DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Changed Place of Use
Changed Point of Withdrawal

PRIORITY DATE
July 21, 1966

WATER RIGHT NUMBER
Certificate 6272-A

MAILING ADDRESS
KAGELE-ERICKSON I, LLC
679 B WEST ROSENOFF ROAD
RITZVILLE, WA 99169

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
250	GPM	266

Purpose

PURPOSE	WITHDRAWAL RATE ADDITIVE	WITHDRAWAL RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Agricultural Irrigation of 160 acres	250		GPM	266		03/01 - 10/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
ADAMS	GROUNDWATER		41-LOWER CRAB

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
A well	2931310100001	19 N.	31 E.	31	SE¼SW¼NW¼	47.093910	118.976837

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)
181259000

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
SW¼ and E½SE¼ of Section 25, T. 19 N., R. 30 E.W.M., Grant County Washington

Proposed Works

Well and two pivots, 122 acre pivot in the SW¼ and 38 acres of a pivot in the E½SE¼ of Section 25

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	Complete	May 1, 2015

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Upon Request by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm)

Provisions

Wells, Well Logs and Well Construction Standards
All wells constructed in the state must 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 must be decommissioned.

All wells must be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag must remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

The property within the proposed place of use lies within the boundary of the Columbia Basin Project and potentially within delivery of the irrigation district. Should contracts be issued that include lands developed under this authorization, these lands will be subject to RCW 90.44.510. If water from facilities of any legally formed irrigation district is used on any or all of the lands described and developed herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available. RCW 90.44.510 confirms that should water be supplied to these lands (agricultural or non-agricultural) and replaced with Columbia Basin Project Water, the permit or certificate, or portion thereof shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation and the authorized number of acres under the permit.

Measurements, Monitoring, 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", WAC 173-173, which 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.

Water Use Efficiency
The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation
The water right holder must file the notice of Proof of Appropriation of water (under which the 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 certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, contracting with a Certified Water Rights Examiner (CWRE), and confirming the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections
Department of 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, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Real Estate Excise Tax
This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: http://dor.wa.gov/. E-mail: REETSP@DOR.WA.GOV.

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 a valid right exists; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application for Change No. CG3-*08211C, 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 RCW and Chapter 371-08 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.) E-mail 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
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 **Pollution Control Hearings Board** 1111 Israel Road SW Ste 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this day of 2014.

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Keith L. Stoffel, 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.

BACKGROUND

An application for change/transfer was submitted by Kagele-Erickson I, LLC, on September 20, 2013. The applicant proposes to change the point of withdrawal and place of use to Ground Water Certificate 6272-A.

A notice of application was duly published in accordance with RCW 90.03.280 in the Ritzville Adams County Journal on October 24, and 31, 2013 and no protests were received.

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW.

Attributes of Ground Water Certificate No. 6272-A

Recorded Name:	Pauline Haase
Priority Date(date of first use):	July 21, 1966
Instantaneous Quantity – Q(i):	250 gallons per minute
Annual Quantity – Q(a):	266 acre-feet per year
Source:	A well
Point(s) of withdrawal:	Govt Lot 4, Sec. 2, T. 19 N., R. 32 E.W.M.
Purpose of Use:	irrigation of 160 acres and domestic supply

INVESTIGATION

Certificate 6272-A authorized the use of 250 gallons per minute, 266 acre-feet per year for the irrigation of 160 acres from a well. The authorized place of use is owned by multiple parties, all of which signed the application for change.

The current land owner of the authorized place of use described the historic irrigation practices of the property. The property was primarily irrigated with hand lines. The property was described as irrigated until around 1988. In 1989, the property was placed into the Federal CRP Program. These CRP contracts were extended and they were valid until September of 2012 and September of 2013.

In February of 2011, Bernard Erickson filed an Application for Seasonal Change requesting to move this right to the proposed location of this permanent application for change. A review of the water right history determined this right was valid and protected from relinquishment under RCW 90.14.140(1)(f), Federal laws imposing land or water use restrictions either directly or through the voluntary enrollment of a landowner in a federal program. Entering this right into the CRP Program between 1988 and 2013 protected this right from relinquishment. Seasonal Change Applications were filed again in 2012, 2013, 2014. All of the seasonal change applications have been approved and beneficial use was established.

The original place of use of this right in Section 2 and 3, T. 19 N., R. 32 E.W.M. lies outside of the boundaries of the Odessa Special Study Area (OSSA). The proposed lands are within the OSSA. The first seasonal change was approved in April of 2012. The water use has continued within the OSSA since 2012. The water use within the OSSA predates the Record of Decision, signed April 2, 2013, for the Odessa Subarea Replacement Water Program.

The proposed well is currently constructed and operational. The proposed irrigation systems are constructed and operational due to the seasonal change authorizations.

Evaluation of the Water Right and Beneficial Use Analysis:

The Washington State Supreme Court, in Okanogan Wilderness v. Town of Twisp and Department of Ecology, 133 Wn.2d 769, 947 P.2d 732 (1997), found that applications for change may be granted only to the extent the water has been historically put to beneficial use, as beneficial use determines the measure of a water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been lost for non-use before the Department can approve a change or transfer of the water right.

Ground Water Certificate 6272-A confirmed a use of 250 gallons per minute 266 acre-feet per year for the irrigation of 160 acres. This right has been determined to have been perfected and put to beneficial use between 1967 and 1986. The right was protected from relinquishment under RCW 90.14.140(10(f) between 1988 and 2013. The right has again been beneficially used under the Seasonal Change Program, RCW 90.03.390 between 2012 and 2014.

The original right issued for 250 gallons per minute, 266 acre-feet per year for irrigation. This is a water duty of 1.66 acre-feet per acre. This annual quantity was based on the well pumping continuously during the irrigation season from March 1 to November 1.
The water right appears to be valid for 250 gallons per minute, 266 acre-feet per year for agricultural irrigation of 160 acres.

Hydrologic/Hydrogeologic Evaluation

Applications for change/transfer of water right permits and certificates of ground water 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 priority of right, construct wells at a new location in substitution for, or in

addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued by the Department only on the conditions that: (1) the 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) other existing rights shall not be impaired. The Department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment.

The proposed project lies within the boundaries of the Odessa Sub-area as defined in Chapter 173-128A WAC. The Odessa Sub-area encompasses approximately 2,000 square miles in parts of Grant, Lincoln, and Adams Counties. The relatively flat-lying land surface slopes in a southwesterly direction and is locally dissected by coulees. The proposed change is subject to the conditions of WAC 173-130A, the management regulation for the Odessa Sub-area.

The original well in Sec. 2, T. 19 N., R. 32 E.W.M., was constructed in 1967. The well is an 8 inch diameter well, 294 feet deep. The well penetrated basalt at 35 feet below ground surface, and is cased into basalt.

The proposed well in Section 31, T. 19 N., R. 31 E.W.M., was constructed in 1977. The well is a 20 inch diameter well from the surface to 550 feet below ground surface, and 16 inches diameter between 550 feet and the total depth of 970 feet. It is cased with a 20 inch casing to a depth of 49 feet 6 inches, into basalt. In 1977, it had a static water level approximately 160 feet below ground surface, and yielded 4000 gallons per minute with 45 feet of drawdown after six hours.

Basalt aquifers of the Odessa Sub-area are part of a large ground water reservoir occurring in a thick series of basalt flows known as the Columbia River Basalt Group. The thickness of this series of flows varies from a few hundred feet at the Spokane River to over 10,000 feet in the Pasco Basin. The wells associated with this change application are all producing water from the same aquifer system and as such, they are all producing water from the same body of public groundwater.

No evidence of impairment of other rights is present, since production of the water under this right from the proposed well has been permitted under the seasonal change program. There are no other impairment considerations.

Existing Rights

Four other rights are appurtenant to the source well and are described below:

Ground Water Certificate 1000-A confirms a right of 325 gallons per minute, 320 acre-feet per year for irrigation of 80 acres.

Ground Water Certificate 4370-A(B) confirms a right of 62.5 gallons per minute, 50 acre-feet per year for irrigation of 80 acres.

Ground Water Certificate G3-20795 confirms a right of 1600 gallons per minute, 400 acre-feet per year for irrigation of 160 acres.

Ground Water Certificate G3-21031 confirms a right of 1920 gallons per minute, 800 acre-feet per year for irrigation of 320 acres.

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 flows 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 well location change and change in place of use will not impair existing water rights.

The proposed change to change the point of withdrawal and place of use will not enlarge the quantity of water identified above. The proposed well is required to be constructed into the same body of public ground water.

The property within the proposed place of use lies within the boundary of the Columbia Basin Project and potentially within delivery of the irrigation district. Should contracts be issued by the district that include lands developed under this authorization, these lands will be subject to RCW 90.44.510. If water from facilities of any legally formed irrigation district is used on any or all of the lands described and developed herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available. RCW 90.44.510 confirms that should water be supplied to these lands (agricultural or non-agricultural) and replaced with Columbia Basin Project Water, the permit or certificate, or portion thereof shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation and the authorized number of acres under the permit.

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 detrimental impact to the public welfare through issuance of the proposed change.

CONCLUSIONS

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, a valid right exists. This application for change to change the point of withdrawal and change the place of use will not enlarge the quantity of water identified, nor will it impair existing rights or be detrimental to the public welfare provided the terms and conditions are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to Ground Water Certificate 6272-A be approved in the amounts and within the limitations listed below and subject to the provisions.

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:

- 250 gpm
- 266 acre-feet per year
- Agricultural irrigation of 160 acres

Point of Withdrawal

SE¼SW¼NW¼ of Section 31, T. 19 N., R. 31 E.W.M., Adams County

Place of Use

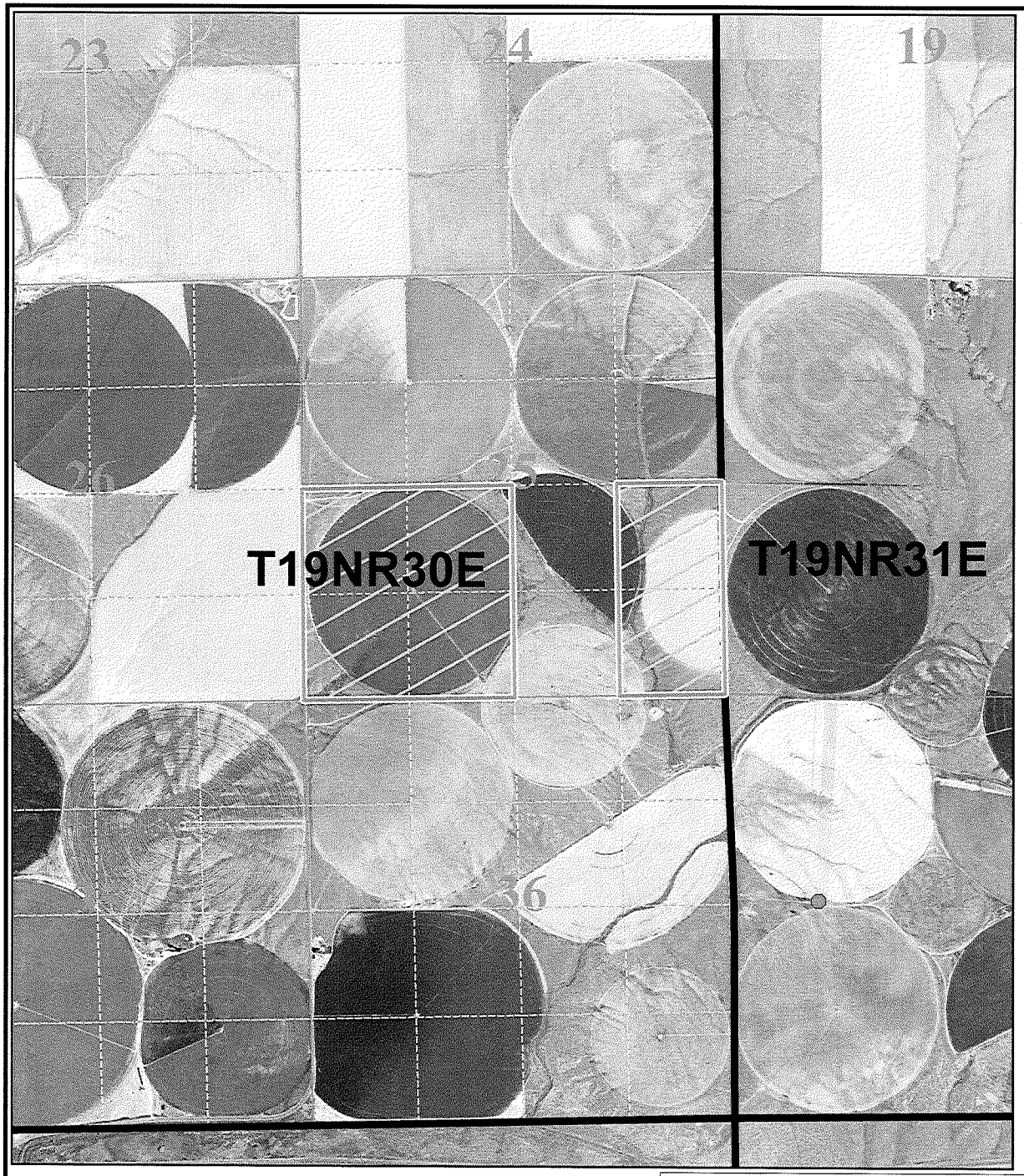
SW¼ and E½SE¼ of Section 25, T. 19 N., R. 30 E.W.M., Grant County Washington

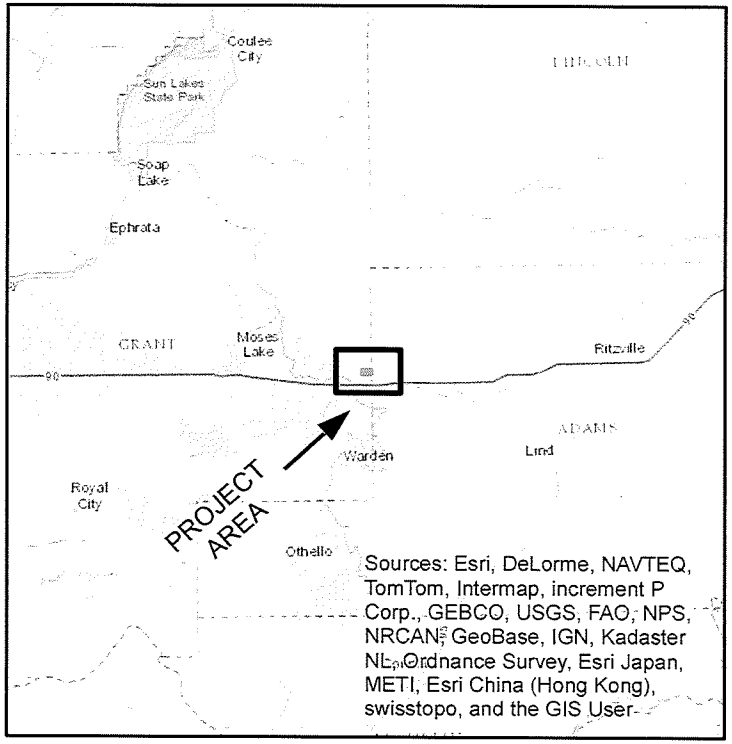
Report by: _____ _____

Kevin Brown
Water Resources Program

Date

Kagele-Erickson I, LLC
Water Right Numver 6272-A
T19N/R30E, T19N/R31E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Withdrawl

0 660 1,320 2,640 3,960 5,280 6,600 Feet

Basemap - (NAIP 2011 1m color)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 5/16/2014

Comment:
Place of use and source locations are as defined within the Report of Examination cover sheet for the document identfied in the header above.

ATTACHMENT 1