

STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**  
APPLICATION FOR CHANGE/TRANSFER  
**REPORT OF EXAMINATION**  
 TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

- Surface Water** (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)
- Ground Water** (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE The year 1875 (class fourteen)	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER Walla Walla Adj. Certificate No. 109
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NAME Dean Farrens			
ADDRESS (STREET) 7216 Mill Creek Road	(CITY) Walla Walla	(STATE) WA	(ZIP CODE) 99362

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE Mill Creek		
TRIBUTARY OF (IF SURFACE WATERS) Walla Walla River		
MAXIMUM CUBIC FEET PER SECOND 0.067 cfs from April 1 to July 1 0.050 cfs from July 1 to October 1 0.100 cfs from October 1 to April 1	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE FEET PER YEAR 21

QUANTITY, TYPE OF USE, PERIOD OF USE  
 0.067 cubic feet per second from April 1 to July 1, 0.050 cubic feet per second from July 1 to October 1, 0.10 cubic feet per second from October 1 to April 1; 21 acre-feet per year, each year, for the irrigation of 5 acres

**LOCATION OF DIVERSION/WITHDRAWAL**

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL  
 500 feet south and 1200 feet east from the NW corner of Section 35

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	SECTION 35	TOWNSHIP N. 7	RANGE, (E. OR W.) W.M. 37 E.	W.R.L.A. 32	COUNTY Walla Walla
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**RECORDED PLATTED PROPERTY**

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)
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**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED**

W<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of Sec. 35, T. 7 N., R. 37 E.W.M., all west of Mill Creek Road

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**DESCRIPTION OF PROPOSED WORKS**

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A pump directly from the creek for irrigation with hand lines

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**DEVELOPMENT SCHEDULE**

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER PUT TO FULL USE BY THIS DATE:
Started	Completed	In use

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**REPORT**

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**BACKGROUND**

An application for change/transfer was submitted by the Dean Farrens of Walla Walla, Washington, to Ecology on July 23, 2003. Mr. Farrens proposes to change the point of diversion, as granted under Walla Walla Adjudicated Certificate No. 109 (WWAC 109).

**Walla Walla Adjudicated Certificate No. 109**

Name on Permit:	Joseph W. Ferrel
Priority Date:	1875 (Class 14)
Instantaneous Quantity – Qi:	0.067 cfs April 1 to July 1, 0.05 cfs July 1 to Oct. 1, 0.1 cfs Oct. 1 to April 1
Annual Quantity – Qa:	25 acre feet per year
Original Source:	Mill Creek
Point(s) of Withdrawal/Diversion:	See Table No. 1 (Mill Creek)
Purpose of use:	Irrigation
Period of use:	Seasonal irrigation
Place of use:	E½NW¼ & W½NE¼, Sec. 35, T. 7 N., R. 37 E.W.M.

**Proposed Change/ Transfer:**

Name of Applicant:	Dean Farrens
Date of Application for Change/Transfer:	July 23, 2003
Point of Withdrawal/Diversion:	See Table No. 1 (Mill Creek)
Purpose of Use:	<i>No change</i>
Period of Use:	<i>No change</i>
Place of Use:	<i>No change</i>

**Notice**

A notice of application was duly published in accordance with RCW 90.03.280 in The Times on July 6 and July 13, 2006 and no protests were received.

**SEPA**

This application is exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21 RCW.

**INVESTIGATION**

In considering the proposed changes/transfers, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) Walla Walla Adjudicated Certificate No. 109 and other water rights/claims/applications in the vicinity; (3) USGS topographic maps, aerial photographs, State of Washington Irrigation Guide (WA210-VI-WAIG, October 1985) and; (4) discussions with Department of Ecology regional program staff.

A site visit of the project was conducted on June 23, 2006 by Dan Tolleson, with Dean and Keith Farrens. The project is located approximately 7 miles east of Walla Walla, Washington. The water right Certificate is located in the Walla Walla Basin and is managed under Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32.

The place of use authorized under WWAC 109 is described as approximately 160 acres of land within the E½NW¼ and the W½NE¼ of Section 35. Most of the place of use is steep hill sides above Mill Creek. This upland area is mostly used for cultivation of dry land wheat. Mill Creek Road, which parallels Mill Creek, is located along the western edge of the place of use. This bottom land along Mill Creek is primarily developed with homes and large yards. The northern portion of this bottom land has two irrigated fields that appear to be the actual irrigated place of use. (See Attachment A)

The certificate authorizes one point of diversion from Mill Creek within the SW¼NW¼ of Sec. 35. The proposed diversion is approximately 1000 feet down stream of the original. This proposed site is a side channel that has been developed, by digging out a small pond. No dam or structure is involved with this diversion. According to Dean Farrens, the original point of diversion was abandoned approximately ten years ago and the proposed point has been in use since. (See Attachment A)

**Table No. 1**  
**Diversion Specifications**

<b>Diversion</b>	<b>Status</b>	<b>Fish screen</b>	<b>Meter Status</b>	<b>System</b>
Authorized	Abandoned	n/a	n/a	n/a
Proposed	Online	In use	In use	Centrifugal pump

**EVALUATION OF THE WATER RIGHT AND BENEFICIAL USE ANALYSIS**

Historically, Walla Walla Adjudicated Certificate No. 109 utilized a gravity feed ditch diversion for irrigation within the place of use. This system has since been replaced with an electric pump and a pressurized impact sprinkler system.

Aerial photographs were used to help verify the extent of development, historical use and beneficial use of WWAC 109. Although the parcel of land described as the place of use is approximately 160 acres only a small portion was irrigable from the historical gravity feed irrigation ditch. The area that was physically irrigable from the ditch system would have been the bottom lands along Mill Creek in the northwestern portion of the place of use. The remainder of the place of use is up gradient from the authorized point of diversion. Only about five acres have been developed for irrigation under this right, within the northwestern portion of the place of use, which is consistent with the certificate. Therefore, five acres of irrigation is available for change under this right.

The maximum authorized water duty of this permit is five acre-feet per year, per acre. Historically, this right has been used to irrigate alfalfa and pasture. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that 2.9 acre- feet, per acre, for pasture is required in the Walla Walla area. At a 70% efficiency rate of application, the approximate maximum water duty, for crops listed above, is 4.2 acre feet per year, per acre. The remaining 0.8 acre-feet per acre is no longer required due to modern farming practices and is subject to relinquishment for nonuse.

Water rights are appurtenant to a specific parcel of land or place of use on an acre per acre basis. Therefore, the place of use of this permit will be narrowed down to the smallest legal description possible. The actual place of use is five acres of irrigation within the W½NE¼NW¼ of Sec. 35, T. 7 N., R. 37 E.W.M., west of Mill Creek Road.

**EXISTING RIGHTS**

A review of Ecology records was conducted for existing water rights, permits, and claims in the surrounding area of the Farrens Project. The search focused primarily on Section 35, T. 7 N., R. 37 E.W.M. The review of Ecology records shows one water right appurtenant to the proposed place of use, which is as follows:

Walla Walla Adjudicated Certificate No. 819 (WWAC 819): This water right certificate authorizes 10 acres of irrigation within the south western portion of the authorized place of use of WWAC 109. The place of use under this right is approximately 16-17 acres. This is a portion of the bottom land along Mill Creek that is up gradient from the authorized point of diversion of WWAC 109. Therefore, the point of diversion of WWAC 109 could not have physically served the place of use of WWAC 819. These are separate primary rights that have an overlapping place of use but are defined physically by their points of diversion. Currently, it appears that WWAC 819 has been abandoned or subject to relinquishment for nonuse.

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

**IMPAIRMENT ANALYSIS**

“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 flows 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 proposed point of diversion is located approximately 1000 feet down stream from the point of diversion authorized under the original certificate. No diversions or significant changes occur in Mill Creek between the originally authorized point of diversion and the proposed point of diversion. Therefore, no impairment exists by moving the diversion to the proposed site.

This application is requesting authorization to change the point of diversion, as granted under Walla Walla Adjudicated Certificate No. 109. WWAC 109 has been exercised and beneficially used in the past. The proposed change will not increase the amount of water withdrawn from Mill Creek nor will it increase or expand the right.

**FINDINGS**

There is a water right available for change/transfer under Walla Walla Adjudicated Certificate No. 109 in the amounts of 0.067cfs April 1 to July 1, 0.05 cfs July 1 to October 1, 0.1 cfs October 1 to April 1, 21 acre feet per year, each year, for the irrigation of 5 acres.

Surface water has been historically and beneficially used under this certificate.

When considering an application for change to a water right, Ecology must determine that the proposed change can be made without detriment or injury to existing water rights. Factors considered when determining potential impact include the following:

No Impairment to Existing Rights:

No water will be diverted above what has been historically used, and it is not anticipated that the proposed change/transfer would cause impairment to existing water rights.

No Enhancement of the Authorized Right:

No withdrawal of water over and above what has been historically authorized would be approved through this change.

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**FINDINGS OF FACT AND DECISION**

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Upon reviewing the investigator’s report, I find all facts, relevant and material to the subject application, have been thoroughly investigated.

Therefore, I ORDER that the requested change is approved, subject to the following:

You have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this document. 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 this document:

- File your appeal and a copy of this document 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 document on Ecology in paper form - by mail or in person. (See addresses below.) Email 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 Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Please also send a copy of your appeal to:

Mr. Keith L. Stoffel  
 Department of Ecology  
 Eastern Regional Office  
 4601 North Monroe Street  
 Spokane, WA 99205-1295

*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> .*

Signed at Spokane, Washington, this day of, 2011.

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Keith L. Stoffel, Section Manager  
Water Resources Program  
Eastern Regional Office

**CONCLUSION**

It is the conclusion of this examiner that, in accordance with Chapters 90.03, this application for change (changing the point of diversion, granted under Walla Walla Adjudicated Certificate No. 109) will not enlarge the quantity of water historically use, nor will it impair existing rights provided the terms and conditions below are followed.

**RECOMMENDATIONS**

The applicant's request to change/transfer of water right certificate (changing the point of diversion, as granted under Walla Walla Adjudicated Certificate No. 109) is **approved**, subject to the following provisions:

"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."

"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."

"The water quantities and uses recommended and/or the number of acres to be irrigated may be reduced at the time of issuance of a final water right commensurate with the capacity of the installed system and the uses and/or the number of acres actually irrigated."

"Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities."

"A superseding certificate of water right will not be issued until a final examination is made."

"An approved measuring device shall be installed and maintained for each of the sources identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be recorded monthly and maintained by the property owner for a minimum of five years, and shall be promptly submitted to Ecology upon request."

The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions."

"This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and gamefish screening criteria (pursuant to RCW 77.16.220, RCW 77.55.040 and RCW 77.55.070). Please contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Program, Phone: (360) 902-2534, or call (509) 575-2734 for the Yakima Construction Shop to obtain technical assistance for your project. Juvenile salmon screening criteria are attached to the Report of Examination if applicable to your diversion."

No dam shall be constructed in connection with this diversion.

Signed at Spokane, Washington  
this \_\_\_\_ day of \_\_\_\_, 2011.

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DAN TOLLESON  
Water Resources Program  
Department of Ecology

Attachment A

