File NR CS3-*11235C
WR Doc ID 4688040

DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
DRAFT
REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

PRIORITY DATE
April 11, 1952

WATER RIGHT NUMBER
Surface Water Certificate No. 11852

MAILING ADDRESS
Cordes Ranch
Lawrence Cordes
17702 West Calispel Road
Cusick, WA 99119

Total Quantity Authorized for Withdrawal or Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
3.99	CFS	1080

Purpose

PURPOSE	DIVERSION RATE ADDITIVE	DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Irrigation of 400 acres	3.99	---	CFS	1080	---	05/01 - 10/15

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
PEND OREILLE	TRIMBLE CREEK	PEND OREILLE RIVER	62-PEND OREILLE

Source Name	Parcel	Twp	Rng	Sec	QQ	Latitude	Longitude
Trimble Creek	433312009002	33	43 E	12	NE¼NE¼	48.38045°N	117.30896°W

Datum: WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

That part of the S½ of Sec. 13 and that part of the N½ of Sec. 24, both in T. 33 N., R. 43 E.W.M. lying easterly of the following described line: commencing at the W¼ corner of said Sec. 24, thence east 1040.0 feet to the point of beginning; thence north 31°10′ west 539.9 feet; thence north 21°27′ west 118.9 feet; thence north 0°37′ east 173.6 feet; thence north 17°11′ east 211.4 feet; thence north 18°11′ east 143.8 feet; thence north 13°25′ east 144.2 feet; thence north 5°51′ east 142.8 feet; thence north 2°19′ west 156.3 feet; thence north 6°06′ west 174.7 feet; thence north 4°15′ west 141,5 feet; thence north 10°48′ west 119.8 feet; thence north 6°20′ west 101.6 feet; thence north 2°33′ east 236.6 feet; thence north 22°42′ east 171.5 feet; thence north 40°04′ east 649.3 feet;

thence north 21°05′ east 232.0 feet; thence north 6°07′ east 534.3 feet; thence north 10°20′ east 101.5 feet; thence north 17°46′ east 435.6 feet; thence north 24°39′ east 463.5 feet; thence north 48°35′; LESS the NE¼SE¼ of said Sec. 13 and LESS road.

Proposed Works

Surface water pump, center pivot irrigation

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
September 30, 2015	September 30, 2017	September 30, 2019

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported?	Annually (by Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or cfs)

Provisions

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 and required for the actual crop grown on the number of acres and the place of use specified.

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

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations.

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/

Easement and Right-of-Way
The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right change authorization by this department does not convey a right of

access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

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, 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 there will be no impairment of existing rights.

Therefore, I ORDER **approval** of the change to Surface Water Certificate No. 11852, 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 RD SW Ste 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this day of 2012.

_____

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.

DRAFT

INVESTIGATOR'S REPORT

WASHINGTON STATE - DEPARTMENT OF ECOLOGY
Water Resources Program - Eastern Regional Office
Water Right Control Number CS3-*11235C
Surface Water Certificate No. 11852

BACKGROUND

An application for change was submitted by Larry Cordes (Cordes Ranch) of Cusick, Washington to the Department of Ecology on June 4, 2010. Mr. Cordes proposes to change the point of diversion as granted under Surface Water Certificate No. 11852.

Attributes of the Existing Water Right and Proposed Changes

Change Application Filed: June 4, 2010

Attributes	Existing Water Right	Proposed Changes
Number	SWC# 11852	---
Name	Herbert F. Cordes	Cordes Ranch
Priority Date	April 11, 1952	---
Instantaneous Quantity	4.00	---
Annual Quantity	Not given	---
Purpose of Use	Irrigation of 400 acres; domestic supply	Irrigation only
Period of Use	May 1 - Oct. 15 for irrigation; Continuous for domestic	
Point(s) of Diversion	Calispell Creek	Trimble Creek
Place of Use	See Certificate for legal	---

Existing Sources of Diversion

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Calispell Creek	---	33N	44E	19	Gov. Lot 10	48.34236°N	117.30088°W

Proposed Sources of Diversion

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Trimble Creek	433312009002	33N	43E	12	NE¼NE¼	48.38045°N	117.30896°W

Datum: WGS84

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 Newport Miner during the weeks of May 23 and 30, 2012.

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 by Gene Drury on July 24, 2012 with Larry Cordes of Cordes Ranch. The project is located in Pend Oreille County just north of Cusick, WA. It was noted that the project has not been started. Water is currently pumped from the original point of diversion for irrigation.

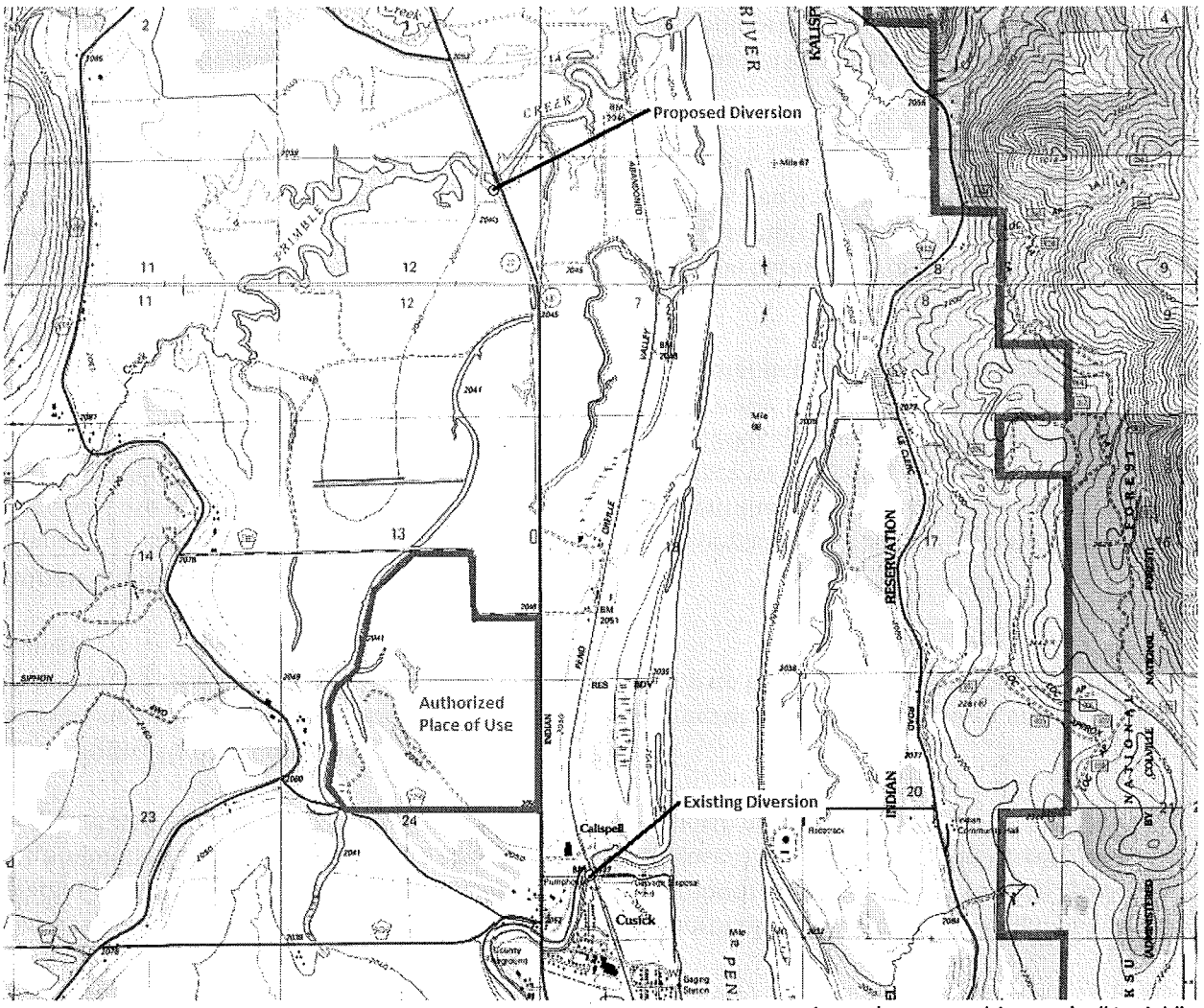
History of Water Use

Surface Water Certificate No. 11852 was originally issued to Herbert F. Cordes on April 26, 1972, for the seasonal irrigation of 400 acres and continuous domestic supply. This right has a priority date of April 11, 1952. According to Larry Cordes, this right has continuously been used since 1952 to irrigate the 400 acres for hay/alfalfa. The authorized point of diversion is from Calispell Creek located within Government Lot 10, Sec. 19, T. 33 N., R. 44 E.W.M. This right originally authorized 4 cubic feet per second (cfs) which equals approximately 1800 gallons per minute. 3.99 cfs is diverted for irrigation and 0.01 cfs was diverted for domestic supply. The authorized place of use is portions of the south half of Section 13 and north half of Section 24, Township 33 N., Range 44 E.W.M.

A 30 horsepower GE pump is used to divert the 3.99 cfs from Calispell Creek located within Government Lot 10 (SW¼) of Sec. 19, T. 33 N., R. 44 E.W.M. The diversion is currently located on the Kalispell Indian Reservation. The water is pumped from this location to flood irrigate the 400 acres.

Proposed Use

Mr. Cordes proposes change the diversion to Trimble Creek located approximately 2.5 miles north of the existing point. The proposed diversion would be located within the NE¼NE¼ of Sec. 12, T. 33 N., R. 43 E.W.M. on Pend Oreille County Parcel No. 43312009002. This land is owned by George Stuivenga and Mr. Cordes said an easement will be obtained. The plan is to install a more efficient system including pipes and irrigation center pivots to continue irrigating the 400 acres. Both of the diversions are backwaters of the Pend Oreille River and essentially the same water source. The reason for the change is that the Kalispell Tribe will not grant a permanent easement to the existing point of diversion. The tribe is in support of the proposed change. Since the domestic supply portion is not used under this water right it will be removed.



USGS 7.5 Minute (Topographic Map) - "Cusick"

No annual quantity was assigned to this water right so an estimate is calculated using the Washington State Irrigation Guide (WA210-Vi-WAIG, AMEND.1NOVEMBER1990 at Newport, Washington). Crop requirements for alfalfa/hay in this area are calculated at 22.64 inches per acre according to the Irrigation Guide. Mr. Cordes proposes using center pivots to irrigate the alfalfa/hay. Assuming a 70% system efficiency, this calculates to a total of 32.34 inches per acre (or 2.70 acre-feet per acre). This

calculates to an irrigation water requirement of 1080 acre-feet per year for the 400 acres. Therefore 1080 acre-feet will be assigned to Cordes Ranch as the total annual quantity under this right.

Other Rights Appurtenant to the Place of Use

There are no other water rights appurtenant to the place of use under Surface Water Certificate No. 11852. There was a water right that was authorized at the same point of diversion proposed by Cordes but it was cancelled in 1968. This right was under the name of Robert Heitman and authorized 5.0 cfs for the seasonal irrigation of 700 acres.

There is one other large water right used for irrigation just north of this project recorded under Surface Water Certificate No. 6311 (Duncan/Campbell). This right authorizes diversion from Tacoma Creek in the amounts of 8.0 cfs (before August 1) and 5 cfs (from August 1) for irrigation of 1080 acres. Mr. Cordes stated that he shares this right for some other land north of his water right (SWC #11852).

Hydrologic/Hydrogeologic Evaluation

As explained above, both diversion points are from backwaters of the Pend Oreille River and have no impact on diversions to Calispell or Trimble Creeks. There are no hydrogeologic concerns with this change.

Impairment Considerations

"Impair" or "impairment" means to: 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200), and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

The existing and proposed points of diversion are both within the backwaters of the Pend Oreille River. The current diversion has been in use for over 60 years with no complaints of impairment. No water is authorized to be diverted above what has been historically used, and it is not anticipated that the proposed change would cause impairment to existing water rights.

Enhancement Considerations

The proposed change will not increase the amount of water, nor will it increase or expand the right. No diversion of water over and above what has been historically authorized would be approved through this change.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

There is a water right available for change under Surface Water Certificate No. 11852 in the amount of 3.99 cubic feet per second, 1080 acre-feet per year, from May 1, to October 15, each year for the seasonal irrigation of 400 acres.

It is the conclusion of this examiner that, in accordance with Chapters 90.03, this application to change the point of diversion, as granted under Surface Water Certificate No. 11852 will not enlarge the quantity of water historically used nor will it impair existing rights provided the recommendations are followed.

RECOMMENDATIONS

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

Purpose of Use and Authorized Quantities

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

- 3.99 cubic feet per second
- 1080 acre-feet per year
- 400 acres of irrigation

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:

Point of Diversion:
Trimble Creek within the NE¼NE¼ of Sec. 12, T. 33 N., R. 43 E.W.M.

Place of Use:
As described on Page 1 of this Report of Examination.

Gene Drury, 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.