



State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Add Point of Diversion

PRIORITY DATE
November 5, 1941

WATER RIGHT NUMBER
Surface Water Certificate No. 1835, together with
Amended Report of Exam dated 9/29/2004

MAILING ADDRESS
Patricia Cooper
William Hunter
550 Lowden-Gardena Road
Touchet, WA 99360

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Diversion

MAXIMUM DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.12	CFS	24

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

Purpose

PURPOSE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)
Irrigation	0.08 CFS from 04/01 to 07/01	24
	0.06 CFS from 07/02 to 9/30	
	0.12 CFS from 10/1 to 04/01*	

*when allowed in accordance with the Walla Walla Adjudication

ADDITIVE	IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
	NON-ADDITIVE		WATER SYSTEM ID	CONNECTIONS
6.1				

Source Limitations

SOURCE FACILITY/DEVICE	DIVERSION RATE	PERIOD OF USE (mm/dd)
Diversion No. 1	0.08 CFS	04/01 - 07/01
Diversion No. 1 and Diversion No. 2**	0.06 CFS	07/02 - 09/30
Diversion No. 1	0.12 CFS	10/01 - 04/01

**Total Diversion from both pump stations cannot exceed 0.06 cfs.

Source Location

WATERBODY/ SOURCE FACILITY		TRIBUTARY TO	COUNTY	WATER RESOURCE INVENTORY AREA			
Walla Walla River – Diversion 1		Columbia River	Walla Walla	32-Walla Walla			
Spring Branch – Diversion 2		Walla Walla River	Walla Walla	32-Walla Walla			

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Diversion No. 1	34073111004	7 N.	34 E.	29	SW¼SW¼	46.0515°N	118.5927°W
Diversion No. 2	34073111004	7 N.	34 E.	32	NW¼NW¼	46.0493°N	118.5915°W

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

34073111004

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

That portion of Lot B-1 of Bergevin Short Plat No. 1995-10, within Walla Walla County, Washington, lying within the SW¼SW¼ of Section 29, T. 7 N., R. 34 E.W.M.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	November 1, 2015	November 1, 2016

Measurement of Water Use

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

Provisions

The instantaneous quantities (Qi) shall be limited to a proportionate share (0.08 cfs (35 gpm) from 4/1 to 7/1, 0.06 cfs (26 gpm) from 7/1 to 10/1 and 0.12 cfs (54 gpm) from 10/1 to 4/1) unless a shared water use agreement is approved by the Walla Walla Water Master.

The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used.

In the event water is not available at pump station No. 1 on the Walla Walla River (SW¼SW¼ of Section 29, T. 7 N., R. 34 E.W.M.), water cannot be diverted from pump station No. 2 on the Spring Branch (NW¼NW¼ of Section 32, T. 7 N., R. 34 E.W.M.).

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.

Department of Fish and Wildlife Requirement(s)

The intake(s) must 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/>

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

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 Change or Superseding Certificate 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 of change or superseding 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, 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 water is available from the source in question; 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 to Surface Water Certificate No. 1835 together with Amended Report of Exam dated 9/29/2004, 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

Dan Tolleson, Department of Ecology

Water Right Control Number CS3-*05605ALC@1

Surface Water Certificate No. 1835 together with Amended ROE dated 9/29/2004

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CS3-*05605ALC@1 (SWC 1835).

AUTHORIZED Water Right Attributes

Water Right Name:	Russell Bergevin
Priority Date:	11/5/1941
Place of Use:	Beginning at a point in the East line of the W½SW¼ of Section 29, T. 7 N., R. 34 E.W.M., which point is 1320.34 feet West and 1506.0 feet South of the center of said Section 29; and running thence South 53°57' West 1313.54 feet; thence North 20°10' East 1340.0 feet; thence North 107.0 feet; thence South 77°08' west 980.6 feet; thence North 12°08' West 472.6 feet more or less to the Southerly line of the right of way of the Oregon-Washington Railroad and Navigation Company; thence Southwesterly along the Southerly line of said right of way to the point of intersection thereof with the West line of Section 30; thence South along the West line of said Section 30 which is about 2689.3 feet North of the W¼ corner of Section 31; thence South 87°36'5" East 2516.51 feet to a point on the North South center line of Section 31; thence 89°11" East a distance of 600 feet; thence South 191.44 feet; thence North 89°20'19" East 969.07 feet; thence South 234 feet; thence East along a line parallel to and 444.18 feet South of the North line of Section 31; thence North along the East line of Section 31 to the NE corner of Section 31; thence East along the Section line common to Sections 29 and 32 a distance of 1320 feet to the SE corner of the W½SW¼ of Section 29; thence North along the East line of the W½SW¼ of said Section 29, 1134.0 feet more or less to the point of beginning; ALL within T. 7 N., R. 35 E.W.M., Walla Walla, County, Washington. Also that portion of Lots B-1 & B-2 lying within Section 32, T. 7 N., R. 34 E.W.M. (of Bergevin Short Plat No. 1995-10) EXCEPTING THEREFROM: All of Lots B-3 and B-4 of Bergevin Short Plat 1995-10

County	Waterbody	Tributary To	WRIA
Walla Walla	Walla Walla River	Columbia River	32-Walla Walla

PURPOSE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)
Irrigation of 100 acres	1.333 CFS from 04/01 to 07/01 1.00 CFS from 07/01 to 10/01 2.00 CFS from 10/1 to 04/01	400

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Diversions 1		7 N.	34 E.	33	NE¼NE¼		
Diversions 2		7 N.	34 E.	30	SE¼SE¼		
Diversions 3		7 N.	34 E.	31	NW¼NE¼		
Diversions 4	34073111004	7 N.	34 E.	29	SW¼SW¼	46.0515°N	118.5927°W
Diversions 5	34073111005	7 N.	34 E.	29	SW¼SW¼	46.0505°N	-118.5345°W

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Patricia Cooper and William Hunter (Cooper/Hunter)
Date of Application:	8/16/2004
Place of Use:	That portion of Lot B-1 of Bergevin Short Plat No. 1995-10, within Walla Walla County, Washington, lying within the SW¼SW¼ of Section 29, T. 7 N., R. 34 E.W.M.

County	Waterbody	Tributary To	WRIA
Walla Walla	Walla Walla River	Columbia River	32-Walla Walla
Walla Walla	Spring Branch	Walla Walla River	32-Walla Walla

PURPOSE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)
Irrigation of 6.1 acres	0.08 CFS from 04/01 to 07/01 0.06 CFS from 07/01 to 10/01 0.12 CFS from 10/1 to 04/01	24.4

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Walla Walla River	34073111004	7 N.	34 E.	29	SW¼SW¼	46.0515°N	118.5927°W
Spring Branch	34073111004	7 N.	34 E.	32	NW¼NW¼	46.0493°N	118.5915°W

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the 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 Walla Walla Union-Bulletin on April 28th and May 5th, 2005 and no protests were received.

Consultation with the Department of Fish and Wildlife

The Department of Ecology must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. This notice was submitted via email on 10/2/2013 to Steve Boessow and a reminder was sent on 11/18/2013, with a 30 day notice for comment. No response was received, but the project will be required to follow the hydraulic code (Chapter 77.55) and fish screen statutes (RCW 77.57).

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.

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 90.14.140(1)(l) states that a water right is not relinquished from nonuse while waiting for a final determination from the department of ecology on a change application filed under RCW 90.03.250, 90.03.380, or 90.44.100.

INVESTIGATION

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, permits, and claims; (3) USGS topographic maps and aerial photographs; (4) diversion works, ditch systems and place of use; (5) Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32 and Watershed Planning; (6) State of Washington Irrigation Guide (Natural Resources Conservation Service 1997); (7) Walla Walla River Adjudication; and (8) discussions with Department of Ecology regional program staff.

A field investigation was conducted, by Dan Tolleson on April 1, 2014 with Eric Hartwig and William (Tex) Hunter. The project is located approximately one quarter of a mile south of Lowden, Washington. The water right is located in the Walla Walla Basin, which is managed under Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32.

The authorized place of use lies north of Jeanne's Road and south of the Walla Walla River within portions of the SW¼SW¼ of Section 29, within T. 7 N., R. 34 E.W.M. Ms. Cooper and Mr. Hunter's portion of the right is located within the northern half of their Lot which is known as B-1. This area is

generally bottom land along the Walla Walla River. A small Spring Branch (sometimes referred to as the slough) is located along the base of a bluff which generally forms the southern boundary of the field. Surface water from the Walla Walla River is currently used to irrigate this area. The southern part of the Cooper/Hunter lot is located outside the place of use of this right and is irrigated from a well under other rights.

The authorized point of diversion is a pump station located on the Walla Walla River. This pump station consists of a centrifugal 3.5 horse power pump, fish screen and meter. Water is then pumped into a mainline that utilizes a hand line irrigation system.

The proposed point of diversion is a Spring Branch that roughly parallels the Walla Walla River, somewhat to the south. The confluence of this Spring Branch and the Walla Walla River is approximately one-half mile downstream of the project. The Spring Branch is channelized and has the appearance of ditch rather than a natural creek. The proposed pumping station is intended to be installed on the Spring Branch just after it crosses under Lowden Road. This diversion is proposed to be used as the primary water supply for the system, with the original diversion used as back-up.

History of Water Use

Russell Bergevin filed several applications for change that resulted in individual Amended Reports of Examination (ROE) dated 1/14/2004 under water rights 5323, G3-22096, G3-25281 and an Amended ROE dated 9/29/2004 under water right 1835. These authorizations, for the most part, changed the place of use and points of diversion/withdrawal to what was actually used at that time. These changes were primarily for the Russell Bergevin farm which retained most of the rights. These Reports of Examination detailed the location of each water right as it pertained to the individual parcels of land, including those lots that have been subdivided from the original farm. The place of use described under Surface Water Certificate No. 1835 includes two parcels of land listed outside of the Bergevin Farms which are the northern portions of Lots B-1 (Ms. Cooper and Mr. Hunter) and B-2 (Harrison). The allocation for the Cooper/Hunter Lot was determined to be 6.1% of Surface Water Certificate No. 1835. Under this application, Cooper/Hunter propose to add one point of diversion to their portion of the water right. Therefore, since this change only affects their lot, only that part of the right will be evaluated in this report.

The Amended ROE issued 9/29/2004 under water right 1835, in part, authorized an additional point of diversion from the Walla Walla River to provide water for Lot B-1. Since there were multiple users under this water right, extensions were approved and the development change was done incrementally. The Proof of Appropriation form that indicated development was complete and water was put to full use for Lot B-1 (Ms. Cooper and Mr. Hunter) was accepted 8/12/2013.

Aerial photographs were used to help verify the extent of development, historical and beneficial use of this project. Historically, it appears that the place of use was irrigated, which was confirmed in the previous amended change ROE dated 9/29/2004. Limited use has occurred on Lot B-1 under this right since 2004. This is the result of the development of the point of diversion authorized under the 2004 change ROE and from waiting for a determination under this change application. The authorization to use water remained in good standing since they applied for and were granted extensions to the development schedule for the change related to the 2004 ROE. In addition, this application for change was in place for the Cooper/Hunter portion of this right which kept it from being subject to

relinquishment. Currently, Lot B-1 has 6.1 acres of irrigated land available for change north of the Spring Branch under Surface Water Right 1835.

It is estimated that the maximum instantaneous quantities authorized under the Cooper/Hunter portion of this right are still being put to beneficial use. It appears that the authorized pump station may have more capacity than authorized under their portion of the right. Production from the proposed pump station or the authorized pump station cannot exceed the maximum authorized quantity and shall be reduced if necessary. The maximum authorized quantities of the Cooper/Hunter portion of this right are 0.08 cfs (35 gpm) from 4/1 to 7/1, 0.06 cfs (26 gpm) from 7/1 to 10/1 and 0.12 cfs (54 gpm) from 10/1 to 4/1. The instantaneous quantities of the Hunter/Cooper portion of the right shall be limited to this proportionate share unless a shared water use agreement is approved by the Walla Walla Water Master. Pumping water beyond what is authorized may be subject to fines of up to \$5,000 per day, per violation.

The maximum authorized water duty of this certificate is 4 acre-feet per year, per acre. Historically, this right has been used to irrigate pasture. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that 2.9 acre-feet, per acre, is required for pasture in the Walla Walla area. At a 75% efficiency rate of application, the maximum water duty, for the crop listed above, is 3.9 acre-feet per year, per acre. This results in an allocation of 24-acre-feet per year for the irrigation of 6.1 acres.

Proposed Use

The purpose of this change application is to add a point of diversion on the Spring Branch for the irrigation of Lot B-1.

Other Rights Appurtenant to the Place of Use

A review of Ecology records were conducted for existing water right certificates, permits, and claims within the area of the project. The search focused primarily on Sections 29, 30, 31 and 32, T. 7 N., R. 34 E.W.M. The review of Ecology records shows five additional water rights appurtenant to the authorized place of use, which are as follows:

Appurtenant Water Rights Table

Water Right No.	Priority Date	Acres Authorized	Notes
WWRAC 93*	1870	21	Primary Right
WWRAC 94*	1870	50	Primary Right
SWC 1835	1941	100	Primary/Alternate (added instantaneous)
SWC 5323*	1952	10.9	Primary
G3-22096	1973	5	Primary/Alternate
G3-25281	1977	6.6	Primary/Alternate

*These water rights are used on Bergevin owned lands and not the applicant's lot according to the Amended Reports of Examination (ROE) issued 1/14/2004 under water rights 5323, G3-22096, G3-25281 and Amended ROE issued 9/29/2004 under water right 1835.

According to the Amended Reports of Examination (ROE) issued 1/14/2004, under water rights G3-22096, G3-25281 and Amended ROE issued 9/29/2004 under water right 1835, Lot B-1 has the following allocation: 6.1 acres of irrigation under Surface Water Right (1835) and 1.9 acres of irrigation under Ground Water Rights (G3-22096 – 1.25 acres and G3-25281 – 1.05 acres). The instantaneous quantities have the following allocation: 6.1% of SWC 1835 (0.08 cfs from 4/1 to 7/1, 0.06 cfs from 7/1 to 10/1 and 0.1 cfs from 10/1 to 4/1); 25% of G3-22096C (5 gpm); and 25% of G3-25281C (25 gpm) which is not proportionate. The remaining portions of Water Right Nos. 1835, G3-22096 and G3-25281 together with their own respective change authorizations are not appurtenant to lands owned by Cooper/Hunter.

(The extent and validity of these rights are not determined in the report.)

Impairment Considerations and Public Comment

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, not including earlier filed applications (HB 1832); 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.

One letter of concern was received on December 20, 2011 regarding this application for change. Ms. Katherine Bergevin-Lash is concerned that this change will negatively impact her water right (5323, together with ROE dated 1/14/2004) which is down stream of this project. According to her letter, someone diverted water from the Spring Branch, prior to 2007, upstream of her pump station without authorization. This unauthorized diversion negatively impacted her ability to pump water under her water right. The use of water was reportedly stopped and there has since been sufficient water in the Spring Branch for Water Right 5323 together with ROE dated 1/14/2004.

The point of diversion for Ms. Bergevin-Lash’s above described water right is the only one authorized on the Spring Branch and lies downstream of the proposed point of diversion. Surface Water Certificate No. 5323, together with ROE dated 1/14/2004 authorizes a diversion of 0.128 cfs from April 1 to July 1 and 0.28 cfs from October 1 to April 1 for the irrigation of 10.9 acres. Ms. Bergevin-Lash has reported that typically there is adequate water available during the irrigation season for this water right, but there is little excess.

The authorized point of diversion, for Ms. Cooper and Mr. Hunter’s portion of Certificate 1835, is located on the Walla Walla River. The proposed additional source, which is the Spring Branch, runs somewhat parallel and to the south of the Walla Walla River. The flow of the Spring Branch begins approximately one mile to the east of the proposed point of diversion in a low pond area. The source of water for this pond area appears to be primarily from seepage out of the Walla Walla River. The recharge area for this Spring Branch is fairly limited, which has resulted in a small flow of water that remains relatively steady due to its source. The existing water right diversion on the Spring Branch, under Certificate 5323, can take up most of the flow during the irrigation season of October 1 to July 1. There are no major changes or diversions on the Walla Walla River between the authorized source and its confluence with the Spring Branch, the proposed source. This means that moving the impact

downstream to the confluence would not impair any existing rights. In addition, there are no authorized points of diversion on the Spring Branch from July 2 to September 30. This means that the proposed diversion would not impair any water rights on the Spring Branch from July 2 to September 30. Impairment was demonstrated prior to the 2007 irrigation season, when water was pumped from the Spring Branch without authorization, during the irrigation season of Certificate No. 5323. This means, water is not available for diversion under Ms. Cooper and Mr. Hunters portion of this right from October 1 to July 1, but is available from July 2 to September 30.

Two applications for change were submitted under Certificate 1835 (together with ROE date 9/29/2004) that each requested an additional point of diversion on the Spring Branch. The first application was submitted by Patricia Cooper and William Hunter in August of 2004 for Lot B-1. The second was submitted by Mr. Harrison in November of 2005 for Lot B-2. The total proposed water diversion from Cooper/Hunter and Harrison is similarly to what has been diverted by the downstream water right (Certificate 5323) during its irrigation season. This means that it is anticipated that water will typically be available for both diversions in a normal water years from the Spring Branch. In the event of a dry year, the Harrison Spring Branch division will only have water available to the extent that it bypasses the upstream diversion on Lot B-1 (NW¼NW¼ of Section 32, Township 7 North, Range 34 E.W.M.). This is because the Harrison application for change is junior to Ms. Cooper and Mr. Hunter's application for change on Lot B-1.

Under normal circumstances in a dry year, the flow of the Walla Walla River is available long after the Spring Branch becomes too low for pumping. In the event water is not available at pump station No. 1 on the Walla Walla River, water cannot be diverted from pump station No. 2 on the Spring Branch.

Therefore, it is anticipated that the proposed additional point of diversion will not cause impairment from July 2 to September 30 since there is no authorized water use from the existing downstream water right on the Spring Branch. Use under this right from the proposed additional point of diversion on the Spring Branch from 10/1 to 7/1 will impair Surface Water Certificate No. 5323 and is not available for change.

Conclusions

In conclusion, there is a water right available for change under Surface Water Certificate No. 1835, together with ROE date 9/29/2004. In accordance with Chapters 90.03 RCW, approval of this application to add a point of diversion will not enlarge the quantity of water historically authorized, nor will it impair existing rights provided the terms and conditions above are followed.

The amount of water recommended is a maximum limit that shall not be exceeded, and the water user may only use that amount of water within the specified limit that is reasonable and beneficial. This authorization does not increase in any way the original amounts authorized by the certificate.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above

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:

0.08 CFS from 04/01 to 07/01
0.06 CFS from 07/02 to 9/30
0.12 CFS from 10/1 to 04/01 (when allowed in accordance with the Walla Walla Adjudication)
24 acre-feet per year
Irrigation of 6.1 acres

Point of Diversion

Diversion 1 - SW¼SW¼ of Section 29, Township 7 North, Range 34 E.W.M. (Season 1/1 -12/31)
Diversion 2 - NW¼NW¼ of Section 32, Township 7 North, Range 34 E.W.M. (Season 7/2 – 9/30)*
*Diversion 2 can only be used between July 2 and September 30. It cannot be used between October 1 and July 1.

Place of Use

As described on Page 1 of this Report of Examination.

Dan Tolleson, 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.