

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

**PRIORITY DATE**  
April 4, 1966

**WATER RIGHT NUMBER**  
SW Cert. 10266

**MAILING ADDRESS**  
Robert Riley  
1281 Riley Road  
Walla Walla, WA 99362

**SITE ADDRESS (IF DIFFERENT)**  
4532 Lower Dry Creek Road  
Walla Walla, WA 99362

**Quantity Authorized for Diversion**

MAXIMUM DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
3.0	CFS	592.7

**Purpose of Use**

PURPOSE	DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Irrigation of 172 acres 151 acres (primary), 21 acres (non-additive)	3		CFS	592.7		10/1 TO 7/1

**Source Location**

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Walla Walla	Lower Dry Creek	Walla Walla River	32-Walla Walla

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Lower Dry Creek		7 N.	34 EWM	13	NW¼NE¼	N46.09046	W118.49985
		7 N.	34 EWM	13	NW¼SE¼	N46.08274	W118.50270

Datum: WGS84

**Place of Use (See Attached Map)**

**PARCELS #340713120002; 340712430003; and 340713240005**

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**

S½SE¼ of Section 12, W½NE¼ and N½SE¼ of Section 13, all excluding the East 1072 feet there from, all within Township 7 N., and Range 34 E.W.M., in Walla Walla County, Washington.

**Proposed Works**

Installation of pumps, pipes, flow meters, fish screen and sprinklers (already completed).

## Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	Completed	In use

## Measurement of Water Use

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

## Provisions

### Relationship to Other Rights

The instantaneous quantity ( $Q_i$ ) of water allocated under SW Certificate # 10266 is limited to:

3.0 cfs (1,346.4 gpm) from October 1 to July 1 each year

The total annual quantity ( $Q_a$ ) of water allocated under this surface water right is limited to **592.7 AF/Yr** for the irrigation of 172 acres, of which 21 acres are non-additive to Dry Creek Cert. 139 and 151 acres are primary.

Dry Creek Adj. Cert. 139 w/chg 1092 was issued as a primary right for the same Place of Use (POU) before SW Certificate #10266 was issued. Dry Creek Adj. Cert. 139 authorizes irrigation of 21 acres within the 172 acres of POU of SW Certificate #10266. The remaining 151 acres within the POU is primary to SW Certificate #10266.

Groundwater Certificates G3-21880C and G3-28747C were issued as alternate source rights that include the same place of use as surface water rights Dry Creek Adj. Cert. 139 w/chg 1092 and SW Cert. 10266. Instantaneous and annual quantities authorized for these two groundwater rights are non-additive for 172 acres, and additive for 18 acres, therefore for the total irrigation of 190 acres.

### 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, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

### Department of Fish and Wildlife Requirement(s)

The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

### **Water Use Efficiency**

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

### **Proof of Appropriation**

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

### **Schedule and Inspections**

Department of Ecology personnel, upon presentation of proper credentials, 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.

### **Real Estate Excise Tax**

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 internet: <http://dor.wa.gov/>. E-mail: REETSP@DOR.WA.GOV

### **Findings of Facts**

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that the proposed change is from the same source of water; that there will be no impairment of existing rights; and that the purpose of use is beneficial.

Therefore, I ORDER approval of Application for change to SW Certificate # 10266, 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW Ste 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 7th day of April, 2015.



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>.*

**BACKGROUND**

Surface Water Certificate No. 10266, was issued March 22, 1968 to Ralph L. Riley of Walla Walla, Washington. The priority date is April 4, 1966. The certificate appropriated an instantaneous diversion of three cfs (cubic feet per second) from October to July each year, for the irrigation of 172 acres, of which 21 acres was non-additive to Dry Creek Adj. Cert. 139, and 151 acres was issued as primary.

On May 31, 2005, Louis E. Riley filed a change application to formally add a point of diversion for SW Cert. 10266 to the original POD in the NW¼NE¼ Section 13. The proposed additional POD is located in the NW¼SE¼ of Section 13, in T. 7 N., R.34 E.W.M., Walla Walla County, Washington. This application for change was assigned to Robert Riley on November 22, 2013.

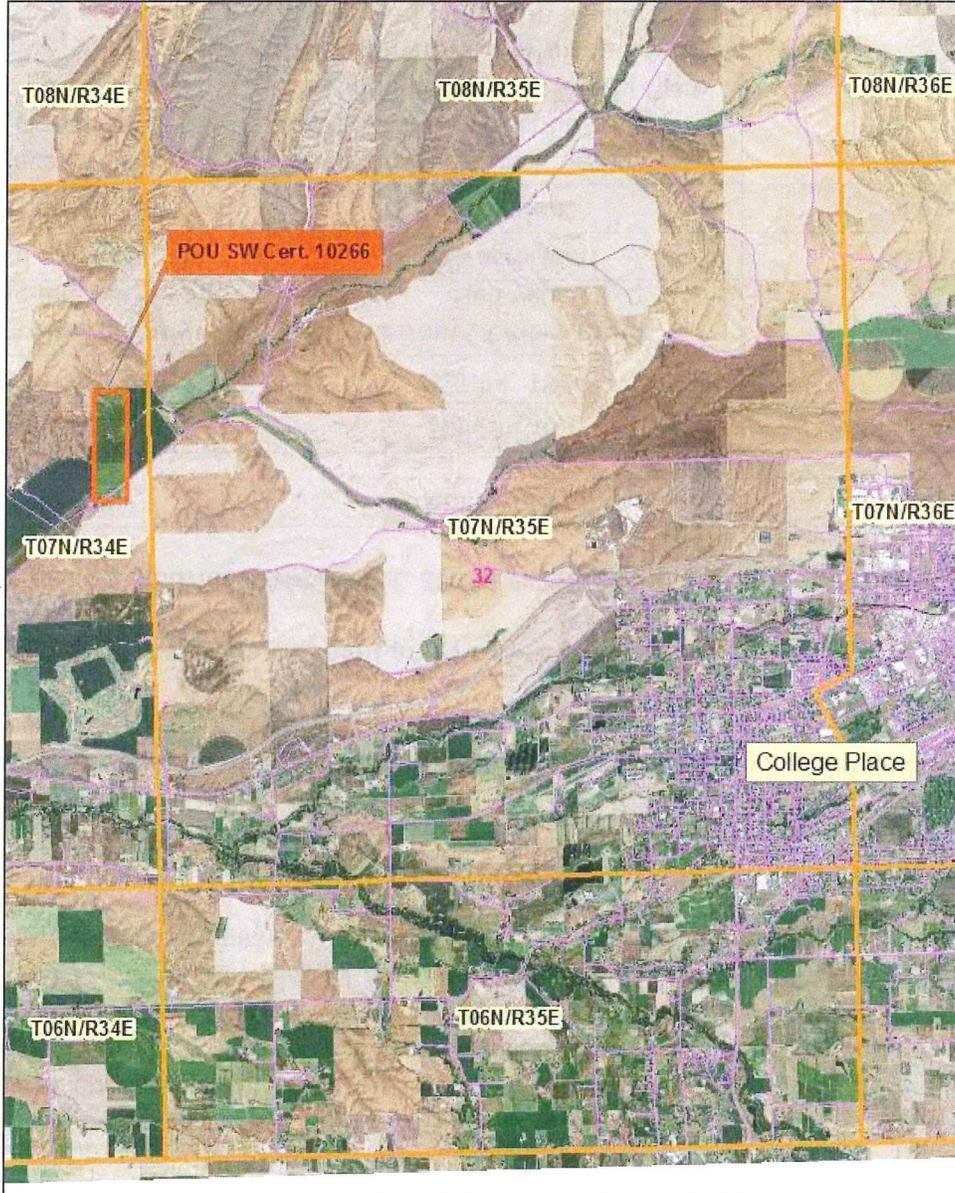
**Attributes of the Existing Water Right and Proposed change**

**Table 1 Surface Water Cert. 10266 Existing and Proposed attributes**

Attributes	Existing Authorized	Proposed
Name	Ralph Riley	Robert Riley
Priority Date	April 4, 1966	same
Instantaneous Quantity: Qi cfs (cubic feet per second)	3.0 from October to July each year	same
Annual Quantity: Qa	688 acre-feet	same
Purpose of Use	Irrigation	same
Place of Use: for the irrigation of 172 acres	S½SE¼ of Section 12, W½NE¼ and N½SE¼ of Section 13, all excluding the east 1072 feet there from, all within Township 7 N., Range 34 E.W.M., in Walla Walla County, Washington	same
Point of Diversion	NW¼NE¼ of Sec.13, T. 7 N., R. 34 E.W.M.	Existing POD and new POD in NW¼SE¼ of Sec. 13, T. 7 N., R. 34 E.W.M.

# Figure 1 Project Location Map

Project Site Vicinity Map  
SW Cert. 10266  
2011 Aerial photo



## Legal Requirements for Proposed Change

- **Public Notice**

RCW 90.03.280 requires that notice of a water right application be published once a week for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in a weekly official newspaper of the City of Waitsburg and the County of Walla Walla, during the weeks of October 27 and November 3, 2005. No protests or objections were received.

- **Consultation with the Department of Fish and Wildlife**

The Department must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. This notice was submitted via email on December 9, 2014 to Steve Boessow. A letter was received from WDFW on January 13, 2015 that indicated they do not oppose the project, provided all existing, unused diversions have been abandoned and removed. The project is subject to state Hydraulic Code (Chapter 77.55 RCW) and fish screening statutes (RCW 77.57.010, RCW 77.57.040 and RCW 77.57.070). Contact the Department of Fish and Wildlife, at 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Program or by phone at (360) 902-2534, if you have questions about screening criteria.

- **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.

- It is a surface water right application for more than 1 cubic feet 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;
- It is a groundwater right application for more than 2250 gallons per minute
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- 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);
- 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.

This application is exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21 RCW, due to the fact that although the cumulative quantities of water for this project under all water rights constitute a withdrawal of three (3) cubic foot per second, the proposed added diversion project was completed more than 25 years ago and was done without receiving any public funding. Therefore it has met one of the SEPA exempt status conditions described above.

- **Water Resources Statutes and Case Law**

RCW 90.03.380(1) allows for a water right that has been put to beneficial use to be changed. The point of diversion, place of use, and purpose of use may be changed if the change would not result in harm or injury to existing water rights.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

A point of diversion for a surface water right may be changed. RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed if it would not result in detriment or injury to other water rights.

## **INVESTIGATION**

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Reports and materials considered during the course of this investigation include the following:

- Change applications for Dry Creek Adj. Cert.139 w/chg 1092 and SW Cert. No.10266.
- State Water Code, administrative rules and policies, relevant case law
- Related water right files
- Notes documenting the site visit by Ying Fu and Ecology Water Master Eric Hartwig.
- Washington Irrigation Guide (WA 210-VI- WAIG)
- Aerial photographs when they are available for the past 10 years
- USGS topographic maps
- Farm Service Administration crop records
- Walla Walla County Assessor records
- Discussions with other Water Resources Program staff in Ecology's ERO
- Dry Creek Adjudication documents

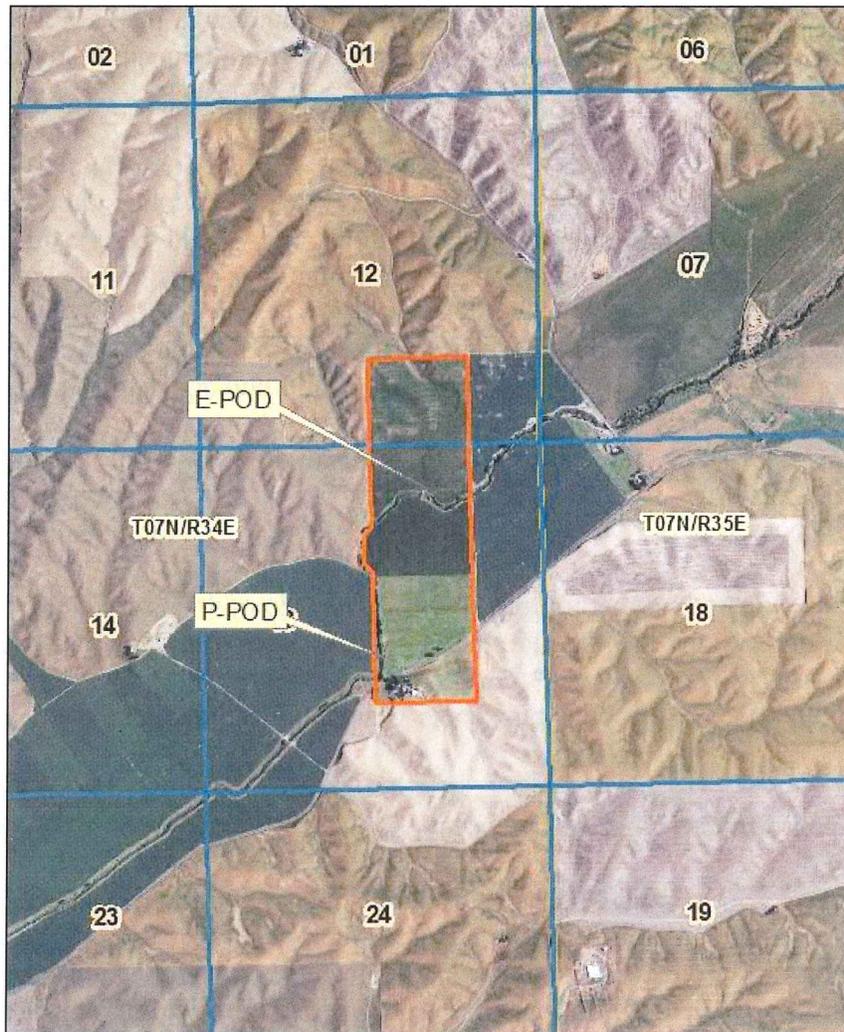
### **Site Inspections**

The project site is located approximately 9 miles west of City of Walla Walla along US Hwy 12, in Walla Walla County, Washington (Figure 1).

A field examination was conducted by Ying Fu and Ecology water master Eric Hartwig on April 30, 2014. A meeting was held at Ms. Janice Riley's house with Ms. Janice Riley and her daughter, Ms. Carol Hopkins. A field walk through followed the meeting. A second site visit was conducted by Eric Hartwig in October, 2014 to obtain additional information regarding the pump system set up, metering records, and cropping records in the last ten years.

**Figure 2 2011 Aerial Photo of Project Site POU**

Verified Boundary for SW Cert. 10266  
Sec. 12&13, T7 N, R34E.W.M.  
2011 Aerial Photo  
Scale 1:24,000



Farm Services Agency (FSA) cropping data from 1996 to 2005 were submitted. The crops were planted on Ms. Janice Riley's three parcels: #340713120002 for 131.49 acres, parcel #340712430003 for 46.75 acres, and # 340713240005 for 1.63 acres, therefore the total planted land is 179.87 acres. The authorized irrigated acres for SW Cert. 10266 are limited to 172 acres. The extra acres of 7.87 acres are irrigated under the two ground water rights that authorize total of 190 acres of POU within Sec.12 and Sec.13, all within T. 7 N., R. 34 E.W.M. (Figure 2).

The applicant proposes to add a new Point of Diversion (POD) to the existing authorized POD downstream on Dry Creek. The proposed POD has been in use for the past 24 years. It was installed due to constant stream channel changing conditions. The land owner needed the flexibility to use both PODs at two different locations based on stream conditions each year. However, the existing POD has not been in use for the past 24 years.

The existing POD GPS coordinates are N 46.09046; W 118.49985. The proposed POD GPS coordinates are N 46.08274; W 118.50270.

At the new PODs the stream bank is moderately steep, and is up to 100 feet high in some areas.

The pump system is set up to provide several pumping options. For summer flows from July 1 to October 1, the system is set up to operate with a Qi limit of 94 gpm, using:

- 1) 15 hp pump alone,
- 2) 7.5 hp pump alone
- 3) combined 15 hp and 7.5 hp together

For the fall and spring flows, the pumping is authorized under two water rights: Dry Creek Adj. Cert. 139 and SW Cert. 10266, and the system is setup to pump under several options:

- 1) 10 hp and 40hp pumps combined,
- 2) 10/40 hp combo, plus 7.5 hp pump to get the maximum flow (3cfs),
- 3) 15 hp pump alone,
- 4) 15 hp +7.5 hp combined,
- 5) 7.5 hp alone

The 10 hp, 40 hp and the 15 hp pumps are located near the bridge at the main pump station; the 7.5 hp pump is near the road where the proposed POD is located. Flow meter records and power for pumping records were submitted for 2000 to 2010.

Cropping records from FSA are on file for 2000 to 2005. The crops planted each year have been consistent since 2005 to date. There are approximately 108 acres of alfalfa, 35.9 acres of grain with rotating crop of barley in some years, and 32 acres of grass land for grazing, according to the FHA records and submitted written statement.

A fish screen was installed and is manually operated through a mechanical pulley system. The irrigation system was set up with one main pipeline connection to each pump station, and four wheel lines and several hand lines to feed a network of sprinklers. The project is subject to state

hydraulic code (Chapter 77.55RCW) and fish screening statutes (RCW 77.57.010, RCW 77.57.070). Contact the Department of Fish and Wildlife, at 600 Capital Way N. Olympia, WA 98501-1091. Attention: Habitat Program or by phone at (360) 902-2534, if you have questions about screening criteria.

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

A review of Ecology records were conducted for existing water right certificates, permits and claims appurtenant to the project. The search focused primarily on Sections 12 and 13, T. 7 N., and Range. 34 E.W.M. The review of Ecology records shows three other water rights are appurtenant to the authorized place of use.

**Dry Creek Adj. Cert. 139 w/chg 1092** – Dry Creek Adjudicated Certificate No. 139 was issued August 19, 1952 to Paul F. Hedger. The priority date is the year 1891. The certificate authorized an instantaneous diversion of 0.28 cfs (cubic feet per second) from April 1 to July 1, and 0.21 cfs from July 1 to October, each year. On December 24, 1969, certificate of change No.1092 was issued to move the point of diversion (POD) for Dry Creek Adj. Cert.139 from the NW¼NE¼ of Sec.18 to the NW¼NE¼ of Sec. 13, all within T. 7 N., R. 34 E.W.M. The certificate of change No. 1092 also specified the purpose of use is for the irrigation of 21 acres within the legally described place of use. Certificate of change No. 1092 was issued to Mr. Ralph Riley.

**G3-21880C** -- This Certificate was issued August 19, 1981 to Louis E. Riley. The certificate authorizes 400 gallons per minute instantaneous withdrawal and 600 acre-feet annual quantity for the irrigation of 190 acres. This ground water right was issued as alternate source right for the two surface water rights that are appurtenant to the same POU.

**G3-28747C** – This Certificate was issued in 1997 as a family farm right and additive to the two surface water rights Dry Creek Adjudication Cert. #139, and SW #10266, and one ground water right G3-21880. Total quantity for all four water rights shall not exceed 1350 gallons per minute, 883 acre-feet per year. This certificate authorizes additive quantities of 100 gallons per minute and 124 acre-feet per year for the irrigation of 190 acres.

**Table 2. Quantities of water originally allocated under Dry Creek Adj. 139, SW Cert. 10266, G3-21880C and G3-28747C**

	Qi (cfs or gpm)	Qa (ac-ft/yr)	Acres (POU)	Acres (irrigated)
Dry Creek Cert. 139 w/chg 1092	0.28 cfs (Apr-July) 0.21 cfs (July-Oct)	not specified	172	21
SW Cert. 10266	3.0 cfs (October - July)	688	179.87	172
Additive rights				
G3-21880C	400 gpm	600	190	190
G3-28747C	100 gpm	124	190	190
<b>Total</b>	<b>1350 gpm</b>	<b>883</b>	<b>190</b>	<b>190</b>

- Dry Creek Adj. Cert. #139 w/chg 1092 shares the same POU of 172 acres with SW Cert. 10266. There are two ground water rights, G3-21880C and G3-28747C that are also appurtenant to the same POU plus additional 18 acres as primary.
- Surface water right SW Cert. 10266 is partially supplemental to Dry Creek Adj. Cert. 139 w/chg 1092, and partly primary. The two ground water rights listed above lists attributes of all four water right certificates.

In addition, a review of Ecology records was conducted for existing water rights surrounding the project's place of use. The search revealed only one surface water right overlap at the same place of use with Dry Creek Cert. 139 and SW Cert. 10266 as listed below:

Dry Creek Adj. Cert. 89 (S3-57089): The surface right was issued to Paul Hedger in 1952, with a priority date of January 1, 1901. The purpose of use is for continuous stock and domestic supply only, and for the same place of use as Dry Creek Cert. 139 and SW Cert. 10266. The proposed POD project will have no impact to this water right.

### History of Water Use

Washington State Supreme Court, in Okanogan Wilderness vs. Town of Twisp and Department of Ecology 133 Wn.2d 769,947 P.2d 732 (1997), held that applications for change may be granted only to the extent the water has been put to beneficial use, as beneficial use determines the measure of a water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been relinquished or abandoned, before the Department can approve a change or transfer of the water right. While the superior court, through an adjudicative process, is the only authority that can make a final determination as to a water rights extent, validity and priority, Ecology is required to make a tentative determination of these factors for purposes of making decisions on change applications.

The site visit, past 10 years of aerial photos, the land owner personal statements, power records and FSA (Farm Service Agency) crop records confirm that water has been historically and beneficially used on Robert Riley's property within the legally authorized place of use. The crop records submitted allow calculation of historical water use for Robert Riley's property.

The quantities of water beneficially used were determined by using the Washington Irrigation Guide, and the FSA crop records and aerial photos, to estimate water use for the highest water duty crop grown in the most recent five consecutive years. Three crops have been consistently planted on the 172 acres of POU as alfalfa, wheat, and grass.

The equation to calculate the water use acre-ft annually is as follows:

$$\left( \text{acres} \times \frac{^1\text{Crop water need}}{12 \text{ inch/1ft}} \right) / ^2\text{Ea} = \text{ ? AF (acre-feet)}$$

<sup>1</sup> The specific crop water need is based on Washington State Irrigation Guide 2010. Alfalfa requires 32.85 inches, pasture/grass of 34.83 inches and spring grain of 20.85 inches of water in the project area.

<sup>2</sup> The application efficiency  $E_a$  is determined in Ecology guidance document GUID-1210. For wheel line and hand-line irrigation system, it is determined to be 75% efficient.

### **Estimate of Irrigated Acres**

The POU for SW Cert. 10266 are 179 acres of which 172 acres are authorized irrigated acres. The FSA record showed a total of 176 acres has been consistently irrigated in the past 20 years, however only 172 acres are authorized irrigated acres, therefore the authorized irrigated acres are determined as following: 108.5 acres for irrigated Alfalfa, 31.9 acres for grass, and 31.6 acres for irrigated wheat.

### **Annual Beneficial Use $Q_a$**

According to Washington State Irrigation Guide, the above three crops water consumptive usage in Walla Walla area for the irrigation season is:

Alfalfa:	32.85 inches, for 108.5 acres
Pasture/Grass	34.83 inches, for 31.9 acres
Spring Grain	20.85 inches, for 31.6 acres

With irrigation efficiency of 75%, and using the formula above, the calculated annual water beneficial usage is:

Alfalfa:	396.03 acre-ft,
Grass:	123.45 acre-ft,
Wheat:	73.21 acre-ft,

The total annual water usage  $Q_a$  is **592.7 acre-ft**. The tentative determination of the extent and validity of Certificate #10266 is therefore 3.0 cfs and 592.7 acre-feet per year for the irrigation of 172 acres (21 acres non-additive to Dry Creek Adjudicated Certificate 139).

The original SW Certificate # 10266 has a total annual quantity  $Q_a$  of 688 acre-feet. The difference between the tentative determination and the total original annual  $Q_a$ , which is 95.3 acre-feet is considered relinquished due to nonuse (RCW 90.14.180). The relinquished annual quantity therefore is as follows:

$$688 \text{ acre-feet} - 592.7 \text{ acre-feet} = 95.3 \text{ acre-feet}$$

### **Instantaneous Quantity $Q_i$**

According to the pumping options, one of the combinations is to run the 10 hp and 40 hp pump combo and an additional 7.5 hp pump all together to provide the maximum flow of

approximately 1350 gpm, or 3cfs. This pumping set up was run occasionally each year when the irrigation need is at the greatest, and water is available in the Creek. Therefore the instantaneous quantity Qi will remain the same as granted 3cfs, or 1,346.48 gpm.

### **Hydrologic/Hydrogeologic Evaluation**

The Hydrologic/Hydrogeologic evaluation in this section references an email message/analysis by Ecology Eastern Regional Office Hydrogeologist John Covert.

Dry Creek is a tributary of the Walla Walla River that drains 15% (240 square miles) of the river basin. As it descends towards its confluence with the Walla Walla River near Lowden, the gradient of the creek is about 30 feet per mile. Most of its watershed consists of rolling hills utilized for dry land wheat production. During much of the irrigation season, Dry Creek has little to no flow within its lower reaches.

Approval of this proposed change would authorize an additional POD for SW Cert. 10266. The existing POD is located approximately ¼ mile upstream of the proposed POD on Dry Creek. However, the land owner has not been using the existing POD for the past 24 years. He wishes to have the flexibility to keep the existing POD.

The amended WRIA 32 Basin Water Management Rule (WAC 173-532) was adopted in 2007. Through this rule, instream flows were adopted on Mill Creek for the reach of stream in which the proposed change would take place (WAC 173-532-030[5]). This rule also requires that these instream flow water rights be protected from impairment by all future changes and transfers of both senior and junior water rights (WAC173-532-030[3]). This change would authorize a point of diversion approximately ¼ river mile downstream from the original POD, which should enhance flows through this reach of Dry Creek. There would be no change in the season of use of water under the right through this change.

### **Impairment Considerations**

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150).

SW Cert. 10266 shares the same authorized place of use as Dry Creek Adj Cert. 139 w/chg 1092. Both rights are owned by Robert Riley. Both rights have been exercised at the current place of use since the certificates were issued, and from the proposed POD in the past 24 years. Change applications for each of the water rights were submitted to add an additional POD in 2005. Diversion and beneficial use of water from Dry Creek under these two rights has not caused any impairment to other water users in the past, and there is no water rights owned by other land owners in between the existing POD and the proposed additional POD, so exercise of these two rights in a similar manner should not cause impairment of any water rights in the future.

Instream flows on this reach of Dry Creek should benefit from this change to SW Cert. 10266, because the new POD is downstream of the original POD. There will be no impairment to other existing water rights on this reach of Dry Creek.

### **Consideration of Protests and Comments**

No protests or comments regarding this application were received.

### **CONCLUSIONS**

Based on the investigation of relevant information regarding the proposed additional POD to SW Certificate #10266, it is the conclusion of this examiner that irrigation is a beneficial use of water, the proposed point of diversion is from the same body of water and the proposed additional point of diversion will not enhance the existing right and will not cause impairment of any existing water rights.

### **RECOMMENDATIONS**

Based on the above investigation, I recommend the requested change to Surface Water Certificate #10266 be approved as follows:

Qi = 3.0 cfs (or 1,346.4 gpm) from 10/1 to 7/1

Qa = 592.7 acre-ft per year

Seasonal irrigation of 172 acres (151 primary and 21 non-additive to Dry Creek Adjudicated Certificate 139.

Point of Diversion:

1. Existing POD on lower Dry Creek with GPS coordinates of N46.09046; W118.49985, within NW¼NE¼ of Sec. 13, T. 7 N., R. 34 E.W.M.
2. Added POD on lower Dry Creek with GPS coordinates of N46.08274; W118.56270, within NW¼SE¼ of Sec. 13, T. 7 N., R. 34 E.W.M.

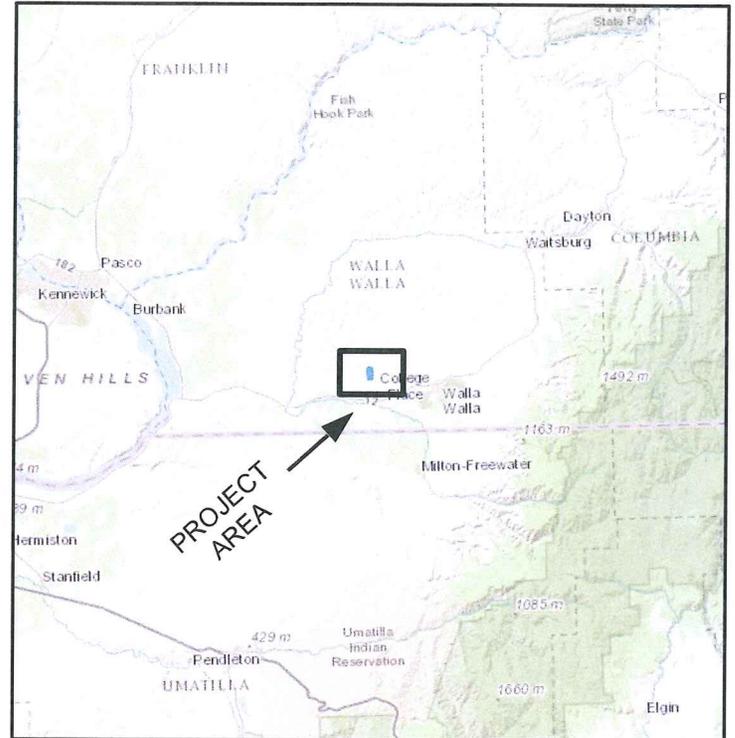
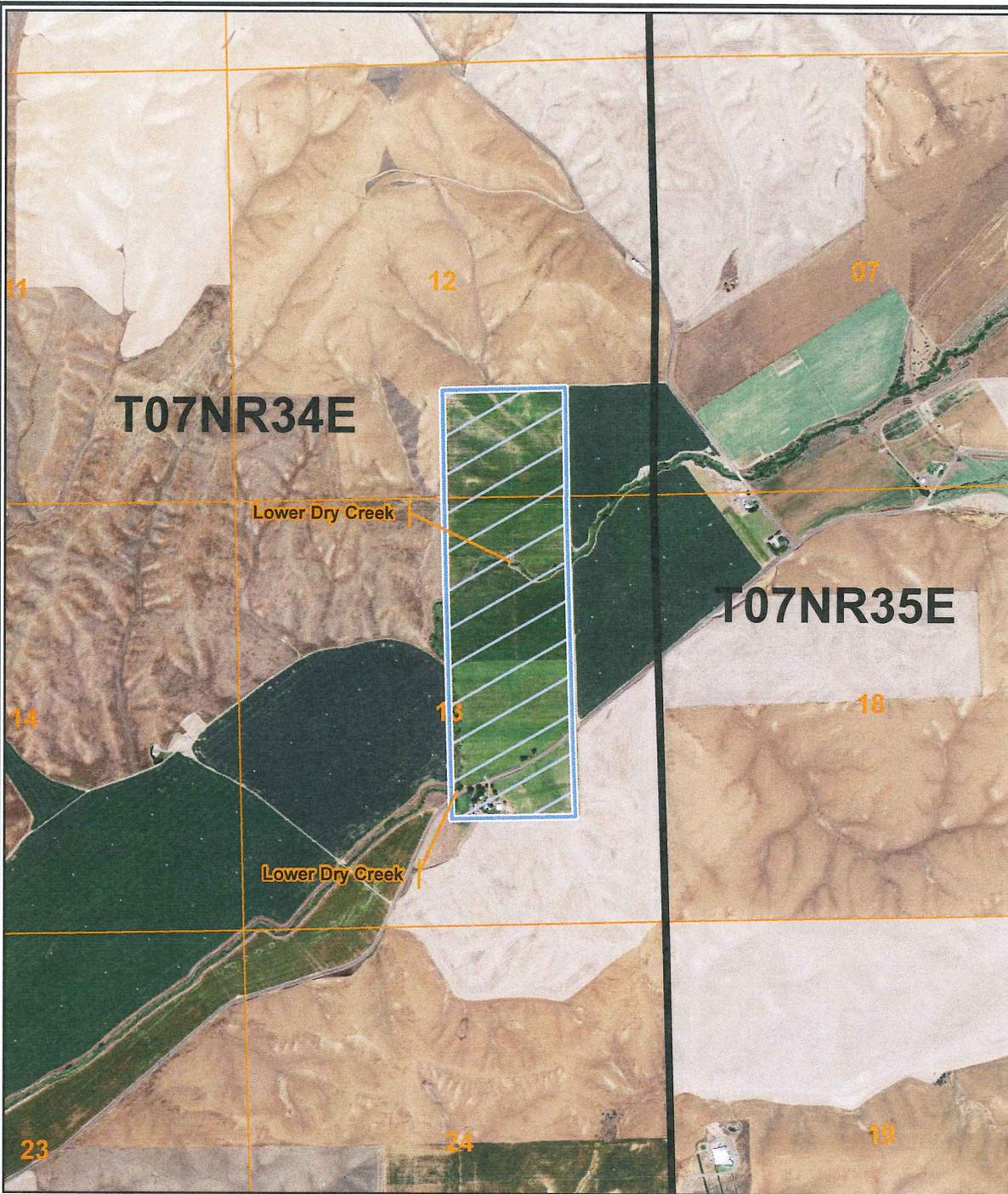
Place of Use = 172 acres in the S½SE¼ of Section 12, the W½NE¼ and the N½SE¼ of Section 13, all excluding the East 1072 feet there from, all within Township 7 N., and Range 34 E.W.M., in Walla Walla County, Washington.

  
Ying Fu, Report Writer

4/2/2015  
Date

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Robert Riley  
 SW Cert. 10266  
 T07N/R34E

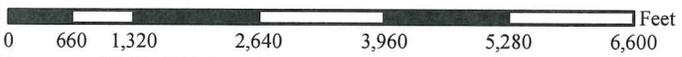


Basemap - (ESRI US Topographic Maps)

**Legend**

-  Authorized Place of Use
-  Townships
-  Sections
-  Authorized Point of Diversion

ATTACHMENT 1



Basemap - (NAIP 2013 1m color)



Map Date: 3/10/2015



**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.