STATE OF WASHINGTON
**DEPARTMENT OF ECOLOGY**

***REPORT OF EXAMINATION***
***Change of: Yakima Adjudication Court Claim No. 01811***
***WRTS File No.:*** CS4-01811CTCLsb6

| PRIORITY DATE | CLAIM NO. | PERMIT NO. | CERTIFICATE NO. |
|---|---|---|---|
| June 30, 1873 | Yakima Adjudication Court Claim No. 01811 | | |

NAME

Donald C. Enochs

| ADDRESS/STREET | CITY/STATE | ZIP CODE |
|---|---|---|
| 3351 East Taneum Road | Thorp WA | 98946-9522 |

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE

Pond and well

TRIBUTARY OF (IF SURFACE WATERS)

Taneum Creek, Yakima River

| MAXIMUM CUBIC FEET PER SECOND | MAXIMUM GALLONS PER MINUTE | MAXIMUM ACRE FEET PER YEAR |
|---|---|---|
| 0.02 | 9 | 6 |

QUANTITY, TYPE OF USE, PERIOD OF USE

0.02 cubic feet per second (9 gallons per minute), 6 acre-feet per year, for irrigation of 0.75 (¾) acre from April 1 thru October 31 each year.

**LOCATION OF DIVERSION/WITHDRAWAL**

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

1) Proposed point of withdrawal (POW) #1 (i.e., POD change to POW) - an existing shallow well (60 feet deep) located on Mr. Enochs' property:

   2200 feet south and 290 feet west of the northeast corner of Section 5, being within the SE¼NE¼ of Section5, T. 18 N., R. 17 E.W.M.;

2) Proposed POD #2 (i.e., change a POD water source) - an unnamed pond located on Mr. Enochs' property:

   2120 feet south and 263 feet west of the northeast corner of Section 5, being within the SE¼NE¼ of Section 5, T. 18 N., R. 17 E.W.M.

| LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) | SECTION | TOWNSHIP | RANGE | WRIA | COUNTY |
|---|---|---|---|---|---|
| 1. Shallow Well POW: SE¼NE¼<br>2. Unnamed Pond POD: SE¼NE¼ | 5 | 18 N. | 17 E.W.M. | 39 | Kittitas |
| PARCEL NO. | LATITUDE | | LONGITUDE | DATUM | |
| 139133 | | | | | |

## LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED
**[Attachment 1 shows location of the authorized place of use and point(s) of diversion or withdrawal]**

A portion of the SE¼NE¼ of Section 5, T. 18 N., R. 17 E.W.M. There is no change in place of use (POU), however the following legal description represents a clarification of the place of use, taken verbatim from the statutory warranty deed for this Enochs property filed September 17, 1999 with the Kittitas County Auditor's Office, State of Washington, a copy of which is enclosed in this water right change application file.

**POU:**
That portion of the Southeast Quarter of the Northeast Quarter of Section 5, Township 18 North, Range 17 East, W.M., in the County of Kittitas, State of Washington, which is described as follows:

A tract of land bounded by a line beginning at a point on the North boundary line of the right of way of the county road, 110.0 feet West and 881.5 feet North of the Southeast corner of said Quarter of Quarter Section, and running along said North boundary line of said county road South 76° 43' West, 190.8 feet to a point of curve to the right, thence along the arc of curve to the right on a radius of 543.0 feet, 451.6 feet; thence N 55° 38' West, 66.4 feet to the right bank of Taneum Creek; thence N 10° 16' East, 274.0 feet; thence South 88° 53' East, 50.1 feet; thence South 44° 01' East, 104.2 feet; thence North 74° 28' East, crossing Taneum Creek and along the left bank thereof, 290.5 feet; thence South 13° 57' East, 75.0 feet; thence North 85° 20' East, 210.3 feet to a point 110.0 feet distance from the East boundary line of said Section 5; and thence South 01° 26' West, crossing Taneum Creek, 298.7 feet, to the point of beginning.

## DESCRIPTION OF PROPOSED WORKS

The applicant proposes to:

1. Change his POD from his current Bruton Ditch POD to a POW, that being his existing 60-foot shallow well on his property as his primary source of irrigation water under his Taneum Creek irrigation water right;
2. Add a POD, that being his existing pond on his property as a second source of irrigation water under his Taneum Creek irrigation water right; and,
3. Update and clarify the legal description for his place of use - the Enochs property – for this water right (not a change of place of use of water).

The applicant has historically used a combination of rill and sprinkler irrigation systems to irrigate his property, which includes his lawn and pasture/hay lands. Mr. Enochs will utilize a small submersible pump in his existing shallow well to deliver his authorized water right diversion quantity, which will vary from day to day throughout the irrigation season, into his existing shallow unnamed pond on his property. Mr. Enochs will use a 1 HP centrifugal pump installed on the bank of his pond, rated to pump 8 to 9 gpm of water, to then divert water from his pond into his sprinkler handlines. Mr. Enochs will operate four sprinklers at a time and will irrigate his 0.75 acre POU every 3 days or so, as needed.

## DEVELOPMENT SCHEDULE

| BEGIN PROJECT BY THIS DATE | COMPLETE PROJECT BY THIS DATE | WATER PUT TO FULL USE BY THIS DATE |
|---|---|---|
| December 31, 2010 | December 31, 2011 | December 31, 2012 |

## PROVISIONS

An approved measuring device shall be installed and maintained for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html

Water use data shall be recorded weekly and maintained by the property owner for a minimum of five years. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of each calendar year.

In the future the Dept of Ecology may require additional parameters to be reported.

WAC 173-173 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.

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

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 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.

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.

The unnamed pond shall be lined with a flexible membrane such as a PVC liner or using another approved lining method as specified in the Natural Resources Conservation Service (NRCS) Field Office Technical Guide Section 4 (Practice Code 521) to restrict water flow between the pond and the underlying aquifer. The technical guide is available from the NRCS or on line at http://www.nrcs.usda.gov/technical/efotg/ . Alternate pond lining methods may be proposed for Ecology review.

The applicant's future water supply availability from his new water sources, his shallow well and his unnamed pond, shall be subject to the same water availability as at the original Taneum Creek POD under this Taneum Creek water right.

## FINDINGS OF FACT AND ORDER

Upon reviewing the investigator's report, I find all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, I find the change of water right as recommended will not be detrimental to existing rights.

Therefore, I ORDER approval of the recommended change of point of diversion to a point of withdrawal and change to add a point of diversion under Change Application No. CS4-01811CTCLsb6, subject to existing rights and the provisions listed above.

This Decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this Decision is issued, if he or she wishes to file an appeal, must file the notice of appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this Decision**. Appeals must be filed with the Superior Court Clerk's Office, Yakima County Superior Court, 128 North 2nd Street, Yakima WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III ("Appeals Procedures"). The content of the notice of appeal must conform to RCW 34.05.546. Specifically, the notice of appeal must include:

The name and mailing address of the appellant;
Name and address of the appellant's attorney, if any;
The name and address of Ecology;
The specific application number of the decision being appealed;
A copy of the decision;
A brief explanation of Ecology's decision;
Identification of persons who were parties in any adjudicative proceedings that led to Ecology's decision;
Facts that demonstrate the appellant is entitled to obtain judicial review;
The appellant's reasons for believing that relief should be granted; and
A request for relief, specifying the type and extent of relief requested.

The "parties of record" who must be served with copies of the notice of appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

All others receiving notice of this Decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within **thirty (30) days of the date the Order was mailed.** The appeal must be filed in the same manner as described above.

Signed at Yakima, Washington, this 8TH day of October 2010.

Mark C. Schuppe

Mark Schuppe, Section Manager
Water Resources Program
Central Region Office

## BACKGROUND

### Description and Purpose of Proposed Change

On September 28, 2009, Donald C. Enochs filed a water right change application with the Department of Ecology (Ecology). After recent discussions with Mr. Enochs, the author understands Mr. Enochs' intention with that application is to request authorization to change his point of diversion under his Taneum Creek irrigation water right; from his historic Bruton Ditch diversion point to a point of withdrawal, that being his existing 60-foot shallow well located on his property; and also requesting authorization to add a point of diversion from his existing small unnamed pond on his property as a second source of irrigation water under his Taneum Creek irrigation water right. Mr. Enochs' water right change application also updates and clarifies the legal description for his place of use under his Taneum Creek water right, the Enochs property (not a change of place of use, just a clarification of the legal description).

This water right change proposed by Mr. Enochs is an integral part of a larger Taneum Creek fish passage and instream flow improvement project being implemented by the United States Bureau of Reclamation (Reclamation), the Kittitas Reclamation District (KRD), the Kittitas Conservation Trust (KCT), the Washington Department of Fish and Wildlife (WDFW), Washington Water Trust (WWT), Ecology, the Yakama Nation (YN), the Bruton Ditch water right holders, and other cooperators. This larger project includes:

1) Elimination of the Bruton Ditch diversion dam and the construction of a roughened channel in Taneum Creek at the former location of the Bruton diversion dam to improve fish passage;
2) transfer of KRD water from a nearby parcel of land owned by Reclamation to three of the five confirmed former Bruton Ditch water right holders (the Fischers, Koreises, and Stovalls) as the substitute source of their irrigation water;
3) WWT's purchase of those three Taneum Creek irrigation water rights (Fischer, Koreis, Stovall) and the transfer of those three rights to permanent instream flow trust water use, downstream in lower Taneum Creek;
4) construction of a buried infiltration intake structure in the bed of the roughened channel of Taneum Creek to provide flow into the Bruton Ditch to continue to provide irrigation water to the Gordons (the fourth of the five confirmed Bruton Ditch water right holders) via Bruton Ditch during the irrigation season (April 1 through October 31), under the Gordons' retained Taneum Creek irrigation water right, and to continue to provide stock water via Bruton Ditch during the entire year to the Gordons, the Fischers, the Koreises, and the Stovalls, under their retained Taneum Creek stock water rights; and,
5) change of Mr. Enochs' (the last of the five confirmed former Bruton Ditch water right holders) Taneum Creek irrigation water right from his historic Bruton Ditch water source to the proposed two sources located wholly on Mr. Enochs' property: his existing 60-foot shallow well and his small unnamed pond.

This larger Taneum Creek enhancement project will improve fish passage through lower Taneum Creek, improve fish, wildlife, and stream/riparian habitat; increase instream flows in lower Taneum Creek; and will provide water supplies for all of the Bruton Ditch water right holders to continue to irrigate their properties during irrigation season and provide stock water to their animals year-round. Taneum Creek is utilized by steelhead, listed as a threatened species under the federal Endangered Species Act here in the Yakima River Basin (mid-Columbia distinct population segment [dps]); is also utilized by Coho salmon, rearing spring Chinook salmon juveniles, and other salmonids; and is considered a high priority stream for fish habitat restoration by the region's natural resource agencies.

Because Enochs' water right change application is a critical and integral component of this fish passage and instream habitat improvement project, and this project will "substantially enhance the quality of the natural environment", this application is entitled to priority (i.e., expedited) processing under Section 173-152-050(3)(a) of the Washington Administrative Code (WAC).

## Attributes of the Claim and Proposed Change

**Table 1**

Summary of Proposed Changes to Water Right No. CS4-01811CTCLsb6

| Attributes | Existing | Proposed |
|---|---|---|
| Name | Donald C. Enochs | Donald C. Enochs (same) |
| Priority Date \| Date of Application for Change | June 30, 1873 | September 28, 2009 |
| Instantaneous Quantity | 0.02 cfs | 0.02 cfs (i.e., 9 gpm) (same) |
| Annual Quantity | 6 ac-ft/yr | 6 ac-ft/yr (same) |
| Source | Taneum Creek | 1) Existing shallow well<br>2) Existing small unnamed pond |
| Point of Diversion/ Withdrawal | Existing POD from Taneum Creek (Bruton Ditch): 2220 feet south and 1000 feet west of the northeast corner of Section 5, being within the SE¼NE¼ of Section 5, T. 18 N., R. 17 E.W.M. | 1) Proposed Existing Shallow Well POW: 2200 feet S and 290 feet W of the NE corner of Section 5, being within the SE¼NE¼ of Section 5, T18N, R17EWM.<br>2) Proposed Existing Small Unnamed Pond POD: 2120 feet S and 263 feet W of the NE corner of Section 5, being within the SE¼NE¼ of Section 5, T18N, R17EWM. |
| Purpose of Use | Irrigation of ¾ (0.75) acre | Irrigation of ¾ (0.75) acre (same) |
| Period of Use | April 1 thru October 31 | April 1 thru October 31 each year (same) |
| Place of Use | That portion of the SE¼NE¼ of Section 5, T. 18 N., R. 17 E.W.M. described as follows: Beginning at a point 860 feet north and 110 feet west of the east quarter corner of said Section 5; thence N 1° 26' E 289.7 feet; thence S 85° 20' W 210.3 feet; thence N 13° 57' W 75 feet; thence S 74° 28' W 290.5 feet; thence N 44° 01' W 104.2 feet; thence N 88° 53' W 50.1 feet; thence S 10° 16' E 274 feet to the northern margin of Taneum Road; thence southeasterly along said road to the point of beginning. | No change in POU is proposed. However, the following legal description is a clarification of the POU, taken verbatim from the statutory warranty deed for this Enochs property filed 09/17/1999, with Kittitas Co. Auditor's Office, WA State, a copy of which is contained in this change application file: That portion of the SE¼ of the NE¼ of Section 5, T18N, R17 EWM, in the County of Kittitas, State of Washington, which is described as follows: A tract of land bounded by a line beginning at a point on the N boundary line of the right of way of the county road, 110.0 feet W and 881.5 feet N of the SE corner of said Quarter of Quarter Section, and running along said N boundary line of said county road S 76° 43' W, 190.8 feet to a point of curve to the right, thence along the arc of curve to the right on a radius of 543.0 feet, 451.6 feet; thence N 55° 38' W, 66.4 feet to the right bank of Taneum Creek; thence N 10° 16' E, 274.0 feet; thence S 88° 53' E, 50.1 feet; thence South 44° 01' East, 104.2 feet; thence North 74° 28' East, crossing Taneum Creek and along the left bank thereof, 290.5 feet; thence S 13° 57' E, 75.0 feet; thence N 85° 20' E, 210.3 feet to a point 110.0 feet distance from the E boundary line of said Section 5; and thence S 01°26' W, crossing Taneum Creek, 298.7 feet, to the point of beginning. |

**Legal Requirements for Proposed Change**
The following is a list of requirements that must be met prior to authorizing the proposed change in point of diversion to a point of withdrawal (the existing shallow well) and the proposed addition of a point of diversion (the existing small unnamed pond):

- **Public Notice**
  The applicant published a public notice for this change application in the Ellensburg Daily Record newspaper on November 2, 2009 and November 9, 2009. Ecology received no letters of protest during the 30-day protest period that ended on December 9, 2009.

- **State Environmental Policy Act (SEPA)**
  This project's application is categorically exempt from requirements of SEPA identified in Chapter 43.21C RCW and Chapter 197-11 WAC.

- **Water Resources Statutes and Case Law**
  RCW 90.03.380(1)
  States a water right that has been put to beneficial use may be changed. The POD/POW, place of use, and purpose of use may be changed if it would not result in detriment or injury to other water rights.

  WAC 173-152-050-(3)(a)
  States that an application for change or transfer to an existing water right may be processed prior to competing applications provided the change or transfer, if approved, would substantially enhance the quality of the natural environment.

  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 (see *R.D. Merrill v. PCHB* and *Okanogan Wilderness league v. Town of Twisp*). This is necessary to establish whether the claim or right is eligible for change. In this case, the water right proposed for change has been adjudicated by the Yakima Superior Court and a Conditional Final Order (CFO) for Subbasin No. 6 (Taneum Creek), including the Donald C. Enochs Court Claim No. 01811, issued on October 8, 1998. As there has been at least a 5-year period since the issuance of the CFO, a tentative determination of the extent and validity of this water right is required.

## INVESTIGATION

The author, Stan Isley, is Ecology's liaison to the Yakima River Basin Water Enhancement Project (YRBWEP) team at the U.S. Bureau of Reclamation. The federal YRBWEP Act was enacted by Congress in 1994 as Title XII of Public Law 103-434. The YRBWEP Act's goals are to enhance and augment instream flows for the benefit of fish and wildlife, improve water management, improve water quality, enhance wetlands, improve habitat by other appropriate means, and improve the reliability of water supply for existing Yakima Basin water rights. One of the components of the 1994 YRBWEP Act is its Section 1207 authorization for "Enhancement of Water Supplies for Yakima Basin Tributaries".

The YRBWEP team, Reclamation, and several other agencies, entities, and organizations, have been working for the last few years with the Taneum Creek water right holders, who historically have used the Bruton Ditch as their conveyance canal on a plan to eliminate the Bruton Ditch diversion dam on Taneum Creek. This project has included transferring KRD water to three of the five Bruton Ditch water right holders (Fischers, Koreises, and Stovalls) to satisfy their irrigation water needs, constructing a pipeline system to deliver the KRD

water to the three (Fischer, Koreis, and Stovall) places of use, purchase (by WWT) and transfer of the Fischer, Koreis, and Stovall Taneum Creek irrigation water rights to instream flow trust water right use in Taneum Creek and downstream, removing the Bruton diversion dam and replacing it with a constructed roughened channel in the bed of Taneum Creek, installing an infiltration diversion-intake buried in the bed of the roughened channel to continue to supply the Taneum Creek irrigation water rights of one of the five Bruton Ditch water right holders (the Gordons) and also to continue to satisfy the year-round stock water rights of four of the five Bruton Ditch water right holders (Fischers, Gordons, Koreises, and Stovalls) via Bruton Ditch, and transferring the Taneum Creek irrigation water right of the last of the five Bruton Ditch water right holders (the applicant Donald C. Enochs) off of Bruton Ditch completely and instead to two substitute sources of irrigation water supply: his existing 60-foot shallow well proposed point of withdrawal and his existing small unnamed pond proposed point of diversion on his property.

The overarching project is a cooperative effort of many agencies and entities and the Bruton Ditch water right holders, with a substantial investment of time and money by all parties. The benefits include substantial improvement of fish passage in Taneum Creek, enhancement of fish and wildlife habitat and augmentation of instream flows in lower Taneum Creek, and the upgrade of the water use efficiency of the Bruton Ditch water right holders while providing for their continued irrigation and stock water uses into the future.
This Donald C. Enochs water right change application is an integral part of this Taneum Creek tributary enhancement project. Indeed, the larger project could not proceed unless the parties provide a substitute supply of irrigation water to satisfy Mr. Enochs' irrigation water right.

Mr. Enochs has agreed to terminate his use of the Bruton Ditch as his water source under his Taneum Creek irrigation water right. Instead, Mr. Enochs has agreed to utilize an existing 60-foot shallow well on his property as one source of water under his Taneum Creek water right and an existing small unnamed pond on his property as his second source of water under his Taneum Creek water right. With this application, Mr. Enochs is seeking authorization to change his currently-authorized Bruton Ditch diversion point under his Taneum Creek water right to these two water sources.

Mr. Enochs has historically used the 60-foot existing water well on his property as his source of domestic water supply for his home. Mr. Enochs will in the future use this existing 60-foot shallow well for irrigation purposes only, once he obtains the appropriate authorization from Ecology under this change application. Mr. Enochs recently had a well driller construct (Bach Drilling, completed February 28, 2010) a deeper well on his property as his replacement domestic water supply well, under authority of the permit exemption in the state ground water code, in RCW 90.44.050. Mr. Enochs' property is outside the upper Kittitas County ground water well moratorium area.

The author's investigation has included:

- Several site visits over the last 2 years, most recently on January 5, 2010 and on February 11, 2010;
- meetings with Mr. Enochs and with staff of various cooperating agencies and entities;
- review of the Adjudication Court CFO for Subbasin No. 6 (Taneum Creek) and associated documents relating to the Court's confirmation of the water rights to Donald C. Enochs.
- review of Bureau of Reclamation diversion records for Bruton Ditch, Taneum Creek stream flow data, aerial photos, maps, fish passage and fish utilization information for Taneum Creek, contracts and agreements, and other relevant information;
- extensive conversations and negotiations about this project with YRBWEP team members and Reclamation staff, Taneum Creek water users, and Ecology and other agency and entity staff; and
- review of the Washington State Water Code, relevant case law, and administrative rules and policies.

**History of Water Use**

Mr. Enochs and his predecessor, Jeff Nesmith, have fully utilized this Taneum Creek water right, carried to Mr. Enochs' property via the Bruton Ditch, to the full extent of its legal availability, in the quantities confirmed by the Yakima Adjudication (Acquavella) Court's October 8, 1998 CFO for Subbasin No. 6 (Taneum Creek). Aerial photos illustrate that Mr. Enochs' 0.75 acre irrigated place of use under his Taneum Creek water right has been irrigated in the last five years.

Reclamation has operated the Bruton Ditch headworks and fish screen for the last several years. Diversion records show full diversion and utilization of all five of the Bruton Ditch water rights in 2009 and previous years.

The Taneum Creek schedule of water rights has certain unique characteristics. The many diversionary Taneum Creek water rights were all confirmed in the CFO with the same June 30, 1873 priority date. The diversionary water rights (including both irrigation and stock water rights, during irrigation season, confirmed by the CFO) total 98.0 cfs. Since all 98.0 cfs of Taneum Creek water rights share the same June 30, 1873 date of priority, they all are entitled to their pro rata share of actual creek flow during periods when the actual Taneum Creek flows drop lower than 98.0 cfs. Every year, Taneum Creek flows drop below 98.0 cfs when the spring runoff period ends, usually by July 1st or so. Thus, every year is a year of "prorationing" and shortfall during the latter part of the irrigation season for all of the Taneum Creek water rights. Taneum Creek drops to its low base flow level of approximately 10 cfs every year during late August and September.

Mr. Enochs' Taneum Creek water right is a small water right that is therefore fully exercisable up to its 0.02 cfs instantaneous diversion rate during periods when actual Taneum Creek flows are 98.0 cfs or greater. When actual Taneum Creek flows, as measured at the Ecology 'Taneum Creek at Brain Ranch' stream flow gage (situated upstream of the Enochs property), are less than 98.0 cfs, Mr. Enochs is entitled to just 0.0204% of the available (i.e., actual) Taneum Creek flow on any given day during the April 1 through October 31 irrigation season each year.

Analysis of 2009 diversion records shows full legal utilization of Mr. Enochs' Taneum Creek water right throughout the entire 2009 irrigation season. Analysis of available diversion records and aerial photos for years prior to 2009 shows no period of five successive years of non-use or partial non-use of water that would result in full or partial relinquishment of Mr. Enochs' Taneum Creek irrigation water right under the state relinquishment statute, RCW 90.14. Mr. Enochs' Taneum Creek water right remains valid in the full quantities confirmed by the Acquavella Court: 0.02 cfs, 6 ac-ft/yr, for irrigation of ¾ acre (0.75 acre).
Mr. Enochs historically used a combination of flood and sprinkler irrigation methods to irrigate his 0.75 acre place of use utilizing his Bruton Ditch water source under his Taneum Creek irrigation water right. Mr. Enochs will no longer utilize the Bruton Ditch to convey his Taneum Creek irrigation water right and no longer intends to flood or rill irrigate his place of use. Instead, he proposes to utilize sprinkler irrigation methods from his new sources, the shallow well and the small pond, in the future, once Ecology authorizes his use of those sources. Mr. Enochs will utilize his small submersible pump in his existing 60-foot shallow well to deliver his authorized water right diversion quantity under his Taneum Creek water right, which will vary from day to day throughout the irrigation season when actual Taneum Creek flows are less than 98.0 cfs, into his existing shallow unnamed pond on his property. Mr. Enochs will use a 1 HP centrifugal pump installed on the bank of his pond, rated to pump 8 to 9 gpm of water, to then divert water from his pond into his sprinkler handlines. Mr. Enochs will operate four sprinklers at a time from his pond and will irrigate his 0.75 acre POU every three days or so, as needed.

Mr. Enochs has also historically utilized his domestic well to irrigate up to ½-acre of lawn around his home. Mr. Enochs intends to continue to irrigate his lawn in the future from his well, under the permit exemption in the state ground water code, in RCW 90.44.050. As noted above, Mr. Enochs has dedicated his current existing 60-foot shallow domestic well to irrigation use in the future, now that he has completed the construction of his replacement domestic well in early 2010 (on 2-28-2010). Mr. Enochs' replacement domestic well was drilled and completed into a deeper water bearing zone within the same body of public ground water, in sandstone at a total depth of 303 feet, withdrawing water from below 163 feet – in an effort to obtain higher quality, less-mineralized, domestic water for his home use. The total irrigation use for Mr. Enochs' property in the future may be up to 1.25 acres, based on his use of his proposed 60-foot shallow well water source and his proposed unnamed pond water source to irrigate up to 0.75-acre under his Taneum Creek irrigation water right, and his use of his well(s) to irrigate up to 0.5-acre under the ground water permit exemption in RCW 90.44.050.

Mr. Enochs understands that his future exercise of his Taneum Creek irrigation water right from his two proposed new water sources, his shallow well and his small pond, will still be subject to the same water availability and limits that applied to his historic exercise of his Taneum Creek irrigation water right from Bruton Ditch. In other words, at any given day during the irrigation season, Mr. Enochs will be entitled to divert and withdraw from his primary new water source, his 60-foot shallow well, only his 0.0204% of the actual Taneum Creek flow, as measured at the Ecology 'Taneum Creek at Brain Ranch' gaging station, not to exceed the maximum 0.02 cfs instantaneously that he's entitled to divert when actual Taneum Creek flow is 98.0 cfs or greater, and a total cumulative maximum annual diversion of 6 ac-ft/yr. Mr. Enochs will be entitled to divert and withdraw a sum total from his primary water source (his 60-foot shallow well) of 0.02 cfs during periods when Taneum Creek flow is 98.0 cfs or more, limited to 0.0204% of the actual Taneum Creek flow when actual Taneum Creek flows are less than 98.0 cfs. Mr. Enochs will discharge this water he pumps from his 60-foot shallow well into his small pond on his property and will then utilize his 1 HP centrifugal pump to withdraw 8 to 9 gpm of water to irrigate his property with his sprinkler handlines, operating just four sprinklers at a time, when he needs to irrigate his place of use. In this sense, his small unnamed pond will act as a reregulation reservoir, allowing him to store water pumped at a reduced rate from his 60-foot shallow well according to his water right limits and his pro rata share of available Taneum Creek flow during low creek-flow periods that occur generally during the latter part of the irrigation season, and then to intermittently withdraw a full 8 to 9 gpm of water from his pond to supply irrigation water to his four sprinkler heads.

Mr. Enochs' withdrawal of water from his well(s) under the ground water permit exemption in RCW 90.44.050 to irrigate up to 0.5-acre of lawn and garden around his home will be additive to the quantities described in the paragraph above that he is entitled to divert and withdraw from his proposed two water sources (pond and shallow well) under the authority of his Taneum Creek irrigation water right.

Mr. Enochs will install an adequate water measuring device on his pumped delivery line from his 60-foot shallow well to his unnamed pond and also on his line from his unnamed pond to his irrigation system and will maintain diversion records as required by state law and Adjudication Court Order.

**Proposed Use**

Mr. Enochs has agreed to terminate his use of Bruton Ditch to carry his Taneum Creek irrigation water right to his property. Instead, Mr. Enochs will utilize his existing 60-foot shallow well and his existing small unnamed pond on his property to supply his irrigation water under his Taneum Creek irrigation water right.

**Other Rights Appurtenant to the Place of Use**

Mr. Enochs enjoys a domestic and 0.5-acre lawn and garden irrigation water right from his domestic well on his property, under the permit exemption in the state ground water code, RCW 90.44.050.

**Hydrologic/Hydrogeologic Evaluation**
Mr. Enochs' existing 60-foot shallow well is located approximately 250 feet south of the south bank of Taneum Creek. This well taps a shallow water table aquifer in direct hydraulic continuity with Taneum Creek.

Mr. Enochs' unnamed pond on his property is located approximately 150 feet south of the south bank of Taneum Creek. Its water surface elevation currently fluctuates with the higher flow levels of Taneum Creek and the pond is nearly dewatered at low Taneum Creek flow levels.

Mr. Enochs' proposed use of these two water sources (shallow well and pond) under his Taneum Creek water right will represent his continuing appropriation of water from largely the same connected water source as his original and historic direct diversion of Taneum Creek water into the Bruton Ditch.

Ingrid Ekstrom, Department of Ecology hydrogeologist and a licensed geologist in Washington State, completed a technical review report for this water right change application, dated March 10, 2010. A copy of her report is in the file for this application. In her report, Ms. Ekstrom recognizes the continuity between Taneum Creek and the unlined pond on Mr. Enochs' property. To accommodate Mr. Enochs' desire to intermittently pump (every three days or so) at the rate of 8 to 9 gpm from his pond to run his sprinklers, Ms. Ekstrom recommends the pond be lined to eliminate its direct continuity with Taneum Creek. In this way, Mr. Enochs can pump water from his existing 60-foot shallow well at his authorized prorated diversion rate, which varies from day to day during the irrigation season, under his Taneum Creek irrigation water right (i.e., 0.0204% of actual creek flow when Taneum Creek flow is less than 98.0 cfs, not to exceed 0.02 cfs maximum), and can discharge this water pumped from his well into his lined pond that will act as a storage or reregulation reservoir. Then Mr. Enochs can pump from his pond as he needs to at the 8 to 9 gpm rate to sprinkler irrigate his property. See the pond lining provision on page 2 of this report.

**Impairment Considerations**
Mr. Enochs' continuing exercise of his Taneum Creek irrigation water right from his two proposed water sources, his 60-foot shallow well and his pond on his property (once equipped with the required bottom liner), will not impair other existing Taneum Creek surface water rights, so long as Mr. Enochs continues to limit his total diversion under authorization of his Taneum Creek irrigation water right from his proposed primary water source, his 60-foot shallow well, to his historic water right limits: 0.02 cfs when Taneum Creek flows are 98.0 cfs or greater, or 0.0204% of actual Taneum Creek flow as measured at Ecology's 'Taneum Creek at Brain Ranch' gaging station when actual Taneum Creek flows are less than 98.0 cfs, not to exceed 6 ac-ft/yr, for irrigation of 0.75 acre from April 1 through October 31, each year.

Mr. Enochs' continuing exercise of his Taneum Creek irrigation water right from his two proposed water sources, his 60-foot shallow well and his pond on his property (once equipped with the required bottom liner), will not impair other existing domestic wells in the area around his property. Those other domestic wells are finished to depths of 150 feet and more into deeper water bearing zones below clay layers and below the elevation of the water table aquifer that Mr. Enochs' 60-foot shallow well utilizes.

**Public Interest Considerations**
Irrigation is a beneficial use of water. This proposed change of point of diversion from the Bruton Ditch diversion point from Taneum Creek to a point of withdrawal, the existing 60-foot shallow well on Mr. Enochs' property, as the primary authorized source of water under the Enochs Taneum Creek irrigation water right, and this proposed addition of a point of diversion from an existing small unnamed lined pond on Mr. Enochs' property, as a second authorized source of water under the Enochs Taneum Creek irrigation water right, are neither contrary to, nor detrimental to, the public interest.

**Consideration of Protests and Comments**
Ecology received no protests or formal comments to this water right change application. This Enochs water right change and the larger Taneum Creek fish passage, habitat improvement, instream flow enhancement project have widespread support among the many parties involved, including the affected Taneum Creek Bruton Ditch water right holders.

## CONCLUSIONS

In accordance with chapter 90.03 RCW and chapter 90.44 RCW, and after the investigation and examination of the factual information and documents described in this report, the author makes the tentative determination that:

> The subject water right confirmed by the Adjudication Court to Donald C. Enochs for irrigation of 0.75 acre from April 1 through October 31 each year remains fully valid to the full extent of that water right as confirmed by the Court's CFO. No period of five successive years of nonuse, or partial nonuse, of water, without sufficient cause, has occurred since the October 8, 1998 date of entry by the Acquavella Court of the CFO for Subbasin No. 6 (Taneum Creek), under Mr. Enochs' Taneum Creek irrigation water right confirmed under Court Claim No. 01811.
>
> Approval of the requested POD change from the Bruton Ditch POD to the proposed POW, Mr. Enochs' existing 60-foot shallow well, and approval of the additional point of diversion from Mr. Enochs' existing small unnamed pond, once it is equipped with a bottom liner, will not cause detriment or injury or impairment to any other existing water rights.
>
> Approval of the requested POD change from the Bruton Ditch POD to the proposed POW, Mr. Enochs' existing 60-foot shallow well, and approval of the additional point of diversion from Mr. Enochs' existing small unnamed pond, once the pond is lined, will not enlarge the subject Donald C. Enochs irrigation water right (Court Claim No. 01811); nor will it be contrary to, or detrimental to, the public interest.

## RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for change of point of diversion (from the Bruton Ditch) to the requested point of withdrawal (the existing 60-foot shallow well on the Enochs property) and change to add a point of diversion (the existing small unnamed pond on the Enochs property that will be equipped with a liner) for the water right confirmed to Donald C. Enochs under Court Claim No. 01811 by the Acquavella Court's October 8, 1998 CFO for Subbasin No. 6 (Taneum Creek), be approved in the amounts and within the limitations listed below and subject to the provisions beginning on Page 2, et seq.

**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:

- 0.02 cfs (9 gpm) when Taneum Creek flows are 98.0 cfs or greater; or 0.0204% of actual Taneum Creek flow, when actual Taneum Creek flow as measured at Ecology's 'Taneum Creek at Brain Ranch' gaging station are less than 98.0 cfs;
- 6 acre-feet per year;
- For irrigation of 0.75- acre (3/4 acre) from April 1 through October 31 each year.

**Point of [Diversion Withdrawal]**
POW Source No. 1 (existing 60-foot shallow well on Mr. Enochs' property):

2200 feet south and 290 feet west of the northeast corner of Section 5, being within the SE¼ NE¼ of Section 5, Township 18 North, Range 17 E.W.M.

POD Source No. 2 (existing small unnamed pond, to be equipped with a bottom liner, on Mr. Enochs' property):

2120 feet south and 263 feet west of the northeast corner of Section 5, being within the SE¼ NE¼ of Section 5, Township 18 North, Range 17 E.W.M.

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

**POU**
That portion of the Southeast Quarter of the Northeast Quarter of Section 5, Township 18 North, Range 17 East, W.M. in the County of Kittitas, State of Washington, which is described as follows:

A tract of land bounded by a line beginning at a point on the North boundary line of the right of way of the county road, 110.0 feet West and 881.5 feet North of the Southeast corner of said Quarter of Quarter Section, and running along said North boundary line of said county road South 76° 43' West, 190.8 feet to a point of curve to the right, thence along the arc of curve to the right on a radius of 543.0 feet, 451.6 feet; thence N 55° 38' West, 66.4 feet to the right bank of Taneum Creek; thence N 10° 16' East, 274.0 feet; thence South 88° 53' East, 50.1 feet; thence South 44° 01' East, 104.2 feet; thence North 74° 28' East, crossing Taneum Creek and along the left bank thereof, 290.5 feet; thence South 13° 57' East, 75.0 feet; thence North 85° 20' East, 210.3 feet to a point 110.0 feet distance from the East boundary line of said Section 5; and thence South 01° 26' West, crossing Taneum Creek, 298.7 feet, to the point of beginning.

Report by: Stan Isley — 10-08-2010
Stan Isley, Water Resources Program — Date

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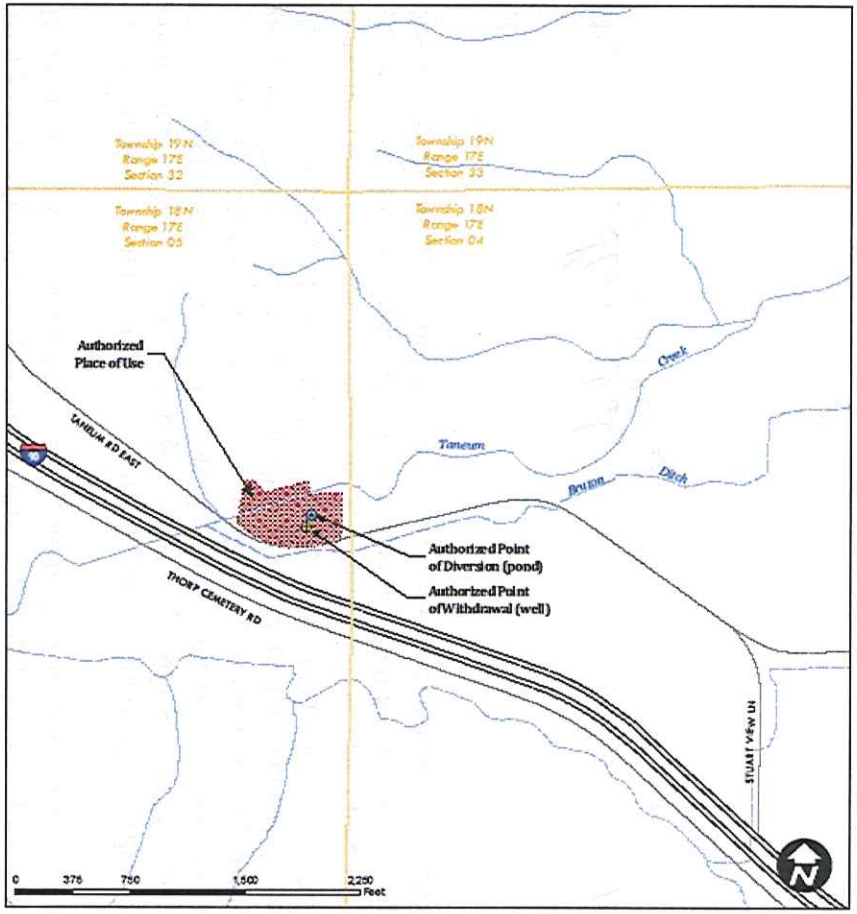

*Comments: Place of use and point of diversion are defined on the cover sheet under the heading "LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED."*

- Authorized Point of Diversion
- Authorized Point of Withdrawal
- Authorized Place of Use
- Rivers and Streams
- Ditches and Canals
- Water Bodies
- Roads
- Interstate
- Section Lines

**No. CS4-01811CTCLsb6**
(Donald C. Enochs)
T18N R17E, Sec 05
WRIA 39, Kittitas County, Washington

Aspect CONSULTING

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| Sept 2010 | PROJECT NO. 090180 |
| TDC | |
| PPW | ATTACHMENT NO. 1 |