



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

REPORT OF EXAMINATION
Change of: Point of Withdrawal
WRTS File # CG3-*08656C

PRIORITY DATE	CLAIM NO.	PERMIT NO.	CERTIFICATE NO.
April 14, 1967		8107	6598-A

NAME Tesda, Inc., c/o Ted Penner		
ADDRESS/STREET	CITY/STATE	ZIP CODE
431 Kellogg Road	Dayton, WA	99328

PUBLIC WATERS TO BE APPROPRIATED

SOURCE A well		
TRIBUTARY OF (IF SURFACE WATERS)		
MAXIMUM CUBIC FEET PER SECOND (cfs)	MAXIMUM GALLONS PER MINUTE (gpm)	MAXIMUM ACRE FEET PER YEAR (ac-ft/yr)
	30	11.38

QUANTITY, TYPE OF USE, PERIOD OF USE
30 gallons per minute, 11.38 acre-feet per year, including 9.38 acre-feet per year, from May 1 to October 1, each year for the irrigation of 2.5 acres and 2 acre-feet per year, continuously, for single domestic supply

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL 650 feet east and 200 feet North of the west quarter corner, within Sec. 27						
SOURCE	LATITUDE	LONGITUDE	QTR/QTR	SECTION	TOWNSHIP	RANGE
A well	46.4050°N	118.0513°W	SW¼NW¼	27	11	38 E.W.M.

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED
[Attachment 1 shows location of the authorized place of use and point(s) of diversion or withdrawal.]

S¾E¾SW¼NW¼ of Sec. 27, T. 11 N., R. 38 E.W.M., lying west of Kellogg Road

DESCRIPTION OF PROPOSED WORKS

Well, pump and handlines

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
Started	December 1, 2009	December 1, 2010

PROVISIONS

Wells, Well logs and Well Construction Standards

1. All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.
2. Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.
3. In the event well repair or construction activity occurs at the proposed well, a well log shall be prepared in accordance with WAC 173-160.

Measurements, Monitoring, Metering and Reporting

4. An approved measuring device shall be installed and maintained for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", chapter 173-173 WAC. <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
5. Water use data shall be recorded bi-weekly (every other week) and maintained by the property owner for a minimum of five years. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.
6. Recorded water use data can be submitted via the Internet. To set up an Internet reporting account, access <https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/>. If you do not have Internet access, contact the Eastern Regional office for forms to submit your data.

Schedule and Inspections

7. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above provisions, and to inspect at reasonable times any measuring device used to meet the above provisions.
8. The water right holder shall file the notice of project completion 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 beneficial use within the limitations of the change authorization. Elements of the project completion inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and compliance with provisions.

General Conditions

9. This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.
10. 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.

FINDINGS OF FACT AND ORDER

Upon reviewing the investigator's report, I find all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, I find the change of water right as recommended will not be detrimental to existing rights.

Therefore, I ORDER approval of the recommended change in point of withdrawal under Change Application No. 6598-A, subject to existing rights and the provisions listed above.

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

Deliver your appeal in person to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

Deliver your appeal in person to:

The Department of Ecology
Appeals & Application for Relief
Coordinator
PO Box 47608
Olympia, WA 98504-7608

OR

The Department of Ecology
Appeals & Application for Relief
Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Keith L. Stoffel
Department of Ecology
Eastern Regional Office
4601 North Monroe Street
Spokane, WA 99205

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

Signed at Spokane, Washington, this day of 2009.

Keith L. Stoffel, Section Manager
Water Resources Program
Eastern Regional Office

INVESTIGATOR'S REPORT

BACKGROUND

Description and Purpose of Proposed Change

An application for change/transfer was submitted by TESH A Inc. of Dayton, Washington, to Ecology on April 28, 2008. TESH A Inc. proposes to change the point of withdrawal under Water Right Certificate No. 6598-A.

Attributes of the Certificate and Proposed Change

Table 1 Summary of Proposed Changes to Water Right No. 6598-A

<i>Attributes</i>	<i>Documented</i>	<i>Proposed</i>
Name	Jack M. Penner	TESHA Inc. (c/o Ted Penner)
Priority Date Date of Application for Change	April 14, 1967	April 28, 2008
Instantaneous Quantity	30 gallons per minute	<i>No change</i>
Annual Quantity	20 acre-feet	<i>No change</i>
Source	A well	A well
Point of Diversion/Withdrawal	NW ¹ / ₄ NW ¹ / ₄ of Sec. 27	SW ¹ / ₄ NW ¹ / ₄ of Sec. 27
Purpose of Use	Irrigation of 4.5 acres and domestic supply	<i>No change</i>
Period of Use	Irrigation is from May 1 to October 1 and domestic supply continuous	<i>No change</i>
Place of Use	W ¹ / ₂ NW ¹ / ₄ of Sec. 27, T. 11 N., 38 E.W.M	<i>No change</i>

Legal Requirements for Proposed Change

The following is a list of requirements that must be met prior to authorizing the proposed change in point of withdrawal.

- **Public Notice**

A notice of application was duly published in accordance with RCW 90.03.280 in the Dayton Chronicle on May 28 and June 4, 2008 and no protests were received.

- **State Environmental Policy Act (SEPA)**

Environmental review under SEPA is required for many projects; however, some minor projects are categorically exempt from SEPA. Appropriations of one cfs or less of surface water, or of 2,250 gpm or less of ground water, for any purpose, and appropriations of 50 cfs or less for surface water used for irrigation are categorically exempt from SEPA. See WAC 197-11-305.

- **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, place of use, 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.

RCW 90.44.100(2) requires that any well or wells added to a ground water certificate must tap the same body of public ground water as the original well on the certificate.

INVESTIGATION

In considering the proposed changes/transfers, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) Ground Water Certificate No. 6598-A, and other water rights/claims/permit in the vicinity; (3) wells and proposed well site; (4) USGS topographic maps, aerial photographs, and; (5) discussions with Department of Ecology regional program staff.

A site visit of the project was conducted on October 28, 2008, by Dan Tolleson, with Ted Penner. This project is located approximately 7 miles northwesterly of Dayton, Washington, within WRIA 35.

The authorized place of use is approximately 80 acres of land, lying in the upper reaches of the Kellogg Creek Drainage within Section 27, Township 11 north, Range 38 E.W.M. The actual irrigated portion of the place of use is located west of the seasonal creek and Kellogg Road. This area has two house sites with various out buildings and barns. The house located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 has a small yard of less than $\frac{1}{2}$ an acre of irrigation. The house lying in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 27 has a small yard and pasture of approximately 2.5 acres of irrigation.

History of Water Use

This right was historically developed to irrigate a garden located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 27 and the pasture within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 27. Also, this right was used to supply domestic water to the house located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 27. The authorized well was constructed near the garden in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 and was used to supply both irrigated fields and the domestic supply. Water for the house and field located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 was piped into a cistern located on the hill above the project. In the 1980's a house was built over the irrigated garden site located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 27. At that time a new well (the currently proposed well) was constructed in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 to supply the irrigated field, yard and house within that quarter section. The portion of the right within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 was abandoned at that time. The original authorized well was then used under exemption RCW 90.44.050 to supply water to the newer house built in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27. Domestic supply of approximately two acre-feet per year has been historically used at a house located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ at Section 27.

Aerial photographs were used to help verify the extent of development, historical and beneficial use of Ground Water Certificate No. 6598-A. Approximately 2.5 acres have continuously been irrigated within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 within the authorized place of use. The remaining 2 acres that were originally irrigated within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 have not been irrigated for more than twenty years and are therefore relinquished due to nonuse.

The authorized water duty of this certificate is 4 acre-feet per year, per acre. Historically, this right has been used to irrigate pasture and lawn. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that an estimated 2.62 acre-feet, per acre, are required for grass/turf in the Dayton area. The current irrigation system of sprinkler is estimated at a 70% efficiency rate of application. With a 70% efficiency rate of application an estimated 3.75 acre-feet per acre would need to be applied for crops that use 2.62 acre-feet per acre. Therefore future irrigation of 2.5 acres will require 9.38 acre-feet per year. The remaining 0.25 acre-feet, per acre, is no longer required due to modern farming practices.

Water rights are appurtenant to a specific parcel of land or place of use on an acre per acre basis. Therefore, the place of use of this right will be narrowed down to the smallest legal description possible which is as follows: the S $\frac{3}{4}$ E $\frac{3}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 27, T. 11 N., R. 38 E.W.M., lying west of Kellogg Road.

Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water rights, permits, and claims in the area surrounding the project. The search focused primarily on Sections 21, 22, 27 and 28, Township 11 north, Range 38 E.W.M. The review of Ecology records shows one water right claim that overlaps the authorized place of use, which is as follows:

Water Right Claim No. 006700 claims 10 gallons per minute, 6.45 acre-feet per year for the irrigation of 1 acre, domestic supply, livestock, garden, spray water, etc. The claimed place of use and point of withdrawal is the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 27, T. 11 N., R. 38 E.W.M. According to Ted Penner, the well under this claim was decommissioned in the 1960s when water became available under Ground Water Certificate No. 6598-A. Therefore, it appears that this claim has been abandoned and is relinquished from nonuse.

(The validity and extent of above listed water rights & claims are not determined in this report.)

Hydrologic/Hydrogeologic Evaluation

Applications for change of water right permits and certificates are governed by RCW 90.44.100, which states in part that the holder of a valid right to withdraw public ground waters may, without losing his/her priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he/she may

change the manner or the place of use of the water. Any amendment shall be issued by the Department of Ecology (Ecology) only under the conditions that (1) an additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (4) all existing water rights shall not be impaired. Ecology may specify an approved manner of well construction and shall require a showing of compliance with the provisions of the amendment.

The point of withdrawal for this change application is located within the Walla Walla Basin, a hydrologic sub basin of the Columbia Plateau. This basin developed as a structural trough within the Tertiary-aged Columbia River Basalt Group which was later overlain by unconsolidated sediments.

The Columbia River Basalt aquifer system is comprised of a series of dense, low permeability flows and higher permeability interflow zones. Dense basalt flows impede the flow of water. The interflow zones, generally the tops or bottoms of flows and associated sediments, are more permeable, and range in thickness from a few feet to 25 feet or more. It is these permeable, water conducting interflow zones that constitute the bulk of what is called the "basalt aquifer" within the sub basin.

The authorized well was drilled in 1967 to a depth of 117 feet. It is 6 inches in diameter, and cased to a depth of 60 feet. The static water level in 1967 was 22 feet below ground surface. The log indicates it withdraws water from Columbia River group basalt flows.

The proposed well has no log. It is reported to be an estimated 180 feet deep, and is 6 inches in diameter. Given the relatively thin soils in this area, it is reasonable to assume this well penetrates into the Columbia River Basalt.

On January 28, 2009, Walla Walla Watermaster Bill Neve, at my request, obtained water levels from the subject wells. The authorized well, at an elevation of approximately 1,800 feet reported a static water level of 25.12 feet below ground surface. The proposed well, located at an elevation approximately 1,840 feet, reported a static water level of 44.08 feet below ground surface. The calculated water table elevation is similar enough to find that both wells, installed in basalt have similar heads, and thus are in the same body of public groundwater.

Should well repairs or construction activity occur at the proposed well, a well log will be prepared in accordance with WAC 173-160.

Impairment Considerations

"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.

This application is requesting authorization to change the point of withdrawal, as granted under Ground Water Certificate No. 6598-A. It appears that this certificate has been partially exercised and beneficially used in the past. The proposed change will not increase the amount of water withdrawn from the aquifer, nor will it increase or expand the right.

Public Interest Considerations

There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be any detrimental impact to the public welfare through issuance of the proposed change.

CONCLUSIONS

It has been tentatively determined that there is a water right available for change/transfer under Ground Water Certificate No. 6598-A in the amount of 30 gallons per minute, 11.38 acre-feet per year, including 9.38 acre-feet per year, from May 1 to October 1, each year for the irrigation of 2.5 acres and 2 acre-feet per year, continuously, for domestic supply.

Based on the above hydrologic/hydrogeologic evaluation, it is the determination of the technical unit that the existing and proposed withdraw water from the same body of public ground water.

No withdrawal of water over and above what has been authorized for beneficial use would be authorized through approval of this change. Therefore, no enhancement of the original right is authorized.

There will be no impairment to existing rights or detrimental impact to the public welfare.

In is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, this application to change the point of withdrawal under Ground Water Certificate No. 6598-A will not enlarge the quantity of water historically authorized, nor will it impair existing rights provided the provisions, terms and conditions contained within this report are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to change the point of withdrawal be approved in the amounts and within the limitations listed below and subject to the provisions beginning on Page 2.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

- 30 gallons per minute
- 11.38 acre-feet per year
- 9.38 acre-feet per year for the irrigation of 2.5 acres and 2.0 acre-feet per year for single domestic supply

Point of Withdrawal

SW $\frac{1}{4}$, NW $\frac{1}{4}$, Section 27, Township 11 North, Range 38 E.W.M.

Place of Use

S $\frac{3}{4}$ E $\frac{3}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 27, T: 11 N., R. 38 E.W.M., lying west of Kellogg Road

Report by: _____

Dan Tolleson
Water Resources Program

_____ Date

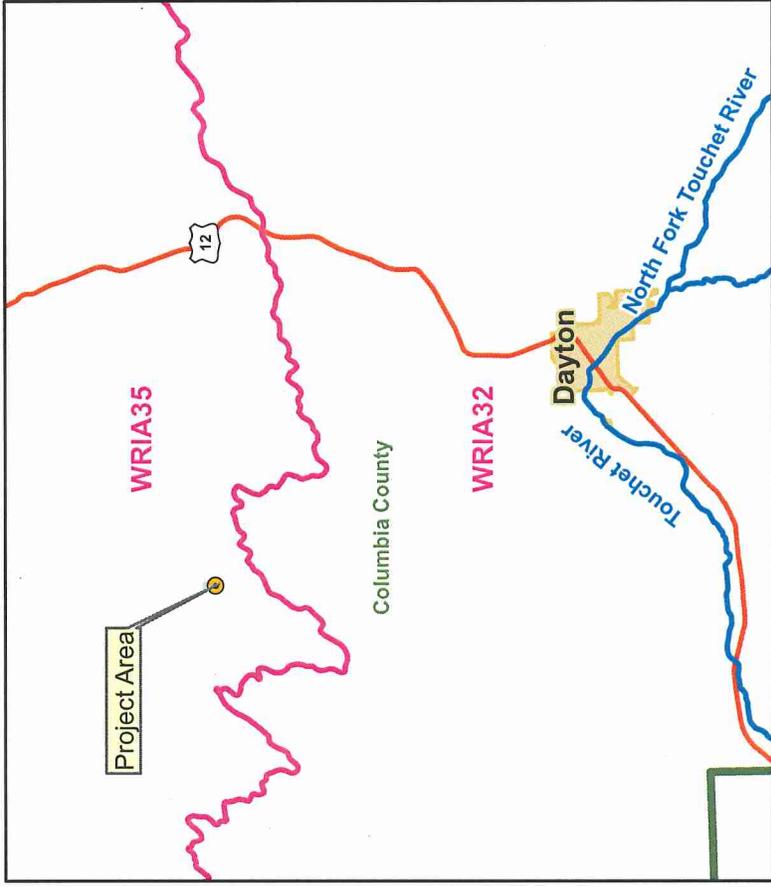
If you need this publication in an alternate format, please call the Water Resources Program at 360 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

W/Draft ROEs/Tolleson 2009/6598-A Tesha, Inc.

Attachment 1



TESHA, Inc.
 Change to Ground Water Certificate 6598-A
 Sec. 27, T 11N, R 38E, W.M.
 WRIA 35 - Columbia County



- Legend**
- County
 - WRIA
 - Townships
 - Sections
 - Cities
 - Local Roads
 - Highways
 - ▲ Authorized Point of Diversion
 - Authorized Point of Withdrawal
 - Authorized Place of Use

Comments:
 Place of use, points of withdrawal/diversions are as defined on the cover sheet under the heading, 'LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED.'

