversion under this right, with said pumping station being located upstream of the pumping station to be retained. Elimination of this pumping station would not impair existing water rights; it could actually service to improve instream flows between its location and the retained point of diversion.

No Enhancement of the Original Right:

A tentative determination has been conducted to determine the extent and validity of Cert. No. 833(A). The proposed change would not allow for appropriation beyond those quantities and irrigated acres determined to have been put to historic beneficial use.

A Valid Right Exists that is Eligible to be Changed:

A tentative determination of the extent and validity of Cert. No. 833(A) was completed by evaluating water use under the right from 2000 to 2012. The results of the analysis determined that the following quantities are valid and available for the requested changes: 0.283 cubic feet per second from April 1 to July 1; 0.2125 cubic feet per second from July 1 to October 1; and 0.425 cubic feet per second from October 1 to April 1, 82.24 acre-feet per year, for the irrigation of 21.25 acres. There was no evidence, either from available data or from 20+ years of this writer's personal experience of working with water in the basin, to suggest that there have been 5 consecutive years of non-use of any of the above quantities of water during any time from 1967 to 2000.

Same Source of Water:

The source of water for this right is the Walla Walla River at a location within the S½NW¼ of Sec. 36, T. 7 N., R. 34 E.W.M. There will be no change to the source or location of diversion through this change.

Other

N/A

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.

CONCLUSIONS

Tentative determination (validity and extent of the right)

The results of a tentative determination of the water right show that the following quantities are valid and available for the requested changes: 0.283 cubic feet per second from April 1 to July 1; 0.2125 cubic feet per second from July 1 to October 1; and 0.425 cubic feet per second from October 1 to April 1, 82.24 acre-feet per year, for the irrigation of 21.25 acres.

Relinquishment or abandonment concerns

RCW 90.14.160 provides that:

"Any person entitled to divert or withdraw waters of the state through any appropriation authorized by enactments of the legislature prior to enactment of chapter 117, Laws of 1917, or by custom, or by general adjudication, who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said right to divert or withdraw for any period of five successive years after July 1, 1967, shall relinquish such right or portion thereof, and said right or portion thereof shall revert to the state, and the waters affected by said right shall become available for appropriation in accordance with RCW 90.03.250."

The difference between the tentative determination of the extent and validity of the water right determined above, being 0.283 cubic feet per second from April 1 to July 1; 0.2125 cubic feet per second from July 1 to October 1; and 0.425 cubic feet per second from October 1 to April 1, 82.24 acre-feet per year, for the irrigation of 21.25 acres, and those quantities issued through the original certificate, being 106.25 acre-feet, equate to 24.01 acre-feet.

Based on a review of the exceptions to relinquishment for non-use of water for 5 successive years provided in RCW 90.14.140, it appears that the following quantities/purposes of use are subject to relinquishment: 24.01 acre-feet per year. The remainder of the right has been determined to have been put to beneficial use and is available for this change.

Hydraulic analysis

The point of diversion proposed for use under this change is the same pump station currently being utilized for Cert. No. 833(A). A second, upstream, pumping station will be removed as an authorized diversion site under the subject water right. No hydraulic analysis is necessary to evaluate this proposed change.

Consideration of comments and protests

Public notice of the application was given in the Waitsburg Times on April 26th and May 3rd, 2012. Protest period ended on June 4th, 2012. There were no protests received during the 30 day protest period. In addition, no oral and/or written comments were received at an open public meeting of the board or other means as designated by the board.

Impairment

There is no evidence that the proposed change in place of use or the elimination of an authorized point of diversion will impair any existing rights, including instream flows established through WAC 173-532.

Public Interest

A determination as to whether the change is detrimental to the public interest only applies to groundwater changes pursuant to RCW 90.44.100.

Other

The board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision.

DECISION

Applications for change to surface water right certificates are governed by RCW 90.03.380 which state in part that: the holder of a valid surface water right may, without losing priority of right, change the point of diversion and transfer or change the place of use of a water right, provided that:

- The change must not cause detriment or injury to existing rights;
- A valid right/claim exists that is eligible to be changed;
- The change shall not allow for the enhancement of the right perfected under the original certificate

It is the conclusion of the Walla Walla County Water Conservancy Board that, in accordance with RCW 90.03.380, (1) the proposed change in place of use and elimination of an authorized point of diversion will not impair existing rights, including instream flows established through WAC 173-532; (2) a valid right exists and is eligible to be changed to the extent the right has been put to historic beneficial use, as summarized above; and (3) that the change will not expand or enhance the right which was perfected under the original certificate. The requested change in place of use to Walla Walla River Adjudication Certificate No. 833(A), is approved, subject to the provisions and conditions listed below.

The Board further recommends that the change authorization be divided as shown in Table 9, below:

Table 9: Summary of the Board's Decision on the Water Right Change – WW Adj. Cert. No. 833(A)

Name	*Proposed Cert. No*	*Acres*	*4/1 – 7/1 (cfs)*	*7/1 – 10/1(cfs)*	*10/1 – 4/1 (cfs)*	*Acre-feet*	*Purpose*
Scott Byerley	WW Adj. Cert. 833(A)	1.25	0.0166	0.0125	0.025	4.84	Irrigation
J & J Golf, LLC	WW Adj. Cert. 833(E)	20.0	0.2664	0.200	0.400	77.4	Irrigation
	Totals	**21.25**	**0.283**	**0.2125**	**0.425**	**82.24**	

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions and members of the Walla Walla County Water Conservancy Board.

PROVISIONS

Conditions and limitations

This authorization changes the place of use of as provided by RCW 90.03.380, and when perfected will supersede Walla Walla River Adjudication Certificate No. 833(A) – (See Table 9, above).

All conditions and requirements contained in reports of examination, permits or superseding certificates previously issued apply to this authorization unless specifically noted below.

Walla Walla River Adjudication Decree

1. This authorization is subject to the provisions set forth in the decree of the Superior Court of Walla Walla, State of Washington, made and entered on the 12th day of September, 1928, otherwise known as Walla Walla River Adjudication Decree No. 19075.

2. When the supply of water for irrigation purposes from April 1st to October 1st is insufficient in the Walla Walla Valley to fill any right contained in the Walla Walla River Adjudication, the owner of such right is entitled to divert water during the period of October 1st to April 1st at the rate of 1 cubic foot per second for each 50 acres. Where there is such a combined use of "spring", "summer", and "winter" water, the total amount of water diverted shall not exceed 5 acre feet per acre for each year beginning October 1st.

3. When the flow of the Walla Walla River and its tributaries is insufficient to supply all classes, rights of a higher class shall be fully satisfied before water is given to those of a subordinate class, except where specifically modified, and in case of failure of the supply of water to completely satisfy the total amount awarded to a given class, the amount remaining for said class shall be apportioned to the appropriators in said class in the proportion which the number of cubic feet per second awarded to each person bears to the total number of cubic feet per second awarded such class, subject to use by rotation.

Measurements, Monitoring, Metering and Reporting

4. 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. This rule 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 as a document entitled "Water Measurement Device Installation and Operation Requirements".
   http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.htm

5. Water use data shall be recorded monthly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of each calendar year.

6. Reported water use data shall be submitted via the Internet or by using the enclosed forms. To set up an Internet reporting account, access https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/. If you have questions or need additional forms, contact the Eastern Regional Office.

7. Future Superseding Certificates for Walla Walla River Adjudication Certificate Nos. 833(A) and 833(E) will not be issued until evidence of meter installation has been submitted to the Department of Ecology.

Department of Fish and Wildlife

8. No dam or weir shall be constructed in connection with this diversion.

9. The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria. http://www.wdfw.wa.gov/reg/regions.htm

Quantity Limits, Flow and Regulation

10. This change does not authorize an enlargement of those quantities in cubic feet per second, acre-feet per year, or total irrigated acres as described under Walla Walla River Adjudication Certificate No. 833(A).

11. Water may only be diverted from the authorized point of diversion on the Walla Walla River to the extent that water is available at the original authorized point of diversion (Mill Creek).

Schedule and Inspections

12. 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.

13. The water right holder shall file the notice of Proof of Appropriation of water (under which the superseding certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The superseding certificate will reflect the extent of the project perfected within the limitations of the change authorization. Elements of the proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

General Conditions

14. You are advised that the issuance of this change does not convey a right of access to, or other right to use land, which you do not legally possess. Obtainment of such a right is a private matter between the applicant and the owner of the land.

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

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

17. 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 for the actual crop(s) grown on the number of acres and the place of use specified.

Mitigation (if applicable)

No mitigation was proposed, or determined to be necessary, for approval of the proposed change.

Construction Schedule

The irrigation infrastructure is largely in place to perfect this change. A two-year development schedule to put the water to full beneficial use should be sufficient. Completion of Construction is due November 1, 2013, and water is to be put to Full Beneficial Use by November 1, 2014.

Other

N/A

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions and members of the Walla Walla County Water 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 Walla Walla , Washington
This 7th day of November, 2012

Alan Kottwitz, Board Representative
Walla Walla County Water Conservancy Board

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).

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Attachment A: Legal Description for J&J Golf, LLC

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, THE SOUTHWEST ¼ OF THE SOUTHEAST 1/4, AND THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, ALL IN SECTION 24, AND IN THE NORTHWEST 1/4, THE NORTHEAST 1/4, THE SOUTHWEST 1/4, AND THE SOUTHEAST 1/4, ALL IN SECTION 25 OF TOWNSHIP 7 NORTH OF RANGE 34 EAST, W.M., WALLA WALLA COUNTY, WASHINGTON, DESCRIBED MORE PARTICULARLY AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 25; THENCE N 88°43'24" E ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF SECTION 25 A DISTANCE OF 2097.09 FT. TO THE TRUE POINT OF BEGINNING FOR THIS LEGAL DESCRIPTION:

THENCE N 64°35'30" E, A DISTANCE OF 221.51 FEET; THENCE N 81°24'37" E, A DISTANCE OF 421.19 FEET; THENCE N 00°49'39" W, A DISTANCE OF 93.07 FEET; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 330.11 FEET, WITH A RADIUS OF 497.08 FEET, WITH A CHORD BEARING OF N 80°22'13" E, WITH A CHORD LENGTH OF 324.08 FEET; THENCE S 33°13'56" E, A DISTANCE OF 552.85 FEET; THENCE S 29°36'52" È, A DISTANCE OF 107.26 FEET; THENCE S 28°23'01" E, A DISTANCE OF 311.99 FEET; THENCE S 35°01'31" E, A DISTANCE OF 681.80 FEET; THENCE S 15°00'39" E, A DISTANCE OF 150.46 FEET; THENCE N 88°04'59" E, A DISTANCE OF 338.81 FEET; THENCE N 15°00'39" W, A DISTANCE OF 285.45 FEET; THENCE N 35°01'31" W, A DISTANCE OF 181.26 FEET; THENCE N 46°13'15" E, A DISTANCE OF 252.14 FEET; THENCE N 53°36'03" W, A DISTANCE OF 349.32 FEET; THENCE N 59°38'29" E, A DISTANCE OF 220.56 FEET; THENCE N 18°31'47" E, A DISTANCE OF 463.05 FEET; THENCE S 58°30'54" E, A DISTANCE OF 250.03 FEET; THENCE N 33°50'52" E, A DISTANCE OF 214.87 FEET; THENCE N 38°31'40" E, A DISTANCE OF 60.12 FEET; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 499.18 FEET, WITH A RADIUS OF 773.00 FEET, WITH A CHORD BEARING OF S 73°46'16" E, WITH A CHORD LENGTH OF 490.55 FEET; THENCE N 87°14'29" E, A DISTANCE OF 13.29 FEET TO A POINT IN THE WEST RIGHT OF WAY LINE OF FRENCH TOWN ROAD; THENCE S 01°31'21" E ALONG THE WEST RIGHT OF WAY LINE OF FRENCHTOWN ROAD, A DISTANCE OF 28.11 FEET OT A POINT ON THE NORTH LINE OF THE NORTHEAST ¼ OF SECTION 25; THENCE S 01°30'50" E CONTINUING ALONG THE WEST RIGHT OF LINE OF FRENCHTOWN ROAD, A DISTANCE OF 2019.62 FEET; THENCE S 88°28'17" W, A DISTANCE OF 541.27 FEET; THENCE S 05°12'23" E, A DISTANCE OF 662.90 FEET; THENCE S 32°09'21" W, A DISTANCE OF 316.25 FEET; THENCE S 06°44'57" W, A DISTANCE OF 221.71 FEET; THENCE S 55°24'14" W, A DISTANCE OF 137.64 FEET; THENCE N 41°28'00" W, A DISTANCE OF 62.36 FEET; THENCE S 72°00'51" W, A DISTANCE OF 214.94 FEET; THENCE N 46°56'23" W, A DISTANCE OF 377.14 FEET; THENCE N 71°56'09" E, A DISTANCE OF 350.60 FEET; THENCE N 07°22'58" E, A DISTANCE OF 64.95 FEET; THENCE N 32°09'21" E, A DISTANCE OF 93.91 FEET; THENCE N 22°03'43" E, A DISTANCE OF 102.16 FEET; THENCE N 04°04'06" W, A DISTANCE OF 229.45 FEET; THENCE N 23°42'13" W, A DISTANCE OF 153.85 FEET; THENCE S 71°45'15" W, A DISTANCE OF 167.67 FEET; THENCE N 80°13'10" W, A DISTANCE OF 186.94 FEET; THENCE S 13°04'52" W, A DISTANCE OF 335.01 FEET; THENCE S 25°16'52" W, A DISTANCE OF 180.34 FEET; THENCE S 74°33'01" W, A DISTANCE OF 285.14 FEET; THENCE S 65°16'45" W, A DISTANCE OF 298.09 FEET; THENCE N 88°39'22" W, A DISTANCE OF 252.21 FEET; THENCE N 70°36'34" W, A DISTANCE OF 255.30 FEET; THENCE S 72°23'35" W, A DISTANCE OF 126.14 FEET; THENCE S 52°38'46" W, A DISTANCE OF 290.16 FEET; THENCE S 35°44'31" W, A DISTANCE OF 272.53 FEET; THENCE S 57°38'30" E, A DISTANCE OF 236.43 FEET; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 24.10 FEET, WITH A RADIUS OF 655.06 FEET, WITH A CHORD BEARING OF N 24°27'27" E, WITH A CHORD LENGTH OF 24.10 FEET; THENCE S 64°29'18" E, A DISTANCE OF 60.00 FEET; THENCE S 84°52'45" E, A DISTANCE OF 278.47 FEET; THENCE N 41°29'33" E, A DISTANCE OF 136.21 FEET; THENCE N 77°02'25" E, A DISTANCE OF 169.74 FEET; THENCE S 89°17'37" E, A DISTANCE OF 89.06 FEET; THENCE S 77°20'07" E, A DISTANCE OF 135.67 FEET; THENCE N 83°53'33" E, A DISTANCE OF 286.09 FEET; THENCE N 54°13'58" E, A DISTANCE OF 199.42 FEET; THENCE S 46°52'20" E, A DISTANCE OF 411.54 FEET; THENCE S 06°50'01" W, A DISTANCE OF 65.79 FEET; THENCE S 65°59'45" W, A DISTANCE OF 295.94 FEET; THENCE S 73°48'10" W, A DISTANCE OF 562.32 FEET; THENCE N 84°52'45" W, A DISTANCE OF 938.20 FEET; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 222.93 FEET, WITH A RADIUS OF 445.00 FEET, WITH A CHORD BEARING OF S 23°10'37" W, WITH A CHORD LENGTH OF 220.60 FEET; THENCE S 16°39'01" W, A DISTANCE OF 44.49 FEET; THENCE S 80°12'34" W, A DISTANCE OF 102.59 FEET; THENCE N 88°32'57" W, A DISTANCE OF 610.09 FEET; THENCE N 11°02'23" W A DISTANCE OF 407.91 FEET; THENCE N 15°45'01" W A DISTANCE OF 297.15 FEET; THENCE N 04°48'05" E A DISTANCE OF 194.20 FEET; THENCE N 19°59'02" E, A DISTANCE OF 30.83 FEET; THENCE N 16°47'44" W, A DISTANCE OF 235.53 FEET; THENCE N 53°17'39" W, A DISTANCE OF 238.03 FEET; THENCE N 53°17'39" W, A DISTANCE OF 75.21 FEET; THENCE N 68°03'48" W, A DISTANCE OF 170.68 FEET; THENCE N 39°27'42" E, A DISTANCE OF 86.41 FEET; THENCE N 34°33'15" E, A DISTANCE OF 180.14 FEET; THENCE N 51°21'58" W, A DISTANCE OF 540.80 FEET; THENCE N 33°33'56" W, A DISTANCE OF 399.78 FEET; THENCE N 01°36'03" W, A DISTANCE OF 240.22 FEET; THENCE N 17°08'50" E, A DISTANCE OF 347.38 FEET; THENCE S 35°30'33" E, A DISTANCE OF 125.81 FEET; THENCE S 55°57'26" E, A DISTANCE OF 636.76 FEET; THENCE N 41°16'01" E, A DISTANCE OF 341.40 FEET; THENCE N 27°14'25" W, A DISTANCE OF 171.97 FEET; THENCE N 44°30'51" W, A DISTANCE OF 567.08 FEET; THENCE N 16°56'33" W, A DISTANCE OF 82.10 FEET; THENCE N 03°39'48" E, A DISTANCE OF 121.92 FEET; THENCE N 31°13'27" E, A DISTANCE OF 97.13 FEET; THENCE N 62°50'00" E, A DISTANCE OF 192.93 FEET; THENCE N 74°39'12" E, A DISTANCE OF 517.51 FEET; THENCE S 25°25'00" E, A DISTANCE OF 329.79 FEET; THENCE S 64°57'26" W, A DISTANCE OF 31.43 FEET; THENCE S 74°39'40" W, A DISTANCE OF 365.56 FEET; THENCE S 07°59'12" E, A DISTANCE OF 121.77 FEET; THENCE S 44°33'15" E, A DISTANCE OF 151.91 FEET; THENCE N 62°48'25" E, A DISTANCE OF 33.79 FEET; THENCE S 27°11'35" E, A DISTANCE OF 330.00 FEET; THENCE S 25°58'34" E, A DISTANCE OF 679.87 FEET; THENCE S 22°45'58" E, A DISTANCE OF 498.16 FEET; THENCE N 63°49'47" E, A DISTANCE OF 392.63 FEET; THENCE N 54°12'33" E, A DISTANCE OF 1072.44 FEET; THENCE S 77°00'48" E, A DISTANCE OF 166.41 FEET; THENCE N 24°59'43" E, A DISTANCE OF 176.29 FEET; THENCE N 25°19'55" E, A DISTANCE OF 121.46 FEET; THENCE N 35°01'48" W, A DISTANCE OF 628.05 FEET; THENCE N 28°23'01" W, A DISTANCE OF 326.30 FEET; THENCE N 29°36'52" W, A DISTANCE OF 92.27 FEET; THENCE N 33°13'56" W, A DISTANCE OF 233.15 FEET; THENCE S 81°24'37" W, A DISTANCE OF 515.76 FEET; THENCE S 64°36'55" W, A DISTANCE OF 473.51 FEET; THENCE N 25°25'00" W, A DISTANCE OF 329.78 FEET; THENCE N 64°35'30" E, A DISTANCE OF 300.90 FEET; TO THE TRUE POINT OF BEGINNING. HAVING AN AREA OF 234.39 ACRES, MORE OR LESS.

Attachment B: Contact Information

Division of WW Adj. Cert. No. 833(A)

Name	*Proposed Cert. No*	*Acres*	*4/1 – 7/1 (cfs)*	*7/1 – 10/1(cfs)*	*10/1 – 4/1 (cfs)*	*Acre-feet*	*Purpose*
Scott Byerley	WW Adj. Cert. 833(A)	1.25	0.0166	0.0125	0.025	4.84	Irrigation
J & J Golf, LLC	WW Adj. Cert. 833(E)	20.0	0.2664	0.200	0.400	77.4	Irrigation
	Totals	**21.25**	**0.283**	**0.2125**	**0.425**	**82.24**	

Scott Byerley – WW Adj. Cert 833(A)
501 Langdon Rd.
Walla Walla WA 99362
(509) 520-2895

J & J Golf, LLC – WW Adj. Cert. 833(E)
Attn: James Pliska
176 Wine Valley Rd.
Walla Walla WA 99362
(509) 525-4653