File NR CS3-28731(D)
WR Doc ID4323423

State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

DEPARTMENT OF ECOLOGY
State of Washington

PRIORITY DATE
1911 (Class 49)

WATER RIGHT NUMBER
WWRAC 731(D)

MAILING ADDRESS
Roger O. Cockerline
1088 Frankland
Walla Walla, WA 99362

SITE ADDRESS (IF DIFFERENT)
149 Bunchgrass Lane
Walla Walla, WA 99362

Quantity Authorized for Diversion

DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)
0.065	April 1 to July 1	CFS	18.10
0.049	July 1 to October 1		
0.10	October 1 to April 1		

Purpose of Use

PURPOSE
Irrigation

IRRIGATED ACRES	
PRIMARY	**NON-ADDITIVE**
4.96 acres within 11.99 acres POU	

Source Limitations

SOURCE FACILITY/DEVICE	DIVERSION RATE (CFS)	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (mm/dd)
Mill Creek	0.065	18.10	April 1 – July 1
	0.049		July 1 – October 1
	0.10		October 1 – April 1

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Walla Walla	Mill Creek	Walla Walla River	32-Walla Walla

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Diversion #1	350727110004	7 N.	35 E.	27	SW¼NE¼	46.058836	118.415531
							Datum: WGS84

DRAFT

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

350727110004

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

11.99 acres within portions of the NE¼ of Sec. 27, Township 7 N., Range 35 E.W.M., more specifically described as Blalock Orchards Parcel B, as shown and recorded on SP 4-41, SP 4-53, Book 10 Page 144, June 5, 2007, County of Walla Walla, State of Washington

Proposed Works

Pump, pipes, meter, fish screen, sprinklers (already completed)

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	Completed	January 2017

Measurement of Water Use

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

Provisions

Relationship to Other Rights

The total instantaneous quantity (Qi) of water allocated under WWRAC 590(D) and supplemental (additive) right WWRAC 731(D) is limited to:

0.155 cfs (April 1 – July 1)
0.199 cfs (July 1 – October 1)
0.24 cfs (October 1 – April 1)

The total annual quantity (Qa) of water allocated under the two surface water rights is limited to 40.11 acre-feet/year for the irrigation of 10.99 acres.

Groundwater Certificates No. 398-D(C) and No. 4082-A(C) are alternate source groundwater rights that include the same place of use as surface water rights WWRAC 590(D) and WWRAC 731(D). Instantaneous and annual quantities authorized for these two groundwater rights are non-additive, so quantities of groundwater used must be less any water used under the two surface water rights.

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 it's 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.

Measurements, Monitoring, Metering and Reporting
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", 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.

Department of Fish and Wildlife Requirement(s)
The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). 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/about/contact/

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, 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, 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.

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 water is available from the source in question; that there will be no impairment of existing rights; and that the purpose of use is beneficial.

Therefore, I ORDER approval of Application for change to WWRAC 731(D), 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	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this day of , 2014.

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.

INVESTIGATOR'S REPORT
Ying Fu, Department of Ecology
Water Right Control Number
Walla Walla Adj. Cert. No. 731(D)

BACKGROUND

Walla Walla River Adjudicated Certificate Vol. 4B, Page 731, was issued August 23, 1929. The priority date of WWRAC 731 is 1911 (class 49).

In 1974, certificate of change No. 118 was issued to move the point of diversion (POD) for WWRAC 731 from the NW¼NW¼ of Sec. 26 to the NW¼SE¼NE¼ of Sec. 27, all within T. 7 N., R. 35 E.W.M.

In 2005, WWRAC 731 w/change No. 118 was administratively split into three rights: WWRAC 731(A), 731(B) and 731(C).

WWRAC 731(B) issued to the Estate of Alta P. Cockerline c/o Roger Cockerline. Subsequent division of the Estate resulted in WWRAC 731(B) being shared among three land owners: Cheryl Scholl/Michael Lasher; Roger Cockerline, and Bunch Grass LLC.

On December 7, 2006, Roger Cockerline filed a change application to formally change the legal point of diversion (POD) for his portion of WWRAC 731(B) from the NW¼SE¼NE¼ of Section 27 to the SW¼NE¼ of Section 27, all within T. 7 N., R. 35 E.W.M.

In 2008, before any action was taken by Ecology on the application for change, the POD for Cockerline's portion of WWRAC 731(B) was moved to the SW¼NE¼ of Section 27, at a location with GPS coordinates 46.058836; -118.415531. Water has been diverted at this POD since that time, under annual seasonal change authorizations issued by Ecology.

On May 13, 2013, the three land owners filed a Request for Administrative Confirmation of Division of a Water Right, to split WWRAC 731(B) into two rights: 731(B) for Bunch Grass LLC and 731(D) for Roger Cockerline. Scholl/Lasher claimed zero interest in their previously owned portion of the right in this division process.

This Report of Examination is being issued to formally act upon the application to change the POD for WWRAC 731(D), which is the portion of WWRAC 731(B) that was issued to Roger Cockerline as a result of the administrative division of that right in 2013.

A separate ROE is being issued to formally act upon the application to change the POD for surface water right WWRAC 590(D), which is the portion of WWRAC 590(B) that was issued to Roger Cockerline as a result of the administrative division in 2013.

The authorized place of use (POU) of WWRAC 731(D) is: 11.99 acres within portions of the NE¼ of Sec. 27, Township 7 N., Range 35 E.W.M., more specifically described as Blalock Orchards Parcel B, as shown and recorded on SP 4-41, SP 4-53, Book 10 Page 144, June 5, 2007, County of Walla Walla, State of Washington, as shown on the map below.

WWRAC 590(D) and 731(D)
2011 Photo Image

Attributes of the Existing Water Right and Proposed Change

Table 1 WWRAC 731(D) Existing and Proposed attributes

Attributes	Existing	Proposed
Name	Roger O. Cockerline	same
Priority Date	1911(class 49)	same
Instantaneous Quantity: Qi cfs (cubic feet per second)	0.065 cfs: 4/1 to 7/1 0.049 cfs: 7/1 to 10/1 0.10 cfs: 10/1 to 4/1	same
Annual Quantity: Qa	24.86 acre-feet/yr	same
Purpose of Use	Irrigation	same
Place of Use: for the irrigation of 4.96 acres	11.99 acres within portions of the NE¼ of Sec. 27, Township 7 N., Range 35 E.W.M., more specifically described as Blalock Orchards Parcel B, as shown and recorded on SP 4-41, SP 4-53, Book 10 Page 144, June 5, 2007, County of Walla Walla, State of Washington.	same
Point of Diversion	NW¼SE¼NE¼ of Sec.27, T. 7 N., R. 35 E.W.M.	SW¼NE¼ of Sec. 27, T. 7 N., R.35 E.W.M.

Legal Requirements for Proposed Change

- **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 Times, a weekly newspaper of the City of Waitsburg and the County of Walla Walla, during the weeks of February 15 and February 22, 2007. No protests or objections were received.

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

  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.

DRAFT

- 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 2250 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.

This application is exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21 RCW, due to the fact that the cumulative quantities of water for this project under all water rights constitute a withdrawal of less than one (1) cubic foot per second, and none of the other conditions described above are met.

- **Water Resources Statutes and Case Law**

RCW 90.03.380(1) allows for a water right that has been put to beneficial use to be changed. The point of diversion, place of use, and purpose of use may be changed if the change would not result in harm or injury to existing 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.*

A point of diversion for a surface water right may be changed. RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed if it would not result in detriment or injury to other water rights.

INVESTIGATION

Reports and materials considered during the course of this investigation include the following:

- Change applications for WWRAC 590(D) and WWRAC 731(D)
- State Water Code, administrative rules and policies, relevant case law
- Related water right files
- Notes documenting one site visit by Ying Fu and other Ecology WRP staff
- Washington Irrigation Guide (WIG)
- Aerial photographs when they are available for the past 10 years
- USGS topographic maps
- Farm Service Administration crop records

- Walla Walla County Assessor records
- Discussions with other Water Resources Program staff in Ecology's ERO

Site Inspections

The project site is located approximately one mile west of City of the College Place and four miles west of the City of Walla Walla, along State Hwy 12 in Walla Walla County, Washington.

A field examination was conducted by Ying Fu and Ecology staff Dan Tolleson and Jeff MacLennan on July 12, 2012. A meeting was conducted to meet with all five land owners and water right holders to discuss the pending change applications for WWRAC 590(A),(B), (C) and WWRAC 731(A),(B),(C), prior to the time the decision was made to administratively divide WWRAC 590(B) into two separate water rights.

Mr. Richard Czyhold provided copies of historical FSA crop records for all farm land in the collective places of use of these water rights that he farmed from the 1980s to 2006. Mr. Czyhold farmed approximately 120 acres that included the place of use of the two original surface water rights: WWRAC 590 and WWRAC 731.

From 2007 to 2012, Mr. Ted Reid was contracted to plant and harvest crops on Mr. Cockerline's land. In 2013, Mr. Cockerline farmed part of his own land. Alfalfa was the only crop grown in 2013. Crop records submitted for 1998 to 2010 show crops have rotated between pasture, alfalfa, wheat, barley, and oats.

Dan Tolleson took a GPS reading for the proposed Cockerline POD for WWRAC 731(D), which would be at the same location as the POD for WWRAC 731(C) owned by Mr. McAdams. The GPS reading was N46.0588360; W118.4155319. This POD was authorized for use under annual seasonal changes to the two water rights that were issued by Ecology since 2008.

At the time of the site visit, a pumping system was online, a fish screen was installed, and a 10 hp pump was being used for the diversion lift. Two flow meters split off from one 10 HP pump at Mill Creek, one for McAdams and one for Cockerline. Pumping or metering records were not available for either one of the splits. The irrigation system was set up using a network handline piping system and sprinklers.

Other Rights Appurtenant to the Place of Use

Surface right WWRAC 590(D) shares the same POU with WWRAC 731(D). The POU of two ground water rights, Certificate No. 398-D(C) and Certificate 4082-A(C), also include the same POU as the surface water rights.

Surface water rights WWRAC 590(D) and WWRAC 731(D) are the primary water rights to irrigate 10.99 acres of Cockerline's 11.99 acres parcel. The two ground water rights listed above are alternate source rights to the two surface water rights. Table 2 below lists attributes of all four water right certificates.

WWRAC 590(D) – Walla Walla River Adjudicated Certificate Vol. 4A, Page 590, was issued August 22, 1929. In 2005, WWRAC 590 was administratively split into three rights: WWRAC 590(A), 590(B) and 590(C). WWRAC 590(B) issued to the Estate of Alta P. Cockerline c/o Roger Cockerline. Subsequent division of the Estate resulted in WWRAC 590(B) being shared among three land owners: Cheryl Scholl/Michael Lasher; Roger Cockerline, and Bunch Grass LLC.

In June 2013, the B portion of the right was further divided into two parts through filing an Administrative Confirmation of Division of a Water Right. WWRAC 590(B) was divided into 590(B) for Bunchgrass LLC, and 590(D) for Roger Cockerline. Scholl/Lasher claimed zero interest in their previously owned portion of the right in this division process.

398-D(C) Ground Water Certificate No.398-D was issued to Oliver E. Cockerline in 1947, as an alternate source to surface water rights WWRAC 590 and 731. In 2006, the original place of use (POU) for certificate 398-D was split among three land owners based on a legal agreement signed by all land owners. On May 13, 2013, the same land owners filed a Request for Administrative Confirmation of Division of a Water Right to split certificate 398-D into: 398-D(A) for Scholl/Lasher; 398-D(B) for Bunchgrass LLC, and 398-D(C) for Roger Cockerline. The administrative division was approved by Ecology in June of 2013. Certificate 398-D(C) is a non-additive, alternate source right, so quantities withdrawn under that right must be reduced by quantities diverted under WWRAC 590(D) and WWRAC 731(D).

4082-A(C) -- Ground Water Certificate No. 4082-A was issued in 1960 as an additive right to Ground Water Right 398-D, which was issued as an alternate source for Surface Water Rights WWRAC 590 and 731. Certificate 4082-A was administratively split into three rights: 4082-A(A) for Scholl/Lasher, 4082-A(B) for Bunchgrass LLC, and 4082-A(C) for Roger Cockerline. Certificate 4082-A(C) is a non-additive, alternate source right, so quantities withdrawn under that right must be reduced by quantities diverted under WWRAC 590(D) and WWRAC 731(D).

Table 2 Quantities of water originally allocated under WWRAC 590(D), 731(D), 398-D(C) & 4082-A(C) (before change applications)

	Qi (cfs or gpm)	Qa (ac-ft/yr)	Acres (POU)	Acres (irrigated)
WWRAC 590(D)	0.09 cfs (Apr-July) 0.07 cfs (July-Oct) 0.14 cfs (Oct-Apr)	35.09	11.99	7.03
WWRAC 731(D)	0.065 cfs (Apr-July) 0.049 cfs (July-Oct) 0.10 cfs (Oct-Apr)	24.86	11.99	4.96
Alternate source				
398-D(C)	23.68 gpm	18.87	11.99	11.79
4082-A(C)	44.92 gpm	44.92	11.99	11.23

In addition, a review of Ecology records was conducted for existing water rights surrounding the project's place of use. The search focused primarily on Section 27, Township 7 N., and Range 35 E.W.M. Table 3 below lists those water rights that overlap the place of use of WWRAC 731(D).

Table 3 Summary of Water Rights Overlapping POU of WWRAC 731(D)

Water right #	Priority date	Recorded name	Purpose of use	Source water	Place of use
WWRAC 396	1892	Blalock Irrigation District No. 3	Irrigation	Mill Creek	369.66 acres within the District
WWRAC 621	1904		Irrigation	Mill Creek	247.44 acres within the District
WWRAC 636	1904		Irrigation	Spring branch	14.1 acres within the District
WWRAC 649	1904		Irrigation	Lower Butcher Creek	5 acres within the District

WWRAC 396, 621, 636, 649: These four adjudicated surface water rights belong to the same water right holder: Blalock Irrigation District #3. Their combined irrigated acres are approximately 500 acres and overlap the POU of WWRAC 731 (D). The District diverts water from different surface water sources. The changes proposed in this ROE will not interfere, or have any impact on the District's ability to provide water to its customers.

History of Water Use

Washington State Supreme Court, in Okanogan Wilderness vs. Town of Twisp and Department of Ecology 133 Wn.2d 769,947 P.2d 732 (1997), held that applications for change may be granted only to the extent the water has been 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 relinquished or abandoned, before the Department can approve a change or transfer of the water right. While the superior court, through an adjudicative process, is the only authority that can make a final determination as to a water rights extent, validity and priority, Ecology is required to make a tentative determination of these factors for purposes of making decisions on change applications.

The site visit, past 10 years of aerial photos, contract farmers' personal statements and FSA (Farm Service Agency) crop records confirm that water has been historically and beneficially used on Roger Cockerline's property within the legally authorized place of use. Although no metering records or power records were presented by Mr. Cockerline, the crop records submitted allow calculation of historical water use for the Cockerline property.

The quantities of water beneficially used were determined by using the Washington Irrigation Guide, and the FSA crop records and aerial photos, to estimate water use for the highest water duty crop grown in the most recent five consecutive years, which is alfalfa.

Beneficial Use Per Unit Acre

The equation to calculate the water use per acre unit is as follows:

$$(1 \text{ acre} \times \frac{^{1}\text{Crop water need}}{12 \text{ inch}/1\text{ft}} / {}^{2}\text{Ea}) = \underline{\quad ? \quad} \text{AF (acre-feet)}$$

[1] The specific crop water need is based on Washington State Irrigation Guide 2010. Alfalfa requires 32.85 inches of water in the project area.
[2] The application efficiency Ea is determined in Ecology guidance document GUID-1210. For hand-line irrigation system, it is determined to be 75% efficient.

1 acre x 32.85 inch/12 inch/ft)/75% / 1 acre = 3.65 acre-ft/acre

Estimate of Irrigated Acres

Mr. Cockerline stated through email communications that his house, access road and yard, etc. occupy approximately 0.99 acres of the parcel and, the riparian buffer area along Mill Creek is approximately 0.5 acre. The riparian area was established in 2001, through a contract with FSA for the CREP program. The Contract was signed for a larger riparian area of 5.9 acres before the Estate of Alta P. Cockerline c/o Roger Cockerline property was divided in 2005-2006. The CREP contract expired in 2011, but the riparian areas have remained non-irrigated.

Digitization of the 2011 aerial photos show the 11.99-acre parcel included 9.97 irrigated acres, 1.02 acres of riparian buffer, and approximately 1 acre of residential area. Therefore the total irrigated acres are approximately 10.99 acres.

The 10.99 acres were irrigated under the authority of two surface water rights: WWRAC 590(D) and WWRAC 731(D). WWRAC 590(D) authorizes 7.03 acres of irrigated land and WWRAC 731(D) authorizes 4.96 acres of irrigated land. The combined total of 11.99 acres exceeds the 10.99 acres of land that was irrigated in 2011. Therefore, the authorized POU for WWRAC 590(D) will be reduced by 1.0 acre and will become: 7.03 – 1.0 = 6.03 acres.

Irrigated acres allocated to WWRAC 590(D) will be reduced to 6.03 acres
Irrigated acres allocated to WWRAC 731(D) will be reduced to 10.99 – 6.03 = 4.96 acres

Annual Beneficial Use Qa

Annual beneficial water use for WWRAC 731(D) is calculated as:

4.96 acres x 3.65 ac-ft/acre = 18.10 acre-ft

The annual quantity of water originally authorized for WWRAC 731(D) was 24.86 acre-ft. The difference between the authorized annual quantity and the highest historical beneficial use is subject to relinquishment for non-use:

24.86 – 18.10 = 6.76 acre-ft

Similar calculations have been made for all of Cockerline's water rights. The annual quantities authorized for all four rights are shown in Table 3.

Table 4. Annual Quantities authorized for Cockerline Water Rights

Water Right No.	Original Qa (ac-ft/yr)	New Qa (ac-ft)	Original Acres (irrigated)	New Acres (irrigated)
WWRAC 590(D)	35.09	22.01[3]	7.03	6.03
WWRAC 731(D)	24.86	18.10[3]	4.96	4.96
Alternate source				
398-D(C)	18.87	18.87[4]	11.79	10.99
4082-A(C)	44.92	21.24[4]	11.23	10.99

[3] The Total Qa for the two surface water rights 22.01 + 18.10 = 40.11 acre-ft, is equivalent to the calculation of 10.99 acres x 3.65 ac-ft/acre = 40.11 ac-ft.

[4] The total Qa for the two alternate source ground water rights is also 40.11 ac-ft (without using the surface water rights). The ground water rights are non-additive, so the annual quantity used under these rights should be less any water used under primary surface water rights WWRAC 590(D) and WWRAC 731(D).

Instantaneous Quantity Qi

In the absence of pumping/metering data, it is assumed that the maximum instantaneous quantity of surface water diverted from Mill Creek has historically been at the authorized quantities shown in Table 2.

DRAFT

WWRAC 590(D) and 731(D) Digitized Acres of Irrigated Land within 11.99 acres with 2011 Photo Image

Hydrologic/Hydrogeologic Evaluation

Approval of this proposed change would authorize a change in the POD for WWRAC 731(D) that was made in 2008 through annual seasonal changes authorized by Ecology. The original POD was located approximately ¼ mile upstream of the proposed POD on Mill Creek.

The amended WRIA 32 Basin Water Management Rule (WAC 173-532) was adopted in 2007. Through this rule, instream flows were adopted on Mill Creek for the reach of stream in which the proposed change would take place (WAC 173-532-030[5]). This rule also requires that these instream flow water rights be protected from impairment by all future changes and transfers of both senior and junior water rights (WAC173-532-030[3]). This change would authorize a point of diversion approximately ¼ river mile downstream from the original POD, which should enhance flows through this reach of Mill Creek. There would be no change in the season of use of water under the right through this change.

Mill Creek originates in the Blue Mountains in the State of Oregon and flows in a northwesterly direction, crossing into Walla Walla County, Washington. Mill Creek is the principal tributary of the Walla Walla River and furnishes a large part of the water supply for the irrigation of lands in the project area. Moving the POD approximately ¼ mile downstream will not result in any enhancement to the water right, and will increase the instream flow in that reach of the creek.

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) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150).

WWRAC 731(D) shares the same authorized place of use as WWRAC 590(D). Both rights are owned by Roger O. Cockerline. Both rights have been exercised at the current place of use since the 1980s, and from the same point of diversion since 2008 under annual seasonal changes authorized by Ecology. Applications for each of the water rights were submitted to change the legally authorized PODs for the two rights, in order to make them reflect the seasonal changes to the PODs that occurred since 2008. Diversion and beneficial use of water from Mill Creek under these two rights has not caused any impairment to other water users in the past, so exercise of these two rights in a similar manner should not cause impairment of any water rights in the future.

Instream flows on this reach of Mill Creek should benefit from this change to WWRAC 731(D), because the new POD will reduce ditch conveyance loss and the new POD will be ¼ river mile downstream from the original POD on Mill Creek. There will be no impairment to other existing water rights on this reach of Mill Creek.

Public Interest Considerations

Public interest considerations do not apply to changes to surface water rights authorized through RCW 90.03.380.

Consideration of Protests and Comments

No protests or comments regarding this application were received.

CONCLUSIONS

Based on the investigation of relevant information regarding the proposed change to WWRAC 731(D), it is the conclusion of this examiner that irrigation is a beneficial use of water, and the change in the authorized point of diversion will not enhance the existing right and will not cause impairment of any existing water rights.

RECOMMENDATIONS

Based on the above investigation, I recommend the requested change to WWRAC 731(D) be approved as follows:

Qi = 0.065 cfs from 4/1 to 7/1; 0.049 cfs from 7/1 to 10/1; 0.10 cfs from 10/1 to 4/1
Qa = 18.10 acre-ft per year
Seasonal irrigation of 4.96 acres within an authorized POU of 11.99 acres

Groundwater Certificates 398-D(C) and 4082-A(C) are alternate source groundwater rights that include the same place of use with surface water rights WWRAC 590(D) and WWRAC 731(D). Instantaneous and annual quantities authorized for these two groundwater rights are non-additive, so quantities of groundwater used under these rights must be less any water used under the two surface water rights.

Point of Diversion = A point on Mill Creek with GPS coordinates of N46.0588360; W118.4155319, within SW¼NE¼ of Sec. 27, T. 7 N., R. 35 E.W.M.

Place of Use = 11.99 acres within portions of the NE¼ of Sec. 27, Township 7 N., Range 35 E.W.M., more specifically described as Blalock Orchards Parcel B, as shown and recorded on SP 4-41, SP 4-53, Book 10 Page 144, June 5, 2007, County of Walla Walla, State of Washington.

Ying Fu, Report Writer *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.