DEPARTMENT OF ECOLOGY
State of Washington

# State of Washington
# REPORT OF EXAMINATION
# FOR WATER RIGHT APPLICATION

**PRIORITY DATE**
March 2, 1994

**WATER RIGHT NUMBER**
G3-29648

**MAILING ADDRESS**
John and Bernice Williams
10676 Road 13 NW
Quincy WA 98848

**SITE ADDRESS (IF DIFFERENT)**

## Quantity Requested for Withdrawal

| WITHDRAWAL RATE | UNITS | ANNUAL QUANTITY (AF/YR) |
|---|---|---|
| DENIED | GPM | DENIED |

## 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) |
|---|---|---|---|---|---|---|
| Irrigation of 40 acres | DENIED | | | DENIED | | 04/01 - 10/31 |

## Source Location

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

| Source Name | Parcel | Well Tag | Twp | Rng | Sec | QQ Q | Latitude | Longitude |
|---|---|---|---|---|---|---|---|---|
| A well | 152005001 | NA | 21 N. | 25 E. | 29 | SE¼SW¼ | NA | NA |

**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 not available from the source in question; that there will be impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be detriment to the public interest.

Therefore, I ORDER Application No. G3-29648 be DENIED.

## 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**<br>Attn: Appeals Processing Desk<br>300 Desmond Drive SE<br>Lacey, WA 98503<br><br>**Pollution Control Hearings Board**<br>1111 Israel RD SW Ste 301<br>Tumwater, WA 98501 | **Department of Ecology**<br>Attn: Appeals Processing Desk<br>PO Box 47608<br>Olympia, WA 98504-7608<br><br>**Pollution Control Hearings Board**<br>PO Box 40903<br>Olympia, WA 98504-0903 |

Signed at Spokane, Washington, this 24th day of June, 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
Application for Water Right
Water Right Application Number G3-29648

## BACKGROUND

This application requests a new appropriation of public groundwater from within the Quincy Ground Water Subarea, as defined in Chapter 173-124A WAC. The Quincy Subarea was established after many years of studies, investigations, reports and hearings regarding the development of the Columbia Basin Irrigation Project (Project). The Project was designed and developed to divert irrigation water from the Columbia River (FDR Lake) into a series of canals and waterways for delivery to Project lands. The northern portion of the Columbia Basin Project has been designated as the Quincy Subarea (Chapters 173-124A WAC and 173-134A WAC).

The Quincy Subarea, defined in Chapter 173-124A WAC and commonly known as the Quincy Basin, is a saucer-like topographic and structural basin. The northern boundary is the Beezley Hills, the southern boundary is the Frenchman Hills. The western boundary of the basin is formed by the Evergreen-Babcock Ridge, and the eastern boundary of the basin is coincident with the East Low Canal.

Irrigation blocks within the Quincy Subarea were developed in accordance with the Columbia Basin Project (Project). By 1966, the irrigable area of the Project in the Quincy Subarea was approximately 290,000 acres. Drainage systems and wasteways were constructed to protect Project lands and to recover return flows and to store those flows in Potholes Reservoir behind O'Sullivan Dam. The stored water was then conveyed to the South Columbia Basin Irrigation District for beneficial use. The development of the recapture facilities was essential to complete the water supply for the overall Project.

In 1967, the State of Washington made a tentative determination that all naturally-occurring ground water in the Quincy Subarea as defined in Chapters 173-124A WAC had been appropriated. As a result of a Memorandum of Understanding with the United States Bureau of Reclamation (USBR), a five year ground water study was undertaken to verify the tentative determination that all ground water available for appropriation had been appropriated. The study, which was substantially completed by December 31, 1972, confirmed the tentative determination.

On January 15, 1973, following completion of the study and confirmation that all ground water available for appropriation in the Quincy Basin Subarea had been appropriated, the Department of Ecology designated the Quincy Ground Water Subarea pursuant to RCW 90.44.130 as Chapter 173-124 WAC. The remaining water within the Subarea was deemed artificially stored groundwater then claimed by the Bureau of Reclamation.

By the end of 1973, approximately 3.5 million acre-feet of water imported by the Project was determined to be stored underground within the Quincy Subarea. A permitting program was conceived to manage this artificially stored groundwater. The program was created through adoption of the

Quincy Ground Water Subarea Management Policy (WAC 173-134A) in 1975, which was later amended in 1979.

The Quincy Subarea management policy (Chapter 173-134A WAC) includes two sections that establish maximum allowable quantities of naturally-occurring groundwater that could be appropriated for two separate management units within the Subarea. These are known as the shallow and deep management units (WAC 173-134A-060 and 173-134A-080). They were established based on the confirmation of the tentative determination of available public ground water from 1973. The rule also established a maximum quantity of artificially stored ground water that could be withdrawn from the Quincy Subarea, without interfering with the operation of the recapture facilities and delivery of water to the South Columbia Basin Irrigation District.

The portion of the Quincy subarea located outside of the area the Bureau of Reclamation claimed to contain artificially stored groundwater is known as the "Gray Area". It is a strip of land 1-3 miles wide along the north, west, and south boundaries of the area defined in WAC 173-124.

Ground water within the Gray area is state groundwater, and is included in that volume of groundwater considered as "State Water" during rule development. As such, it was fully appropriated throughout the area defined in WAC 173-124. There is no Columbia Basin Project artificially stored groundwater within the Gray Area.

Gray Area water right applications have been on file with the Department of Ecology for many years. This application requests authorization of a permit to withdraw naturally occurring groundwater from within the Quincy Gray Area as described below.

**Table 1 Summary of Requested Water Right**

| | |
|---|---|
| **Applicant Name:** | John Williams |
| **Date of Application:** | March 2, 1994 |

| Purpose | Rate | Unit | Ac-ft/yr | Begin Season | End Season |
|---|---|---|---|---|---|
| Irrigation 40 acres | 400 | GPM | 140 | 04/01 | 10/31 |
| | | | | | |

| Source Name | Parcel | Well Tag | Twp | Rng | Sec | QQ Q | Latitude | Longitude |
|---|---|---|---|---|---|---|---|---|
| A well | 152005001 | NA | 21 N. | 25 E. | 29 | SE¼SW¼ | NA | NA |

## Legal Requirements for Approval of Appropriation of Water

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 Quincy Valley Post Register on June 16 and 23, 1994. No protests were received. A letter of concern was filed by the USBR for this

application. The USBR was concerned that application of water causing runoff could adversely affect and impact platted farm units including the facilities of the Project.

### *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.

(a) It is a surface water right application for more than 1 cubic foot 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;
(b) It is a groundwater right application for more than 2,250 gallons per minute;
(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);
(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.

## INVESTIGATION

A field investigation was conducted on March 10, 2014. The applicant was present. The property is currently undeveloped.

### Proposed Use and Basis of Water Demand

The application requests a water right for agricultural irrigation of 40 acres. The typical water duty in this area is 3.5 acre-feet per acre which would require 140 acre-feet. This is the normal allocation within the project lands of the Columbia Basin Project.

### Other Rights Appurtenant to the Place of Use

No water rights are appurtenant to the proposed place of use.

### Water Availability

For water to be available for appropriation, it must be both physically and legally available.

For water to be available for appropriation there must be ground or surface water present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. In addition, the following factors are considered:

- Volume of water represented by senior water rights, including federal or tribal reserved rights or claims;
- Water right claims registered under Chapter 90.14 RCW;
- Ground water uses established in accordance with Chapter 90.44 RCW, including those that are exempt from the requirement to obtain a permit; and
- Potential riparian water rights, including non-diversionary stock water.

### *Legal availability*

The limit of natural occurring groundwater to be appropriated in the Quincy Subarea was established as 58,000 acre-feet per year from the shallow management unit and 97,901 acre-feet per year from the deep management unit. Based on an evaluation of existing water rights (permits and certificates) conducted in 1974, Ecology determined that these quantity limits had been reached, and therefore all naturally occurring public water had been allocated. The evaluation of existing water rights in 1974 did not include water right claims that were subsequently filed under the Claims Registration Act. Review of the water right claims filed between 1974 and 1998 reveals that up to an additional 35,000 acre-feet of naturally occurring groundwater could be appropriated for beneficial use under claims indicating a first use prior to 1945.

A modification to WAC 173-124A in 1985 allowed for applications to be filed within the Grey Area. An additional 14,357 acre-feet of state-issued ground water rights were issued between 1985 and 1993. Processing of these applications stopped in 1993.

To summarize, state-issued water right permits and certificates currently on file with Ecology for the area of the Quincy Basin as defined in WAC 173-124 indicate authorized beneficial use of approximately 157,000 acre-feet of naturally occurring groundwater each year. Up to 35,000 additional acre-feet could be used each year under existing water right claims, and post-1974 Gray area permits of an additional 14,357 acre feet exist. The total allocated or claimed for beneficial use for the entire Quincy Basin is approximately 206,357 acre-feet of state authorized public ground water.

Based on this recent review of water rights, whose total exceeds the natural occurring public ground water limit of 155,901 acre-feet established in Chapter 173-134A in 1974, naturally occurring public waters in the Quincy Subarea WAC 173-124A have been fully appropriated and no naturally occurring public waters are legally available for issuance of a new permits.

## Impairment Considerations

Impairment is an adverse impact on the availability of water for a beneficial use that is entitled to protection. A water right application may not be approved if it would:

- Interrupt or interfere with the availability of water to an adequately constructed groundwater withdrawal facility of an existing right. An adequately constructed groundwater withdrawal facility is one that (a) is constructed in compliance with well construction requirements and (b) fully penetrates the saturated zone of an aquifer or withdraws water from a reasonable and feasible pumping lift.

- Interrupt or interfere with the availability of water at the authorized point of diversion of a surface water right. A surface water right conditioned with instream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the instream flow more frequently or for a longer duration than was previously the case.
- Interrupt or interfere with the flow of water allocated by rule, water rights, or court decree to instream flows.
- Degrade the water quality of the source to the point that the water is unsuitable for beneficial use by existing users (e.g., via sea water intrusion).

The area of this application lies on the south flank of the Beezley Hills. The area is known to have deep wells with little or no water. Numerous complaints of impacts and impairment to exempt well water users and permitted users have been submitted to Ecology.

Issuance of a new permit to natural occurring water within the Quincy Subarea WAC 173-124A would exceed the quantity of natural occurring state groundwater and potentially impair the ability of the Bureau of Reclamation to manage the Columbia Basin Project. The project operation requires capture and reuse of waters for delivery to the South Columbia Basin lands.

Issuance of a new permit would reduce the amount of water available to satisfy existing rights within the Quincy Subarea, and also reduce the amount of irrigation return flow to be recaptured in Potholes Reservoir.

## Beneficial Use

The proposed use of water is defined in statute as a beneficial use (RCW 90.54.020(1)).

## Public Interest Considerations

The issuance of the additional water rights for the use of naturally occurring public groundwater in the Quincy Subarea is not in the public interest. Quantity limits of natural occurring ground water for appropriation within the boundaries of the Quincy Subarea, Chapter 173-124A WAC have already been exceeded.

Landowners within the Quincy Subarea have other alternatives to obtain water rights through changes or transfers of existing water rights or filing an application to obtain a permit under the artificially stored ground water program.

## Conclusions

In conclusion, naturally occurring groundwater within the Quincy Subarea is not available for appropriation.

- The Gray area is a source of recharge to the Quincy Basin, and is not significantly recharged by Bureau water in the Quincy Basin
- The pre-development recharge values of Bauer and Vaccaro (1990) is the best available estimate of recharge to the Gray area; the water supply estimates of Tanaka et al., 1974 are the best available estimates of existing water in the Quincy Subarea, including the Gray area.

- Based on this recent review of Quincy Basin WAC 173-124, water rights and the limits established in Chapter 173-134A, naturally occurring public waters in the Quincy Subarea 173-124 have been fully appropriated and no naturally occurring public waters are legally available for issuance of a new permits.

Issuance of water right permits are not in the public interest. Issuance of a new permit could impair existing water rights including the rights of the U. S. Bureau of Reclamation that are required for the operation of the Columbia Basin Irrigation Project.

## RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be DENIED.

Kevin Brown 6-24-14

*Kevin Brown, Report Writer* *Date*

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