

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

PRIORITY DATE
 1/21/2015

WATER RIGHT NUMBER
 G3-30734

MAILING ADDRESS
 Broetje Land LLC
 1111 Fishhook Park Road
 Prescott, WA 99348

Community of Vista Hermosa

Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
200	GPM	126.5

Total withdrawals from all sources must not exceed the total quantity authorized for withdrawal listed above.

Purpose

PURPOSE	WITHDRAWAL RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Municipal Supply	200			126.5		01/01 - 12/31

ADDITIVE	IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
	NON-ADDITIVE		WATER SYSTEM ID	CONNECTIONS
			007105	115

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Walla Walla	Groundwater		33-Lower Snake

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well 1 (proposed)	331029110002		10 N.	33 E.	29	NW¼SW¼	46.3191	118.7202
Well 2 (SO1)	331029220001	ABR792	10 N.	33 E.	29	NW¼NW¼	46.3236	118.7214
Well 3 (proposed)	331029110002		10 N.	33 E.	29	NW¼NW¼	46.3262	118.7212

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

331029110002, 331029110002, 331030410005, 331032210002, 331032210003

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Area Served by Vista Hermosa within the S½SE¼ and the NE¼SE¼ of Section 30, Section 29, and the N½NW¼ of Section 32, all within T. 10 N., R. 33 E.W.M. (Snake River Housing Water System)

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	September 1, 2035	September 1, 2036

Measurement of Water Use

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

Provisions

Permit Nos. G3-30734, G3-28748 and Certificate No. G3-28328C shall be limited to 590 gallons per minute and 235.5 acre-feet per year. Certificate No. S3-29063C authorizes an additional 113 acre-feet for the irrigation of 30 acres of lawn, landscape and gardens. All within the area served by Vista Hermosa (Snake River Housing Water System).

Wells, Well Logs and Well Construction Standards

All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.

Proposed Well Nos. 1 and 3 shall be completed within the Columbia River Basalt Group.

All wells shall 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 shall 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.

WAC 173-173 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 Health Requirements

Prior to any new construction or alterations of a public water supply system, the State Board of Health rules require public water supply owners to obtain written approval from the Office of Drinking Water of the Washington State Department of Health. Please contact the Office of Drinking Water prior to beginning (or modifying) your project at DOH/Division of Environmental Health, 16201 E. Indiana Avenue, Suite 1500, Spokane Valley, WA 99216, (509) 329-2100.

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 shall 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 permit. 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.

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 No. G3-30734, 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 23rd day of June, 2016.



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>.

This proposed Water Budget Neutral application meets the criteria set forth in WAC 173-152-050(2)(g) and is granted priority processing. Priority processing was approved by Keith Stoffel, Water Resources Section Manager, Eastern Regional Office, on February 2, 2016.

Legal Requirements for Approval of Appropriation of Water

When an application for appropriation of public waters of the state is made, it is the responsibility of the Department of Ecology, Water Resources Program to determine whether or not the application meets the four tests listed in RCW 90.03.290(3):

1. is water available for appropriation,
2. is the proposed use a beneficial use, and
3. will the appropriation as proposed in the application not impair existing rights,
4. nor be detrimental to the public welfare

RCW 90.03.386(3) requires a municipal water supplier to apply cost-effective water conservation measures as part of its water system planning. The water supplier must also evaluate the effects of delaying the use of inchoate water rights before it may increase use of those inchoate rights. RCW 90.03.320 requires Ecology to consider the public water supplier's use of conserved water when establishing a surface or ground water right construction schedule.

WAC 173-152-020(18) states that "Water budget neutral project means a project where diversions or withdrawals of waters of the state are proposed in exchange for at least an equivalent amount of water from other water rights, the trust water program, a water bank, relinquishment of other water rights, or other mitigation projects that result in no diminishment of the source."

Policy POL-1021 states "Water Budget Neutral Project" means a project where diversions or withdrawals of waters of the State are proposed in exchange for discharge of at least an equivalent amount of water from other water rights, donation of water rights into trust, relinquishment of other water rights, or other mitigation projects that result in no diminishment of the source."

Policy POL-1020 states "Ground water use is nonconsumptive when there is no diminishment of the source."

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 Waitsburg Times on February 26 and March 5, 2015. No protests were received regarding this notice.

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number G3-30734.

Table 1 Summary of Requested Water Right

Applicant Name:	Broetje Land LLC
Date of Application:	1/21/2015
Place of Use	Portions of the S½SE¼ and the NE¼SE¼ of Section 30, Section 29, and the N½NW¼ of Section 32, all within T. 10 N., R. 33 E.W.M. (Vista Hermosa)

County	Waterbody	Tributary To	WRIA
Walla Walla	Groundwater		33-Lower Snake

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Municipal Supply	200	GPM	322.6	01/01	12/31

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well 1	331029110002		10 N.	33 E.	29	NW¼SW¼	46.3191	118.7202
Well 2 (SO1)	331029220001	ABR792	10 N.	33 E.	29	W½NW¼	46.3236	118.7214
Well 3	331029110002		10 N.	33 E.	29	NW¼NW¼	46.3262	118.7212

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: NAD83/WGS84.

Priority Processing

According to WAC 173-152-050(2)(g), an application for a new water right qualifies for priority processing provided it is a Water Budget Neutral project. This WAC is specifically cited and further defined in Policy POL-1021 "Priority Processing – Water Budget Neutral Projects".

"Water budget neutral project" means a project where diversions or withdrawals of waters of the state are proposed in exchange for at least an equivalent amount of water from other water rights, the trust water program, a water bank, relinquishment of other water rights, or other mitigation projects that result in no diminishment of the source."

Broetje Orchards proposes to take 32 acres of irrigation out of production under Ground Water Certificate No. G3-27932 for use as mitigation under this application. This proposal qualifies as a Water Budget Neutral project, since the consumptive quantities requested appear to be the same as those proposed for mitigation.

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

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) proposed points of withdrawal and delivery system; (5) proposed place of use; (6) Department of Health Web Water System Plan information; (7) proposed mitigation and Policy POL-2034 Evaluating Mitigation Plans; and (8) discussions with Department of Ecology regional program staff.

A field investigation was conducted, by Dan Tolleson and Eric Hartwig, with Bill Neve, a consultant for Broetje Orchards, on November 19, 2015. The project is located approximately 17 miles northwesterly of Prescott, Washington. The water right is located in the Lower Snake River Basin, within WRIA 33.

The proposed place of use is the area served by the Community of Vista Hermosa, lying within the S½SE¼ and the NE¼SE¼ of Section 30, Section 29, and the N½NW¼ of Section 32, all within T. 10 N., R. 33 E.W.M. This community primarily consists of housing units to support surrounding orchards and packing facilities. The system has a store and other related community buildings. In addition, commercial cold storage and Broetje Orchards office buildings are located at this site. The community of Vista Hermosa and the Broetje Orchards facilities are intertied but have separate meters at their sources. Irrigation within Vista Hermosa is provided under an existing surface water right, supplied from the Snake River.

The proposed points of withdrawal are all located in the W½ of Section 29, T. 10 N., R. 33 E.W.M. Well No. 2 is the only constructed source which is currently used to supply Vista Hermosa. It is listed as SO1 on the Health Department web site for their water system. This well has a flow meter and is estimated to produce 120 gallons per minute with the existing delivery system. Well Nos. 1 and 3 are proposed locations for new points of withdrawal, which have not been constructed. The applicant proposes to

construct at least one new well in the proposed locations. The Department of Health has a source listed as SO2 under their water system plan, which is no longer in service for Vista Hermosa.

According to the Department of Health, the community of Vista Hermosa is referred to as "Snake River Housing Water System" under identification number 007105. Currently, this community has 115 approved connections and proposes to expand once they obtain new water rights. Under municipal water law, Vista Hermosa qualifies as a "municipal water supplier" as defined under RCW 90.03.015(3) and 90.03.015(4). This applicant proposes to provide water for municipal supply purposes, specially noting that most water will be used for domestic supply purposes, with no irrigation.

According to RCW 90.03.386(2) a municipal water supplier may change its service area through the water system plan approval process administered by the Washington Department of Health. As long as the municipal water supplier is in compliance with the approved plan, and other requirements prescribed under RCW 90.03.386(2), the place of use for the water right is the service area authorized under the plan. Currently, a water system plan is in the process of being completed for this community. When this plan is approved and the system meets the Department of Health requirements, the place of use shall be as follows: *The place of use (POU) of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.*

Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water right certificates, permits, and claims appurtenant to the project. The search focused primarily on Sections 29, 30 and 32 within, T. 10 N., R. 33 E.W.M. The review of Ecology records shows the following water rights and permit appurtenant to the authorized place of use:

Superseding Ground Water Permit No. G3-28748, authorizes 350 gallons per minute, 98 acre-feet per year for continuous municipal supply. This permit is currently used to supply water for the community of Vista Hermosa. This water right is not sufficient to meet the demands of the community and is additive to Application No. G3-30734.

Ground Water Certificate No. G3-28328C, authorizes 40 gallons per minute and 11 acre-feet for the following: 9 acre-feet per year for a continuous industrial supply and re-use of processing waste water and for the irrigation of 1.5 acres; 2 acre-feet for continuous domestic supply. This right is currently used to supply water for the Broetje Orchards fruit processing and storage facilities. It is intertied with the Vista Hermosa water system and is a primary additive right.

Surface Water Right No. S3-29063C authorizes 13.5 cfs and 1606 acre-feet from a Snake River pump station. The annual quantity authorized under this certificate is divided into two parts which are as follows: 1493 acre-feet for, irrigation, frost control and cooling of 354 acres; and 113 acre-feet for the irrigation of 30 acres. This certificate was provisioned as a "Family Farm Certificate". This restriction does not apply to the 30 acre portion of the right which is utilized to provide irrigation water for Vista

Hermosa. The original Report of Examination notes that this part of the right was for community use and not for commercial agricultural use. This irrigation system is not intertied with Vista Hermosa and is an additive right.

Surface Water Certificate No. S3-28015C authorizes 7.1 cfs and 1488 acre-feet for the irrigation of 320 acres from a Snake River pump station. This right is not part of the Vista Hermosa system. It is utilized to irrigate the orchards to the northwest of the community.

The validity and extent of above listed water rights are not determined in this report.

Mitigation

Since it is unlikely water for new appropriation is available in the area of the project, the applicant has provided "in kind" mitigation. The original proposal was to put a portion of Certificate G3-27932C into the trust program to provide mitigation. It was subsequently determined that voluntary relinquishment of the proposed right would provide a more streamlined process and ensure mitigation would remain in place. The trust application has since been rejected and a voluntary relinquishment accepted. The total proposed for mitigation is 200 gallons per minute, 148.8 acre-feet, and 32 acres of irrigation from G3-27932C.

History of use G3-27932C

Ground Water Certificate G3-27932C, with a priority date of November 16, 1984, was issued on February 27, 1998, as a primary water right. The certificate authorized the withdrawal of 2500 gallons per minute and 1860 acre-feet per year, for the irrigation of 400 acres. The authorized well is located within the W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 4, Township 10 N., Range 33 E.W.M. A superseding certificate was issued on July 23, 2003 to correct the provision that summarized total use under Certificate Nos. G3-27932C, G3-27933C and G3-27934C. The amended provision limits total use under all rights to not exceed 8000 gallons per minute, 6040 acre-feet per year for the irrigation of 1274 acres. No alternate, non-additive or supplemental water rights are associated with Certificate G3-27932C.

Aerial photographs were used to help verify the extent of development, historical and beneficial use of Certificate No. G3-27932C. The authorized place of use has three additive water rights that authorize a total of 1274 acres of irrigation. According to the available aerial photographs, information within the file and a field investigation, the total of these rights has been consistently irrigated since it was developed in 1995. Therefore, water use under Certificate G3-27932 has historically been utilized to irrigate 400 acres of orchards, within the larger project. The 32 acres of this right proposed for mitigation have been identified as being within the East 1056 feet of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T. 10 N., R. 33 E.W.M.

The authorized source for Certificate G3-27932C is a well, located within the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 4, T. 10 N., R. 33 E.W.M. which is recorded by GPS at the following coordinates of 46.3733, -118.6829. The maximum instantaneous quantities authorized under this right are 2500 gallons per minute. The well currently utilizes a 500 horse power turbine pump that produces approximately 3000 gallons per

minute. This well can produce significantly more water than is authorized under this certificate, which is a result of it being used as a source for multiple rights. Because this well supplies multiple water rights, water withdrawals will need to be coordinated so as not to exceed the quantities authorized under each right. Water use beyond what is authorized may result in fines. The instantaneous quantity of 200 gallons per minute, proposed for mitigation, has historically been put to beneficial use under this right and is available for mitigation.

The maximum authorized water duty of this certificate is 1860 acre-feet or 4.65 acre-feet per year, per acre. Historically, the highest water use under this certificate was for the irrigation of an apple orchard. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that a 3.5 acre-feet, per acre, for apples with cover is required in the Walla Walla area. At a 75% efficiency rate of application, the maximum water duty, for apples with cover is 4.65 acre-feet per year, per acre. This results in an allocation of 1860-acre-feet per year for the irrigation of 400 acres. The annual quantity of 148.8 acre-feet per year, proposed for mitigation, has historically been put to beneficial use under this right.

An estimate of the consumptive water will be derived from Guidance GUID-1210. According to this Guidance, an irrigation system of solid sprinklers have an average efficiency rate of 75%, an average evaporation rate of 10%, and an average return flow of 15%. Given this calculation, 22.3 acre-feet of the 148.8 acre-feet proposed for mitigation will be considered return flows. The remaining 126.5 acre-feet considered consumptively used and available to provide mitigation.

Mitigation Plan

Ralph Broetje has requested 200 gallons per minute, 322.6 acre-feet, per year, for continuous municipal supply. The proposed source are wells constructed into the basalt aquifer. The instantaneous quantity of 200 gpm is the same as the amount taken out of production under G3-27932C and proposed for mitigation. The requested annual quantity of 322.6 acre-feet, is derived from their calculation of 200 gpm pumped continuously, throughout the year. The proposed use is municipal supply, primarily for in-house domestic supply of homes and domestic supply for commercial/industrial buildings. The domestic water use has been estimated to have significant septic return flows by way of multiple subsurface drain fields. The mitigation proposal, for annual quantity, was calculated by utilizing the following formula: "thirty percent of domestic in-house use on a septic system is consumptively used". This calculation was taken from WAC 173-539A-050(3), which was developed for single domestic supply within the Upper Kittitas Basin. The proposed mitigation calculation estimates a rate of 30% consumed water under the request of 322.6 acre-feet, which results in 96.78 acre-feet in actual water consumed. The remaining consumptive annual quantity is proposed to cover any unexpected increase in consumptive use that may occur as the community develops.

According to WAC 173-152-020(18), POL-1021, and POL-2035, a Water Budget Neutral project is not allowed to diminish the source. The applicant has provided "in kind" mitigation, which is intended to offset impact to the source. This means the new appropriation cannot exceed the consumptive use of the water right utilized for mitigation. The request of 322.6 acre feet for a new right, with proposed mitigation of 126.5 acre feet of consumptive water, does not meet the "no diminishment of the source" requirement. The above utilized calculation, under WAC 173-539A-050(3) was intended for single domestic supply and not for a municipal right. A municipal water supplier is authorized to provide water

for any uses related to the community, which may have significantly more consumptive use than what has been estimated by the applicant. There is no way of knowing what the water may be used for in the future. Therefore, the total “in kind” mitigation provided, which is the only portion available for a new use is 126.5 acre-feet.

Proposed Use and Basis of Water Demand

Ralph Broetje proposes to provide for existing water uses and future certainty related to the growth of Vista Hermosa, which is a municipal supplier. The existing water needs and future growth are anticipated to be primarily for new housing units with some other associated uses within the community. Community water uses do not include irrigation, since that is provided by an existing surface water right that utilizes a separate system. This surface water is estimated to be sufficient for the irrigation needs of the community as it develops the water requested under this application. No large scale commercial or industrial uses are anticipated for this water system.

As indicated above, 126.5 acre-feet of mitigation water has been provided for this project. Vista Hermosa currently has an annual deficit of approximately 40 acre-feet, per year, according to the available meter data from 2012-2013. This water use is primarily from housing units, with some other related community uses. The next phase of development is proposed to be 48 domestic units, which are estimated to utilize an additional 48 acre-feet of water per year (calculated at 235 ERU, for a family of four, per year). This leaves approximately 40 acre-feet of water available for future growth, which appears to be sufficient given the estimated development of the community. Full build out of the system under this request is projected to be completed by 2036.

Hydrogeology Analysis

The following hydrogeologic analysis was written by John Covert, Senior Hydrogeologist in the Water Resources Program Technical Unit in Ecology’s Eastern Regional office.

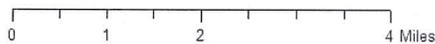
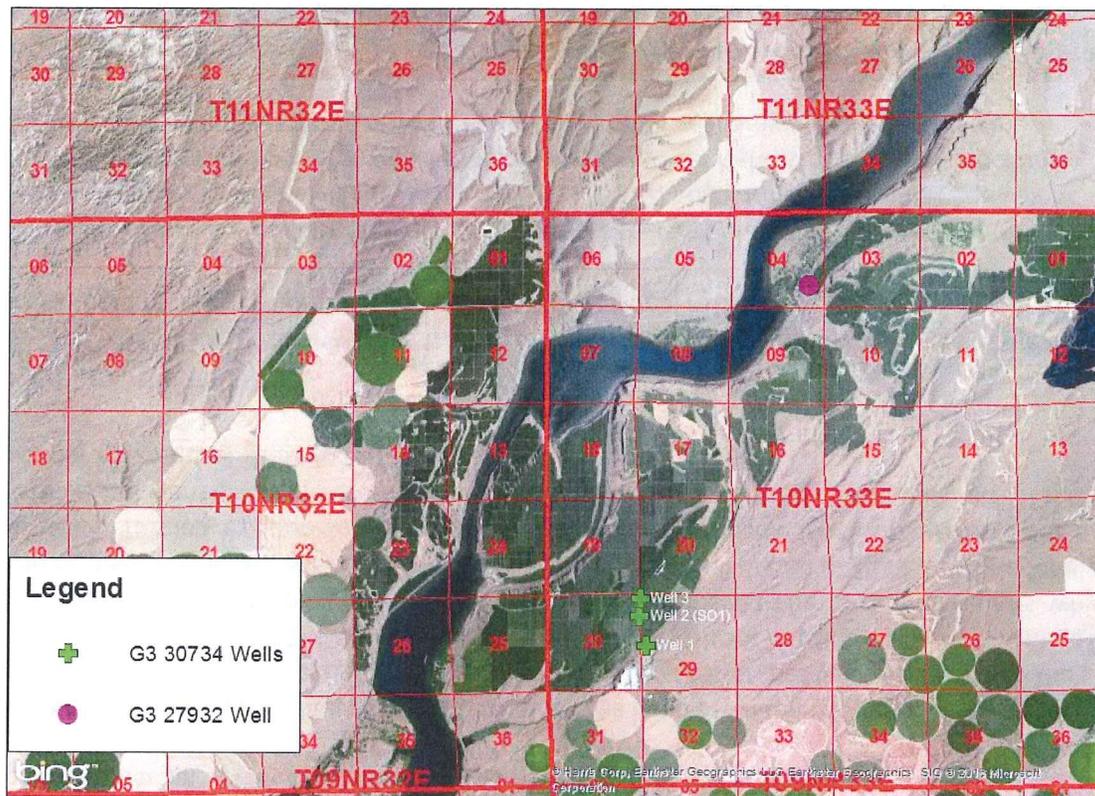
The Applicant is proposing a water budget neutral project that will reduce a volume of water currently being utilized from an existing well and water right (G3 27932) and withdrawal of that equivalent volume of water from up to three new wells under this new water right (G3 30734) at a location approximately 4 miles to the southwest of the original point of withdrawal (see map below).

The existing well is a 16” diameter, 200’ deep basalt well drilled in the SE¼NE¼ of Section 4, T10N R33E. The well was drilled in 1985. It penetrated 48’ of overburden and gravel before drilling into the Columbia River Basalt Group. The well is cased to its total depth with perforations in the basalt from 100’ to 150’. It had a 30’ static water level and was capable of producing 3000 gpm.

Three points of withdrawal are proposed in Section 29, T10N R33E. One of these three (Well 2 (S01) is an existing 10” well located in the SW¼SW¼NW¼ of the section. This well was drilled in 1990 to a depth of 652’. It penetrated sand, clay and gravel to a depth of 127’. It is cased to 652’ and is perforated in the basalt from 612’ to 652’. It had a static water level of 435’ and was capable of producing 300 gpm. The well tag attached to this well is ABR792.

If either of the additional wells (Well 1 or Well 3) are drilled, they will need to be completed within the Columbia River Basalt Group.

Both the existing well and the proposed well(s) are producing water from the Columbia River Basalt Group and are located adjacent to the Snake River, with static water levels that are slightly above or at the pool elevation of the River. Both locations are tributary to the Snake River which facilitates the water budget neutral determination. From a water use perspective for this new right, the impacts to the hydrogeologic system will be neutral and impairment to the Snake River will not occur nor are any well interference problems anticipated to develop at the new point(s) of diversion.



Impairment Considerations

Impairment is an adverse impact on the physical 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).

Broetje Orchards has provided “in kind” mitigation for application G3-30734, which has been evaluated for potential impairment to existing water rights in the area. As noted above, no impairment is anticipated by use of the new application, since sufficient mitigation has been provided for 126.5 acre-feet. This mitigation will ensure there are no significant impacts to the basalt aquifer and protect Snake River flows. To date, there is no record of any regulation between ground water rights based on priority within the area of this project. No impairment to existing rights is anticipated as a result of approval of this proposed water application, for the reduced quantity described above.

Water Availability

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

Physical availability

For water to be physically 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.
- Lack of data indicating water usage can also be a consideration in determining water availability, if the department cannot ascertain the extent to which existing rights are consistently utilized and cannot affirmatively find that water is available for further appropriation.

Legal availability

To determine whether water is legally available for appropriation, the following factors are considered:

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.
- Fisheries and other instream uses (e.g., recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where

further reducing the flow level of surface water would be detrimental to existing fishery resources.

- The Department may deny an application for a new appropriation in a drainage where adjudicated rights exceed the average low flow supply, even if the prior rights are not presently being exercised. Water would not become available for appropriation until existing rights are relinquished for non-use by state proceedings.

As indicated above, sufficient “in kind” mitigation has been provided to offset consumptive use, so this request is a “water budget neutral” project. This means that the request is non-consumptive since no diminishment of the source will occur. Therefore, water is both physically and legally available for the proposed appropriation for a maximum of 126.5 acre-feet of water.

Beneficial Use

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

Public Interest Considerations

No protests were received against granting this water right permit, in response to the public notice. However, National Marine Fisheries Service has made the following comments about new applications in the Snake River Basin:

Consideration of Comments

On August 19, 2014, Ecology requested National Marine Fisheries Service (NMFS) input on new water appropriations within the Snake River basin. A response was received in a letter dated October 1, 2014. They indicated that there are seven species of fish within the basin that are considered listed under the Endangered Species Act (ESA). The Snake River and the tributaries have limited flows that affect these ESA listed species. This include wells that are in hydrogeologic continuity. Currently, NMFS has a draft plan for recovery of this basin and has indicated that new consumptive water uses should be denied, unless they have appropriate mitigation.

As indicated above, the proposed appropriation is fully mitigated for a maximum of 126.5 acre feet of water. This means that there will be no significant impacts to the Snake River system. Consequently, there are no findings that indicate that there would be any detrimental impact to the public welfare through issuance of this permit.

Conclusions

It is the conclusion of this examiner that, (1) public surface water is available for appropriation, (2) the water use is a beneficial use, and the appropriation (3) will not impair existing water rights, (4) nor will it be detrimental to the public welfare.

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:

200 gallons per minute
126.5 acre-feet per year
Municipal supply

Point of Withdrawal

Well 1 (proposed) - NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 10 North, Range 33 E.W.M.
Well 2 (SO1) - NW $\frac{1}{2}$ NW $\frac{1}{4}$, Section 29, Township 10 North, Range 33 E.W.M.
Well 3 (proposed) - NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, Township 10 North, Range 33 E.W.M.

Place of Use

As described on Page 1 of this Report of Examination.

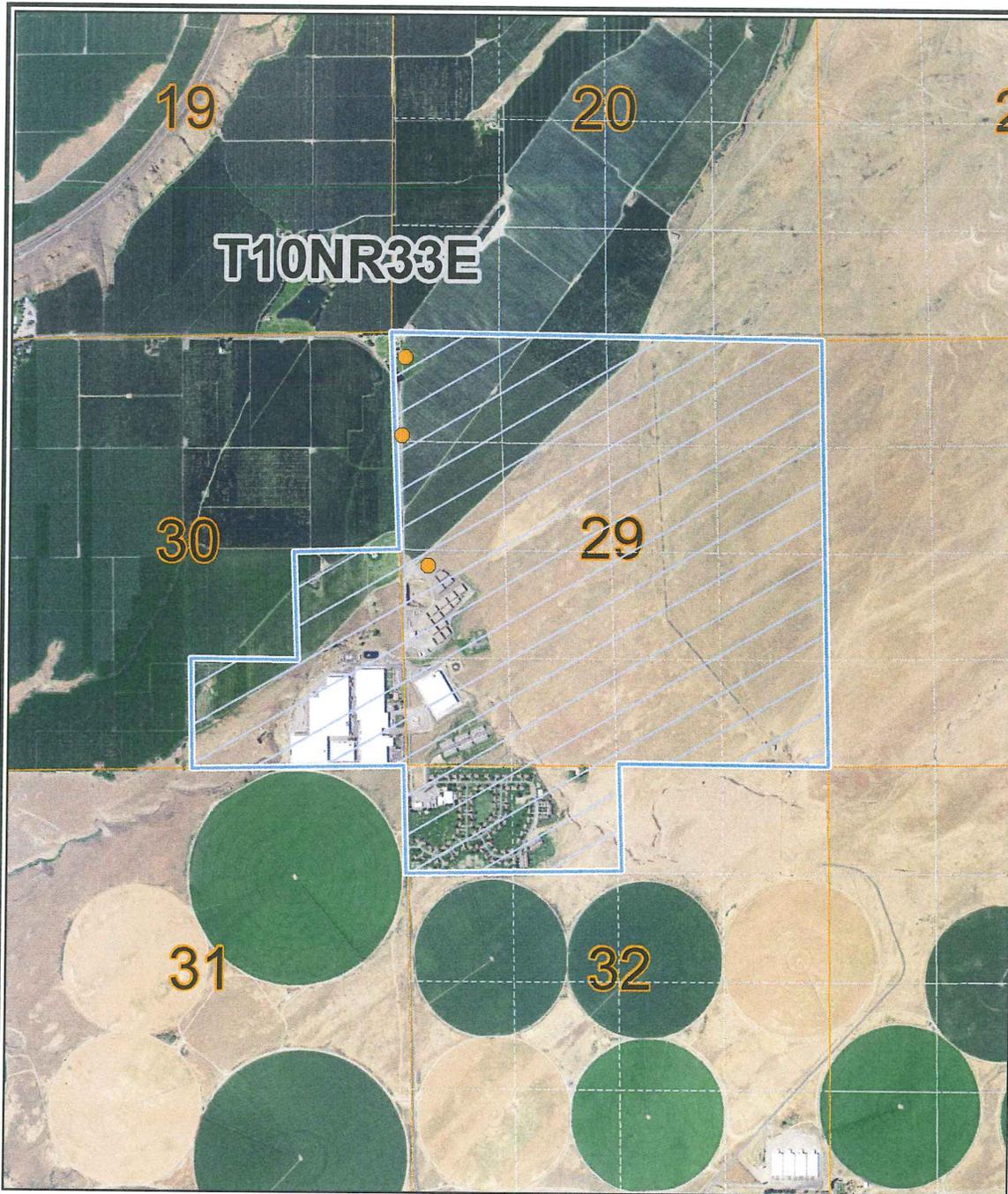


Dan Tolleson, Report Writer

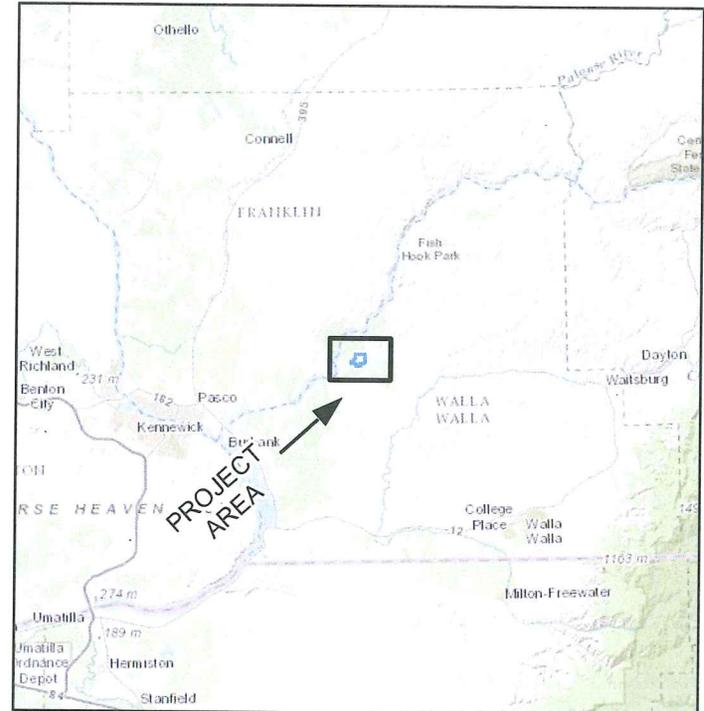
6-23-2016

Date

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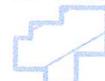


Broetje Land, LLC
 G3-30734
 T10N/R33E



Basemap - (ESRI US Topographic Maps)

Legend

-  Authorized Place of Use
-  Townships
-  Sections

 **Authorized Point of Withdrawal**

(Source locations may vary in their accuracy and precision as stated within the body of the report.)

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

Basemap - (NAIP 2015 Air Photo)



Map Date: 5/12/2016



Comment:

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