



State of Washington
**DRAFT PROTESTED
 REPORT OF EXAMINATION
 FOR WATER RIGHT CHANGE**

File NR CS1-*19323C@1
 WR Doc ID 6267306

Changed Place of Use

PRIORITY DATE October 27, 1965	WATER RIGHT NUMBER SWC 9748 [S1-*19323C]
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MAILING ADDRESS BEDLINGTON FARMS 8497 GUIDE MERIDIAN LYNDEN, WA 98264	SITE ADDRESS (IF DIFFERENT) 6174 GADWA ROAD FERNDALE, WA 98248
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Total Quantity Authorized for Diversion		
DIVERSION RATE 1.0	UNITS CFS	ANNUAL QUANTITY (AF/YR) 164

Total diversions from all sources must not exceed the total quantity authorized for diversion listed above.

PURPOSE	DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Irrigation	1.0	0	CFS	164	0	05/01 - 09/30

IRRIGATED ACRES	
ADDITIVE 96.9	NON-ADDITIVE 0

Source Location			
COUNTY WHATCOM	WATERBODY NOOKSACK RIVER	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA 1-NOOKSACK

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
SD-1	390216070162, 390216243459, 390216330352, 390216202330	NA	39N	02E	16	Gov't Lot 3, 4, 7, 8	48.864044	-122.572065

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS

390216330352, 390216202330, 390216070162, 390216243459, 390216067330

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Section 16, Township 39 North, Range 2 East W.M.

- NE ¼ of the NW ¼
- SW ¼ of the NW ¼
- Gov't Lots 2, 3, 4, 7, and 8, Except the south 275 feet of said Gov't Lot 8.

Section 17, Township 39 North, Range 2 East W.M.

- Beginning at the southeast corner of said Sec. 17; thence north 283.3 feet to true point of beginning; thence continue north 886.3 feet; thence west 382 feet; hence south 886.3 feet to north line of county road; thence east along said north line 92 feet; thence north 265.3 feet; thence east 290 feet to the true point of beginning.

ALL except roads.

Proposed Works

The existing system is composed of two irrigation pumps. One mobile 15-HP centrifugal electric pump on the Nooksack River, and another 60-HP belt-driven centrifugal booster pump located approximately 300 feet west of the diversion point. Both pumps share the same dedicated power meter. Water is delivered to the fields from the booster pump via a 6-inch polyvinyl chloride (PVC) main with 4-inch risers. The risers are spaced 230 feet apart along most of the main. There are risers located within all of the existing POU in Section 16 and the portion of the proposed POU within SW ¼ of the NW ¼ of Section 16, but above-ground soft hose will be required to irrigate Government Lot 2 and the NE ¼ of the NW ¼ of Section 16 portion of the proposed POU. No plans have been made to install below-grade piping to this portion of the proposed POU.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Completed	Completed	December 31, 2019

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (January 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Diversion (cfs)

Provisions

Metering and Reporting

An approved measuring device must 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.

Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation,

and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted to Ecology via the Internet. To set up an Internet reporting account, contact the Bellingham Field Office or go to <https://fortress.wa.gov/ecy/meteringx/Login.aspx>. If you do not have Internet access, you can submit paper copies of your water use data by contacting the Bellingham Field Office for forms to use to submit your water use data.

Department of Fish and Wildlife Requirement(s)

Pursuant to Chapter 77.55 RCW, a Hydraulic Project Approval permit must be obtained from the Washington State Department of Fish and Wildlife prior to beginning construction of the diversion.

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/licensing/hpa/>

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

Proof of Appropriation

The water right holder must 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. Once Washington State Department of Ecology (Ecology) has accepted the Proof of Appropriation form, the applicant shall retain the services of a Certified Water Rights Examiner (CWRE) to verify the extent of the perfected right and prepare the necessary documentation to allow Ecology to issue a water right certificate for this project. The certificate will reflect the extent of the project perfected within the limitations of this authorization. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions. Information on hiring a CWRE is available on Ecology's website at: <http://www.ecy.wa.gov/programs/wr/rights/cwrep.html> or by calling the appropriate Ecology regional office.

Schedule and Inspections

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

Senior Water Rights

This authorization to make use of public waters of the state is subject to existing rights, including any tribal water rights held by the United States for the benefit of tribes, to the extent they may exist.

Findings of Facts

Upon reviewing the investigator’s report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that the water right is eligible for change and there will be no impairment of existing rights.

Therefore, I ORDER partial approval of Application No. CS1-*19323C@1 subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B of the Revised Code of Washington (RCW) and Chapter 371-08 of the state of Washington Administrative Code (WAC). “Date of receipt” is defined in RCW 43.21B.001(2).

To appeal, you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) Email is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater, WA 98501</p>	<p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

Signed at Bellevue, Washington, this day of 2016.

Tom Buroker, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Applicant for Water Right Change: Bedlington Farms

Water Right Control Number: CS1-*19323C@1

Investigators: Adam Neff and Andrew B. Dunn (RH2 Engineering, Inc.)

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CS1-*19323C@1. The subject application is a request to change Surface Water Certificate (SWC) 9748.

This water right change application was filed by Bedlington Farms with Ecology on June 19, 2014. RH2 Engineering, Inc., (RH2) was chosen by Ecology to process this water right change application through the cost reimbursement program.

This application seeks to expand the place of use (POU) to include additional adjacent parcels owned by Bedlington Farms and is intended to give Bedlington Farms increased flexibility in crop rotation on this portion of their farm. The number of irrigated acres will remain unchanged.

The original and proposed POUs are located within Sections 16 and 17, Township 39 North, Range 2 East, W.M., in Whatcom County, Washington, Water Resources Inventory Area (WRIA) 1.

EXISTING Water Right Attributes

Water Right Owner:	Bedlington Farms (Certificate originally under Edwin Engler)
Priority Date:	October 27, 1965
Place of Use	<p>Section 16, Township 39 North, Range 2 East W.M.</p> <ul style="list-style-type: none"> Gov't Lots 3, 4, 7, and 8, Except the south 275 feet of said Gov't Lot 8. <p>Section 17, Township 39 North, Range 2 East W.M.</p> <ul style="list-style-type: none"> Beginning at the southeast corner of said Sec. 17; thence north 283.3 feet to true point of beginning; thence continue north 886.3 feet; thence west 382 feet; thence south 886.3 feet to north line of county road; thence east along said north line 92 feet; thence north 265.3 feet; thence east 290 feet to the true point of beginning.

County	Waterbody	Tributary To	WRIA
Whatcom	Nooksack River	Bellingham Bay	1-Nooksack

Purpose	Rate	Unit	Af/yr	Begin Season	End Season
Irrigation of 108 acres	1.0	CFS	216	Not Specified	

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Diversion-1	390216070162, 390216243459, 390216330352, 390216202330	NA	39N	02E	16	Gov't Lot 3, 4, 7, 8	48.864045	-122.572035

CFS = Cubic feet per second; Af/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; W.M. = Willamette Meridian; Datum in NAD83/WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Bedlington Farms
Date of Application:	June 19, 2014
Place of Use	<p>Section 16, Township 39 North, Range 2 East W.M.</p> <ul style="list-style-type: none"> • NE ¼ of the NW ¼ • SW ¼ of the NW ¼ • Gov't Lots 2, 3, 4, 7, and 8, Except the south 275 feet of said Gov't Lot 8. <p>Section 17, Township 39 North, Range 2 East W.M.</p> <ul style="list-style-type: none"> • Beginning at the southeast corner of said Sec. 17; thence north 283.3 feet to true point of beginning; thence continue north 886.3 feet; thence west 382 feet; hence south 886.3 feet to north line of county road; thence east along said north line 92 feet; thence north 265.3 feet; thence east 290 feet to the true point of beginning. <p>All except roads.</p>

County	Waterbody	Tributary To	WRIA
Whatcom	Nooksack River	None	1-Nooksack

Purpose	Rate	Unit	Af/yr	Begin Season	End Season
Irrigation	1.0	CFS	216	May 1	September 30

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Diversion-1	390216070162, 390216243459, 390216330352, 390216202330	NA	39N	02E	16	Gov't Lot 3, 4, 7, 8	48.864045	-122.572035

CFS = Cubic feet per second; Af/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; W.M. = Willamette Meridian; Datum in NAD83/WGS84; NA = Not Available.

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the proposed change in the POU and the number of irrigated acres:

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted, and used. Notice of this application was published in the *LYNDEN TRIBUNE* on December 31, 2014, and January 7, 2015.

Consultation with the Department of Fish and Wildlife

Ecology must give notice to the Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. On December 11, 2015, Adam Neff of RH2 notified Mr. Steven Boessow of Washington Department of Fish and Wildlife (WDFW) via email of the pending water right change application being processed for Bedlington Farms. Mr. Boessow was provided with the application number, a summary of the proposed decision, and a supporting site figure. WDFW did not provide comments.

Consultation with the Lummi Nation and Nooksack Tribe

The Lummi Nation and Nooksack Tribe were notified of the water right change applications by Ecology. The Lummi Indian Business Council (LIBC) sent a protest letter dated July 30, 2014. In that letter, the LIBC identified that it was concerned about the existing and future potential impacts on instream flows in the Nooksack River. It indicated that all withdrawals within WRIA-1 have the capacity to adversely impact the rights of the Lummi Nation. The Nooksack Tribe did not provide comments.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation of whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met:

- (a) It is a surface water right application for more than 1 cfs, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cfs, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute (gpm);
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA); and
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

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

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. 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*.

Cost Reimbursement Processing

This change application is being processed under a Cost Reimbursement Agreement between the applicant and Ecology. Ecology selected RH2 to process this application. This change application is being processed without requiring processing of previously-filed water right change applications, as allowed under RCW 90.03.265, since the transfers will not diminish the water available to earlier pending applicants for changes or transfers from the same source of supply.

INVESTIGATION

Site Visit/Site Description

On October 14, 2015, Mr. Andrew B. Dunn and Mr. Adam Neff from RH2 met with Mr. Scott Bedlington and Mrs. Melissa Bedlington-Kleindel from Bedlington Farms to perform the site visit. Before traveling to the proposed POU, we met at their office and discussed general and specific farm operations and the proposed change.

The Bedlingtons stated that they purchased the farm in 2008 from Mr. Engler who operated a dairy on the property. Since the purchase, the Bedlingtons have grown seed potatoes, corn, grass, and wheat within the POU. Potatoes are the main cash crop, while the others are grown as rotational crops to rest/rebuild the soil. With respect to crop rotation, Mr. Bedlington indicated that they rotate crops every 3 to 5 years, with potatoes every 5 years.

According to crop data provided by Scott Bedlington, they have farmed between 0 and 90 acres of potatoes on this portion of their operations, in addition they farm grass, corn, and wheat. The potatoes and grass are continually irrigated throughout the growing season, while corn is watered less, and wheat not at all. At the time of the site visit, there were areas of wheat, grass, and areas that were just harvested of potatoes.

The irrigation system pumps water directly from the Nooksack River via a mobile electric 15-HP pump to the main farm operations where the pressure is boosted by a second 60-HP pump to achieve 100 to 130 pounds per square inch (psi) pressure at the discharge locations. Irrigation water is conveyed directly from the booster across the POU through a 6-inch PVC main, with 4-inch risers located along its length and in most places spaced 230 feet apart. Water is applied to the crops using two big guns each with 1-inch nozzles. A soft hose is required to reach much of the northern portion of the existing POU. This will also be required to irrigate the additional proposed POU acreage to the north.

The irrigation season is weather-dependent, but is typically from May through September. Bedlington Farms tries to apply a consistent amount of irrigation throughout the irrigation season by applying water on a regular schedule. No irrigation was occurring during the site visit as it was just after the harvest.

The proposal to expand the POU will allow Bedlington Farms to rotate crops requiring irrigation across a larger area of the farm.

History of Water Use

Information on the history of water use under this water right was pieced together from a variety of sources, including aerial photos, irrigation guides, the site visit, communications with Scott Bedlington, and weather records.

Interview

Mr. Bedlington indicated that prior to his family purchasing the property in 2008, the farm was a working dairy that also grew grass for silage. Since taking ownership, they have expanded the irrigable acreage within the existing POU by regrading portions of the site and removing some treed areas. They grow potatoes, corn, grass, and wheat; all but the latter being irrigated.

Instantaneous Rate

The diversion pump was observed on-site during the site visit. Based on the information provided on the pump and motor nameplates, a pump curve was obtained from the Berkeley website. Pumping capacity, based on the pump curve and information from Mr. Bedlington, is shown in **Table 1**.

Table 1. Pumping Rate of Point of Diversion Authorized Under SWC 9748

Point of Diversion	Pump Horsepower	Pump Model	Pumping Rate at Highest Efficiency (gpm)
Diversion-1	15	Berkeley B4EPM	520 (@95 ft)

The authorized diversion rate of 1.0 cfs (449 gpm) is slightly less than the pumping rate at the highest efficiency of the diversion pump.

During the site visit, Mr. Bedlington said they run two big guns at a time when irrigating and that each gun applies approximately 225 to 300 gpm of water within a 230-foot-diameter arc. Based on a discharge pressure of 100 to 130 psi and using a 1-inch tapered nozzle, both were indicated by Mr. Bedlington during our site visit, the discharge rate may actually be as high as 290 and 335 gpm per big gun.

Based on the above statements, it is reasonable to conclude that the full instantaneous rate under this water right has been maintained through beneficial use and is available for transfer.

Irrigated Acres

This surface water certificate is for irrigation of 108 acres. The entire existing POU is 112 acres.

Aerial photos of the property were obtained from the Whatcom County Conservation District, United States Geological Survey, and Google Earth. The aerial photos are summarized in **Table 2**.

Table 2. Aerial Photography Summary

Origin	Date	Irrigable Acreage
USGS	05/04/1972	96.9
Whatcom County Conservation District	06/27/1978	94.7
USGS	07/26/1981	Not Calculated
Whatcom County Conservation District	08/02/1987	100.1
USGS	06/05/1989	Not Calculated
USGS	07/10/1990	98.0
Google Earth	07/15/1998	98.6
Google Earth	07/31/2005	Not Calculated
Google Earth	03/31/2006	Not Calculated
Google Earth	08/06/2006	96.4
USGS	04/30/2009	98.3
Google Earth	06/25/2009	Not Calculated
Google Earth	08/25/2011	Not Calculated
USGS	07/15/2013	100.2
Google Earth	07/10/2014	Not Calculated
Google Earth	05/02/2015	Not Calculated

The aerial imagery shows that the acreage irrigated stayed relatively the same while owned and operated by Mr. Engler, through 2008. The fluctuation in acreage appears to be largely due to modifications to tree and shrub vegetation (non-irrigated areas) around the perimeter of the property and along the river (removal added irrigable acreage), and the construction of additional buildings associated with the farm operations (resulted in less irrigable acreage). These changes caused a 1 to 2 acre fluctuation in the irrigable acreage until the farm was purchased by Bedlington Farms. Since then, the amount of irrigable acreage has increased by 4 acres (largely due to removal of the manure lagoon and additional trees). The areas irrigated include agricultural irrigation of crops and the irrigation of grass planted in front of the farm buildings.

Geographic Information Systems (GIS) was used to geo-reference the historical aerial photos listed above, then to measure the area where irrigation occurred or could have occurred. Irrigable acreage was only calculated from aerials with sufficient resolution to determine land use with a reasonable level of accuracy, and on a 5- to 10-year interval.

Based on the results from the aerial mapping, it appears that there is evidence over a 6-year span, from 1972 to 1978, a maximum of 96.9 acres were irrigable. This corresponds to the highest single year of irrigated acreage over lowest irrigated 5-year span. 96.9 acres is less than what is stated on the original certificate.

Annual Volume

Based on review of the aerial photos, it is determined that 96.9 acres have been in irrigated agriculture under SWC 9748 since its issuance in 1966.

Historically, the property was operated as a dairy that grew grass for silage. Since 2008, when Bedlington Farms purchased the property, the farm has grown seed potatoes, grass, corn, and wheat. **Table 3** lists the crops grown and irrigation method used.

Table 3. Crops Grown and Irrigation Method

Year	Agricultural Fields	
	Crop ¹	Irrigation Method ¹
1965-2008	Grass/Silage	Unknown, but likely handline, wheel line, or Big Gun
2008-2015	Potatoes	Big Gun
2008-2015	Grass	Big Gun
2008-2015	Corn	N/A ² or Big Gun
2008-2015	Wheat	N/A ²
¹ Crops grown and irrigation method provided by Mr. Scott Bedlington		
² Not Applicable		

There is a water meter installed on the point of diversion. However, the meter was installed partway through the 2015 irrigation season and does not reflect an entire season of water use on the farm.

This certificate was originally issued for 216 af/yr, based on a 2-foot total irrigation requirement over 108 acres. In order to determine the annual quantity available for transfer, a tentative determination was made as to the extent of the water right. The Washington Irrigation Guide (WAIG) and Water Resources

Guidance 1210 was used to try to estimate the annual volume of water pumped under this water right while it was used to irrigate grass.

During the six years (1972 to 1978) when the least amount of ground was irrigated, the farm operated as a dairy that grew grass for silage. Based on the aerial photos, it may be assumed that all of the irrigable acreage was irrigated for silage.

Irrigation Method: Unknown, but assumed to be sprinkler or handline
 WAIG Station: Bellingham
 Crop: Pasture/turf (1992 WAIG version)
 Crop Irrigation Requirement = 15.19 inches
 Irrigation Efficiency = 75%
 Total Irrigation Requirement = 15.19 inches / 75% = 20.25 inches
 Acres Irrigated = 96.9 acres

Annual Volume = 96.9 acres * 20.25 inches / 12 inches per foot = 164 af/yr.

Since 1978, when the maximum of the minimum 5-year period of use occurred, either more irrigation has occurred (via more land being irrigated) or other crops (potatoes, corn, wheat, etc.) have been rotated in. These other crops require less water than the previously farmed grass, and, therefore, the total amount of irrigation may have dropped below the calculated annual volume listed above during one or more of the years since 2008. Crop rotation is a "sufficient cause" for non-use, or reduced use, per RCW 90.14.140, and does not result in relinquishment of any water.

Proposed Use

The overall goal of this water right change application is to change the water right POU to include all adjacent lands owned by Bedlington Farms. The total number of irrigated acres will not increase. The change allows for crop rotation over a larger area.

The proposed POU is comprised of two additional parcels (110.75 acres), beside the existing POU. All of the proposed POU is owned by Bedlington Farms. The proposed POU is approximately 222 acres in size and includes roughly 196 acres of irrigable land, as indicated in **Table 4**.

Table 4. Parcels Requested for Inclusion in the Place of Use

Parcel No.	Status	Parcel Owner	Gross Acres	Approximate Irrigable Acres
390216070162	Existing	DICK BEDLINGTON REAL ESTATE LLC	63.4	53.1
390216202330	Existing	DICK BEDLINGTON REAL ESTATE LLC	30.40	30.05
390216330352	Existing	DICK BEDLINGTON REAL ESTATE LLC	17.60	17.03
390216067330	Proposed	DICK BEDLINGTON REAL ESTATE LLC	40.75	33.9
390216243459	Proposed	BEDLINGTON FARMS LLC	70.0	62.2
Totals			222.15	196.28

The primary commercial crops to be grown will continue to be the same ones that Bedlington Farms has grown since they purchased the property; seed potatoes, grass, corn, and wheat. Irrigation will continue to be implemented via a traveling big gun sprinkler.

Period of Use

The certificate for this right does not identify the period of use. The change application has requested the period of use to be May 1st through September 30th annually. In order to clarify the water right record, the requested period of use will be used.

Other Rights Appurtenant to the Place of Use

Relying on Ecology's Water Resources Explorer (accessed in November and December 2015), we have identified the following four water rights as being appurtenant to both the original and proposed POU, in addition to SWC 9748:

Surface Water Claim S1-063699CL

Name: Washington Department of Natural Resources
Instantaneous Rate: 0.01 cfs
Annual Quantity: 1 af/yr
Date of First Putting Water to Use: 1889
Purpose: Irrigation, Stock, Wildlife, Recreation
Source: Nooksack River

Groundwater Right Claim G1-090123CL

Name: Erwin Engler
Quantity of Water Claimed: Not Listed
Annual Quantity Claimed: Not Listed
Date of First Putting Water to Use: 1974
Purpose for Which Water is Used: Irrigation, Stock

Groundwater Right Claim G1-090124CL

Name: Erwin Engler
Quantity of Water Claimed: Not Listed
Annual Quantity Claimed: Not Listed
Date of First Putting Water to Use: 1974
Purpose for Which Water is Used: Irrigation, Stock, Domestic

Groundwater Right Claim G1-300812CL

Name: Erwin Engler
Quantity of Water Claimed: 20 gpm
Annual Quantity Claimed: 16.8 af/y
Date of First Putting Water to Use: 1912
Purpose for Which Water is Used: Irrigation, Stock, Domestic

Groundwater Right Claim G1-300813CL

Name: Erwin Engler
Quantity of Water Claimed: 10 gpm
Annual Quantity Claimed: 13.44 af/y
Date of First Putting Water to Use: 1912
Purpose for Which Water is Used: Irrigation, Stock, Domestic

G1-090123CL and G1-090124CL are short-form claims that do not list an amount of water claimed, either instantaneous withdrawal or annual quantity. They share the same POU boundary with each other, Government Lots 3, 4, 7, and 8, except the south 275 feet of said Government Lot 8, Section 16 Township 39N, Range 2E. This corresponds to the portion of this water right (S1-*19323C) located within Section 16.

G1-300812CL claims 20 gpm and 16.8 af/yr for the irrigation of 1 acre of land, within SE ¼ of the SE ¼ of Section 17, Township 39N, Range 2E and the W ½ of the SW ¼ of Section 16, Township 39N, Range 2E. It claims uses of irrigation, stock, and domestic.

G1-300813CL is very similar to G1-300812CL except it claims only 10 gpm and 13.44 af/yr, but within the same POU and for the same purposes.

S1-063699CL is a surface water claim, submitted by the Washington Department of Natural Resources, for 0.01 cfs and 1 af/yr for the irrigation of 71 acres within the proposed POU (Government Lot 2 and NE ¼ of the NW ¼ section 16, Township 39N, Range 2E). It claims a priority date of November 1889, and includes irrigation, stock watering, wildlife, and recreation as claimed uses.

According to Scott Bedlington, none of these water rights are currently being used within the proposed POU.

Impairment Considerations

Impairment of Water Rights

Since the point of diversion is not being changed and the annual volume is being reduced to match actual beneficial use, there will be no greater impacts on the Nooksack River and therefore no potential for impairment to other water right holders or minimum instream flows.

Consideration of Protests and Comments

This change application was protested by the LIBC, who claim that all withdrawals within WRIA-1 have the potential to negatively impact current and future instream flows. The Lummi Nation is currently in negotiations with both the United States of America and Washington State regarding on-reservation water rights and instream flows.

However, this change will not increase the amount of water diverted from the Nooksack River and therefore the future impacts will be equal to or less than existing impacts.

Conclusions

Upon review of the existing surface water right the annual quantity has been reduced due to non-use. The changes requested, will allow for crop rotation over a larger area, and will not impair existing rights. The change should be approved as summarized below.

Summary

Table 5 contains a summary of the water right, after the current change application is processed.

Table 5. Summary of Recommended Water Right Change - Bedlington Farms

Qi	1.0 cfs
Qa	164 af/y
POU Description	Section 16, Township 39 North, Range 2 East <ul style="list-style-type: none">• NE ¼ of the NW ¼• NW ¼ of the SW ¼• Gov't Lots 2, 3, 4, 7, and 8, Except the south 275 feet of said Gov't Lot 8. Section 17, Township 39 North, Range 2 East <ul style="list-style-type: none">• Beginning at the southeast corner of said Sec. 17; thence north 283.3 feet to true point of beginning; thence continue north 886.3 feet; thence west 382 feet; hence south 886.3 feet to north line of county road; thence east along said north line 92 feet; thence north 265.3 feet; thence east 290 feet to the true point of beginning. All except roads.
POU Total Acreage	222.15
Irrigated Acres	96.9
Period of Use	May 1 through September 30
POWs	Diversion-1 on Nooksack River

RECOMMENDATIONS

Based on the above investigation and conclusions included in this Report of Examination, RH2 recommends that this request for a water right change be approved in the amounts and within the limitations and subject to the provisions listed above.

Report by:

Adam Neff – RH2 Engineering, Inc.

Date

Report by:

Andrew B. Dunn, L.G., L.H.G., CWRE – RH2 Engineering, Inc.

Date

ATTACHMENT

