File NR CG3-26138
WR Doc ID 4597562

DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
DRAFT
REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Changed Place of Use
Added or Changed Purpose of Use
Added or Changed Point of Withdrawal/Diversion

PRIORITY DATE
December 29, 1978

WATER RIGHT NUMBER
G3-26138

MAILING ADDRESS
CLARK ADDITION WATER ASSOCIATION
7106 N ROAD 36
PASCO WA 99301

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
75	GPM	16

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE ADDITIVE	WITHDRAWAL OR DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Municipal	75		GPM	16		01/01 - 12/31

IRRIGATED ACRES ADDITIVE	IRRIGATED ACRES NON-ADDITIVE	PUBLIC WATER SYSTEM INFORMATION WATER SYSTEM ID	PUBLIC WATER SYSTEM INFORMATION CONNECTIONS
		AB809G	80

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
FRANKLIN	GROUNDWATER		36-ESQUATZEL COULEE

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well 1	114192179	BBH502	09N	29E	02	SW NE	46 17' 36.93"	119 08' 43.38"
Well 2	114192179	BBH503	09N	29E	02	SW NE	46 17' 37.18"	119 08' 43.36"
Well 3	114192151	BBH504	09N	29E	02	SW NE	46 17' 37.36"	119 08' 43.30"
Well 4	114201113	AFL967	09N	29E	02	SE NE	46 17' 37.93"	119 08' 20.53"
Well 5	114201113	AFQ254	09N	29E	02	SE NE	46 17' 38.69"	119 08' 19.89"
Well 6	114201113	AFQ255	09N	29E	02	SE NE	46 17' 37.42"	119 08' 20.25"
Well 7	114182055	ABR170	09N	29E	02	NW NE	46 17' 38.69"	119 08' 31.91"

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Area Served by The Clark Addition Water Association as identified in their most current approved Water System Plan

Proposed Works

Seven wells and a municipal distribution system

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	12-1-15	12-1-20

Measurement of Water Use

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

Provisions

Wells, Well Logs and Well Construction Standards
All wells constructed in the state must 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 must be decommissioned.

All wells must be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag must remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160-291(3) is required.

Measurements, Monitoring, Metering and Reporting
An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

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

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.

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

If water from facilities of any legally formed irrigation district is used on any or all of the lands described herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available.

This authorization for the withdrawal of public ground waters within the boundaries of the Columbia Basin Project is based on a tentative conclusion that public ground waters are available. If, however, it is subsequently determined by the Department that public ground waters are not available in the amounts authorized for withdrawal, the Department shall, by order of notification, withdraw or modify the authority granted therein as may be appropriate. In accordance with WAC 508-14-030(2)(b), no certificate of water right as provided for in RCW 90.44.080, shall be issued by the Department of Ecology until such time as a more definite determination can be reached as to the availability of public ground waters in an area described in WAC 508-14-030(3).

Schedule and Inspections
Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

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

DRAFT

Findings of Facts
Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application for Change No. CG3-26138, 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 Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this day of 2012.

Keith L. Stoffel, Section Manager
Water Resources Program

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.

INVESTIGATOR'S REPORT
Department of Ecology
Water Right Control Number CG3-26138

BACKGROUND

Description and Purpose of Proposed Change

On March 4, 2009, the Clark Addition Water Association (CAWA) PWS ID AB809G filed an application for change to change the purpose of use from group domestic supply to municipal supply, the place of use from a specific location to the Area Served by the CAWA, add points of withdrawal, and merge Clarktown Water Association, Beneficial Water Association, Dixon Water System into the Clark Addition Water Association.

Attributes of the Existing Water Right and Proposed Change

	Existing	Proposed
Name	**Clark Addition Water Association**	**Clark Addition Water Association**
Priority Date	12/29/1978	12/29/1978
Change Application Date	03/4/2009	03/4/2009
Instantaneous Rate	75 gpm	75 gpm
Annual Quantity	16 af/yr	16 af/yr
Purpose(s) of Use	Group domestic supply	Municipal
Period of Use	Continuous	Continuous
Place(s) of Use	A portion of Section 2, T. 9 N., R. 29 E.W.M.	Area Served by Clark Addition Water Association

Existing Sources of Withdrawal or Diversion

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well 1	114192179	BBH502	09N	29E	02	SW NE	46 17' 36.93"	119 08' 43.38"
Well 2	114192179	BBH503	09N	29E	02	SW NE	46 17' 37.18"	119 08' 43.36"

Proposed Points of Withdrawal

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well 1	114192179	BBH502	09N	29E	02	SW NE	46 17' 36.93"	119 08' 43.38"
Well 2	114192179	BBH503	09N	29E	02	SW NE	46 17' 37.18"	119 08' 43.36"
Well 3	114192151	BBH504	09N	29E	02	SW NE	46 17' 37.36"	119 08' 43.30"
Well 4	114201113	AFL967	09N	29E	02	SE NE	46 17' 37.93"	119 08' 20.53"
Well 5	114201113	AFQ254	09N	29E	02	SE NE	46 17' 38.69"	119 08' 19.89"
Well 6	114201113	AFQ255	09N	29E	02	SE NE	46 17' 37.42"	119 08' 20.25"
Well 7	114182055	ABR170	09N	29E	02	NW NE	46 17' 38.69"	119 08' 31.91"

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Tri-City Herald during the weeks of April 12 and 23, 2009. No protests were received.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

(a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
(b) It is a groundwater right application for more than 2,250 gallons per minute;

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required by Ecology.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other 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*

RCW 90.44.100 allows Ecology to amend a ground water permit to (1) allow the user to construct a replacement or additional well at a new location outside of the location of the original well, or to (2)

change the manner or place of use of the water. When changing or adding points of withdrawal to groundwater rights (RCW 90.44.100), the wells must draw from the *same body of public groundwater.*

INVESTIGATION

In considering the proposed change/transfer, the investigation included, but was not limited to, research and review of (1) appropriate rules and statutes; (2) Ground Water Permit No. G3-26138P and other water rights/claims/applications in the vicinity; (3) water well reports for the applicant's wells, and other wells in the vicinity; (4) USGS topographic maps; (5) discussions with Department of Ecology regional program staff; including review by Ecology hydrogeologists.

The Clark Addition Water Association (CAWA) currently holds Ground Water Permit G3-26138 authorizing a well for 75 gallon per minute, 16 acre-feet per year for continuous group domestic supply for 18 lots.

This permit lies within the Columbia Basin Project and is subject to WAC 508-14. These permits authorized the withdrawal of public ground waters within the boundaries of the Columbia Basin Project, and based on a conditional determination that public ground water were available for beneficial use. In accordance with WAC 508-14-030(2)(b), no certificate of water right as provided in RCW 90.44.080 shall be issued by the Department of Ecology until such time as a more definite determination can be reached as to the availability of public ground waters in an area described in WAC 508-14-030(3).

The CAWA merged with Beneficial Water System (WS) and the Dixon Water systems. The rights of these systems are described below:

Name	Permit	Qi	Qa	Purposes
Clark Addition WS	G3-20264P	310	112	Domestic supply and irrigation of 20 acres
Dixon, Norman*	G3-24733P	100	40.3	Domestic supply and irrigation of 7.5 acres
Dixon, Norman*	G3-25162P	50	24.6	Domestic supply and irrigation of 4.5 acres
Dixon, Norman*	G3-26138P	75	16	Group domestic supply for 18 units
Beneficial WS*	G3-24837P	300	202.6	Group domestic supply and irrigation of 36 acres

*These water right permits have all been assigned to the Clark Addition Water Association. Later references to these permits will be for CAWA.

All of these permits are proposing to consolidate and use the same wells and operate as one municipal water system. Each application will have its own decision.

History of Water Use

Ground Water Permit G3-26138 issued for group domestic supply for 18 lots. The irrigation of these lots was authorized under permits G3-24733 and G3-25162. This application requests to change the purpose of use to Municipal Water Supply Purposes. This right meets the requirements of municipal water supply purposes under RCW 90.03.015(4)(a) serving residential purposes through 15 or more residential service connections.

RCW 90.03.560 requires the Department to amend the water right document and related records to reflect the purpose of use as municipal water supply purposes when processing a water right change or amendment.

This permit is in good standing and the purpose of use is changed to municipal water supply purposes consistent with RCW 90.03.560.

Proposed Use

The purpose of use of this right is amended to be Municipal Water Supply Purposes consistent with RCW 90.03.560.

The applicant requests authorization to change the place of use from a portion of the NE¼ of Section 2, T. 9 N., R.29 E.W.M. to the Retail Service Area for the Clark Addition Water System as identified in the Water System Plan. This would allow for the service area to be consistent with RCW 90.03.386 and their current water system plan.

Other Rights Appurtenant to the Place of Use

The following water rights have all been acquired by the Clark Addition Water Association and proposed to be consolidated into one municipal water delivery system within the service area. These permits are all in good standing and determined to have been put to beneficial use. The total quantified amount is available for the purveyor to satisfy municipal water supply purposes within their service area.

Name	Permit	Qi	Qa	Purposes
Clark Addition WS	G3-20264P	310	112	municipal water supply purposes
Clark Addition WS	G3-24733P	100	40.3	municipal water supply purposes
Clark Addition WS	G3-25162P	50	24.6	municipal water supply purposes
Clark Addition WS	G3-26138P	75	16	municipal water supply purposes
Clark Addition WS	G3-24837P	300	202.6	municipal water supply purposes
Total		835	395.5	municipal water supply purposes *
*Each application has determined the extent and validity of these rights.				

Hydrologic/Hydrogeologic Evaluation

Applications for change of water right permits and certificates are governed by RCW 90.44.100, which states in part: the holder of a valid right to withdraw public ground waters may, without losing his/her priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued by the Department only on the conditions that; (1) the additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (4) other existing rights shall not be impaired. The Department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment.

The applicant is proposing to drill a new basalt well for drinking water keep one of the other basalt wells as a backup well and maintain the existing shallow wells for the outside irrigation. One of the system wells will be retained as a backup for drinking water. The alluvial wells in this area are experiencing high nitrate concentrations. The proposal is to construct the new drinking water well into the upper basalt flows and obtain water below the contaminate zone.

The original permit authorized two wells (Nos. 1 and 2). The applicant proposes to add five existing wells to the water right. One well (No. 4) is cased and sealed into the basalt to satisfy drinking water requirements and provide water meeting water quality standards. This new deep well was authorized to be used under the Temporary Authorization issued March 12, 2009. The deep wells (Nos. 1 and 4) are proposed to meet potable drinking water requirements within the service area while the other wells will continue to serve the domestic irrigation. The Temporary Authorization was conditioned to the well (No. 4) capacity at 110 gallons per minute, 45 acre-feet per year for domestic supply only. Although the deep well (No. 4) could produce 177 acre-feet at a pumping rate of 110 gpm.

Source	¼,¼,S,T,R	Well Tag	Dia.	Depth	Purpose	Background
Well 1	SW, NE, 2, 9N, 29E	BBH502	8 in	473 ft	Secondary Domestic Well	Dixon's Well
Well 2	SW, NE, 2, 9N, 29E	BBH503	6 in	145 ft	Irrigation Well	Dixon's Well
Well 3	SW, NE, 2, 9N, 29E	BBH504	Unknown	150 ft	Irrigation Well	Dixon's Well
Well 4	SE, NE, 2, 9N, 29E	ALF967	8 in	500 ft	Primary Domestic Well	New Well
Well 5	SE, NE, 2, 9N, 29E	AFQ254	10 in	121 ft	Irrigation Well and Emergency Domestic	Beneficial's Well
Well 6	SE, NE, 2, 9N, 29E	AFQ255	6 in	124 ft	Irrigation Well and Emergency Domestic	Beneficial's Well
Well 7	NW, NE, 2, 9N, 29E	ABR170	16 in	155 ft	Irrigation Well	Clarktown's Well

There are 15 state issued permits within Section 2 for a variety of uses from agricultural irrigation to multiple domestic supply. In review of the well logs all of these permits derive water from the Pasco sands and gravels. The static water level in the two basalt wells is approximately the same as the overburden wells.

Dozens of unconsolidated sand and gravel wells in Section 02, T. 09 N., R. 29 E.W.M. display heads that are at the McNary Pool elevation of approximately 340 feet above sea level (ASL). The two basalt wells drilled in Section 02 also display heads at the same elevation, approximately 340' ASL. The McNary Pool controls the heads in both the unconsolidated and confined aquifers in this region (which makes sense since the Columbia River is the regional discharge point for groundwater in this area). Three of the five water rights involved in the integration request for the Clark Addition Water Association authorize withdrawal of water from both the basalt aquifer and the gravel aquifer (the Dixon wells). The total annual quantity which could theoretically be withdrawn from the basalt aquifer alone (as the rights do not restrict how much has to be withdrawn from either aquifer) is enough to cover the domestic needs of the integrated system. The total annual quantity from these three rights is 80.9 acre-feet per year. The municipal use authorized under the five rights is 63 acre-feet per year. The two basalt wells which will ultimately provide domestic water under the integrated rights will be within the authorized amount

of water authorized to use the Dixon wells and hence the basalt aquifer. The five remaining gravel aquifer wells will provide the water needed to irrigate the authorized 68 acres under the integrated rights.

The proposed change to integrate the five rights will not enlarge the annual quantity of water withdrawn from the aquifers. The instantaneous rate of withdrawal for the seven wells at their respective locations will not exceed what is already being exercised.

Impairment Considerations

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

Other Water Rights in Surrounding Area:

A review of Ecology records was conducted for existing ground water rights, permits, applications and claims in the surrounding area of the proposed new well. As stated above, there are 15 state issued permits within Section 2 for a variety of uses from agricultural irrigation to multiple domestic supply. In review of the well logs all of these permits derive water from the Pasco sands and gravels. The static water level in the two basalt wells is approximately the same as the overburden wells.

In review of the well logs in the area, there are 102 well logs in Section 2. Two of the wells penetrate the basalt formation and are completed to depths below 190 feet. Both of the deep wells are part of the applicant's water system. The remaining 100 wells are all competed into the Pasco sands and gravels. A review of the available well logs would tend to indicate that most of the wells are all constructed in upper overburden zone and completed above the basalt formation. The proposed change to add five points of withdrawal will not enlarge the quantity of water withdrawn from the aquifer. There has been no documented history of pumping interference problems between existing wells in this area, and it is not anticipated that the proposed change would cause impairment to existing water rights.

Public Interest Considerations

The deeper well was authorized by the Temporary Permit to be used to meet drinking water standards. The Dixon well will be used as a backup well for drinking water purposes. Both wells will provide drinking water that should meet water quality standards to a public water supply system. The proposed changes to this permit will not be detrimental to the public interest. The shallow wells will continue to be used for the irrigation systems.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

There is a water right available for change/transfer under Ground Water Permit No. G3-26138P. Ground water has been authorized for use under this permit for the purpose of municipal water supply. 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:
The proposed change will not increase the volume of water currently authorized under this permit.

No Detriment to the Public Welfare:
There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be detrimental impact to the public welfare through issuance of the proposed change to add five wells, change the place of use or change the purpose of use.

No Enhancement of the Original Right:
No withdrawal of water over and above what has been authorized for beneficial use would be authorized through approval of this change.

Same Source of Water:
The ground water to be withdrawn for the Clark Addition Water Association water rights is supplied by the same body of public water.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to purpose of use, place of use, and addition of five wells be approved in the amounts and within the limitations listed below and subject to the provisions described.

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:

75 gpm, 16 acre-feet per year, for continuous Municipal Water Supply Purposes

Points of Withdrawal

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well 1	114192179	BBH502	09N	29E	02	SW NE	46 17' 36.93"	119 08' 43.38"
Well 2	114192179	BBH503	09N	29E	02	SW NE	46 17' 37.18"	119 08' 43.36"
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Well 7	114182055	ABR170	09N	29E	02	NW NE	46 17' 38.69"	119 08' 31.91"

The total amount withdrawn shall not exceed 835 gallons per minute, 395.5 acre-feet per year for municipal water supply purposes under all rights of the Clark Addition Water Association.

Place of Use

Area Served by The Clark Addition Water Association as identified in their most current approved Water System Plan.

Kevin Brown, Report Writer *Date*

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