DEPARTMENT OF
ECOLOGY
State of Washington

State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Changed Place of Use
Changed Purpose of Use
Changed Points of Withdrawal

PRIORITY DATE
April 10, 1940

WATER RIGHT NUMBER
209-D

MAILING ADDRESS
WILSON CREEK TOWN
PO BOX 162
WILSON CREEK, WA 98860

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal or Diversion

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

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 Water Supply Purposes	200		GPM	200		01/01 - 12/31

The total amount of water authorized for withdrawal under Ground Water Certificate No.G3-23663, Certificate 289-D and 209-D is limited to 1200 gallons minute, 284 acre feet per year, for municipal supply

PUBLIC WATER SYSTEM INFORMATION

WATER SYSTEM ID	CONNECTIONS
PWS ID# 974008	128

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
GRANT	GROUNDWATER		43-UPPER CRAB-WILSON

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
S01	121555000	AEH380	22N	29E	01	SW¼SE¼	47.4226942	119.1156764
S02	121428001	ABR403	22N	29E	01	SW¼SW¼	47.4251698	119.1246433
S03	121555000	ABR402	22N	29E	01	SW¼SE¼	47.4226958	119.1155344

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Area served by the Town of Wilson Creek municipal water distribution system

Proposed Works

3 wells and municipal distribution system

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
December 10, 1931	Complete	In use

Measurement of Water Use

How often must water use be measured?	Monthly
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

The total amount of water authorized for withdrawal under Ground Water Certificate No.G3-23663, Certificate 289-D and 209-D is limited to 1200 gallons per minute, 284 acre-feet per year, for municipal supply.

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.

Any well construction, including installation of new wells, and modification or decommissioning of existing wells, must be done in accordance with the well drilling statute and regulation, RCW 18.104 and WAC 173-160.

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.

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

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

Proof of Appropriation
The water right holder 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, 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.

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 a valid water right exists, water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application for Change of Certificate 209-D, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

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

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

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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

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

An application for change/transfer was submitted by the Town of Wilson Creek, Washington, to Ecology on October 22, 2010. The Town proposes to change the point of withdrawal, change the purpose of use and the place of use as granted under Ground Water Certificate No. 209-D.

Ground Water Certificate No. 209-D

Name on Certificate:	Great Northern Railway Company
Priority Date:	April 10, 1940
Instantaneous Quantity – Qi:	200 gallons per minute
Annual Quantity – Qa:	200 acre-feet per year
Original Source:	A well (Rail Road Well)
Purpose of use:	Railroad Uses
Period of use:	continuous
Place of use:	Great Northern Railway Company's right of Way at Wilson Creek, WA

Proposed Change/Transfer:

Name of Applicant:	Town of Wilson Creek
Point of Withdrawal:	Three existing wells
Purpose of Use:	Municipal supply
Period of Use:	*No Change*
Place of Use:	Area Served by the Town of Wilson Creek

Notice

A notice of application was published in accordance with RCW 90.03.280 in the Grant County Journal on September 13 and 20, 2012 and no protests were received.

SEPA

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW, due to the fact that the water quantities proposed for change are less than five (5) cubic feet per second (2250 gallons per minute).

INVESTIGATION

In considering the proposed changes/transfers, the investigation included, but was not limited to, research and review of (1) appropriate rules and statutes; (2) Ground Water Certificate No. 209-D 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, aerial photographs; (5) current water system plan and; (6) discussions with Department of Ecology regional program staff.

A site visit was conducted by Kevin Brown on September 7, 2012.

The original authorized place of use of this water right is described as the Railway Company's yards and mainlines of the railroad at Wilson Creek, Washington. The railway yard was located in Sections 2 and 12, T. 22 N., R. 29 E.W.M. This facility was rather large in comparison to other railroad yards and contained a large wheel house. Historically, many of the smaller communities of the Columbia Basin, such as Wilson Creek used steam locomotives as a primary source of transportation. These locomotives remained in use until the 1950s at which time almost all were replaced with diesel locomotives. When these trains were replaced with diesel locomotives the water rights were often left unused or given to the local community. The water tanks have long since been removed and only the rail road remains.

The proposed place of use is the service area of the Town of Wilson Creek

At present there are three (3) existing municipal wells located within the Town of Wilson Creek.

EVALUATION OF THE RIGHT AND BENEFICAL USE ANALYSIS

The Washington State Supreme Court, in Okanogan Wilderness v. Town of Twisp and Department of Ecology, 133 Wn.2d 769, 947 P.2d 732 (1997), found that applications for change may be granted only to the extent the water has been historically 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 lost for non-use before the Department can approve a change or transfer of the water right.

History of the Water Right and Water Use

In 1939 the Great Northern Railway Co. constructed a well in the NE¼NW¼ of Section 12, for domestic supply of the train yard and for steam locomotive use. In 1946, the Railroad filed an application requesting these vested ground water rights be confirmed as a water right certificate. The application was accepted, reviewed and Ground Water Certificate No. 209-D was issued for domestic and locomotive uses in 1945 under Declaration of Claim 278. The steam locomotives reportedly remained in use until the early 1950s, at which time they were replaced with diesel locomotives. The wells were used for Railroad uses and irrigation of municipal properties and lands within the Town since 1939.

The Town of Wilson Creek submitted additional records that were filed in the County Records confirming the use of the Railroad well. In December of 1931, (Prior to filing of the Declaration by the Railroad) the property on which the well is described was transferred into the name of the Town of Wilson Creek by deed and recorded in the county records. In addition to the property transfer, the Railroad authorized the Town of Wilson Creek use of an eight inch water main from the well. According to the Mayor of Wilson Creek the eight inch main was used to irrigate lands within the Town of Wilson Creek in addition to the Town's domestic uses. The Town irrigation system was noted in the 1946 Railroad application.

The Town of Wilson Creek has historically used the Railroad well for irrigation of property within the Town and continued to use the well for irrigation of open spaces, parks, lawns, etc. (municipal water supply purposes). This use of water has continued since 1939, even after the Railroad stopped using the well for railroad uses. The Town of Wilson Creek completely took over the Railroad well in the 50's and continued to use it for Municipal Water Supply Purposes, without knowing of the need to file an application for change. The Railroad well continued to be used up through the 1970's for municipal irrigation purposes within the Town of Wilson Creek. When the well began to fail in the 70's, the city stopped using the Railroad well and switched over to the other municipal water wells.

The certificate derived from the application filed in August 1946 confirmed a vested use of 200 acre-feet from the well in the NE¼NW¼ of Section 12. This use was supported by evidence by recorded deed which included the eight inch water main delivering water to the Town of Wilson Creek.

The uses associated with this right have continued to be used for Municipal Water Supply purposes since 1931 by a Municipal Water Supplier, the Town of Wilson Creek. It appears this right was used up to 200 acre-feet, granted to the Town of Wilson Creek by deed and continued to be used until the well failure in the 70's. The City stopped using the Railroad well and began using the other City wells and continued to use the right for municipal water supply purposes.

Based on this analysis it appears this right began prior to 1945, continued to be exercised for municipal water supply purpose, and claimed for future municipal water supply purposes in the Town water system plans. This right appears to represent a valid right and has been used for municipal water supply purposes.

The Town of Wilson Creek acquired this right and has claimed this right for future municipal water supply purposes.

Water rights that qualify as rights for municipal supply purposes under RCW 90.03.015(4) are exempt from relinquishment.

Existing Rights

The Town of Wilson Creek currently holds two water right certificates described below:

Ground Water Certificate 289-D with a priority date of 1908 confirmed a right of 1000 gallons per minute, 84 acre-feet per year for Municipal Supply from a well in Lot 1 Block 12 of Taggart Addition, Wilson Creek.

Ground Water Certificate G3-23663 with a priority date of July 25, 1974, confirmed a right of 600 gallons per minute, 84 acre-feet per year for Municipal supply from two wells, Lot 2 Block 12 Taggart Addition within the SW¼SE¼ of Section 1 and Lot 7 Block 4 of Playfair's Addition within the SW¼SW¼ of Section 1. This right was issued as "Totally Supplemental" to Certificate 289-D.

The total use between these two rights is 1000 gallons per minute, 84 acre-feet per year.

With the addition of Certificate 209-D, the quantities would be additive to the underlying water rights. The total amount of water authorized for withdrawal under Ground Water Certificate No. G3-23663, Certificate 289-D and 209-D are limited to 1200 gallons minute, 284 acre-feet per year, for municipal supply.

Surrounding Water Right Documents

There are 5 water right claims identified in Section 1. These claims all appear to represent domestic exempt water uses within the area served by the Town of Wilson Creek. No well logs or well information exists for these claimed uses.

The above referenced claim(s) were filed under the Claims Registration Act, Chapter 90.14 RCW. The intent of this act was to document those uses of surface water in existence prior to the adoption of the State Surface Water Code, Chapter 90.03 RCW, which was adopted in 1917, and those uses of ground water in existence prior to the adoption of the State Ground Water Code, Chapter 90.44 RCW, which was adopted in 1945. Since each code(s) adoption, the only means of acquiring a water right within the state is by filing for, and receiving, a permit from the Department of Ecology or one of its predecessors or by establishing a right under the "domestic exemption" under the ground water code (RCW 90.44.050). The Department of Ecology recognizes that the final determination of the validity and extent associated with a claim registered in accordance with RCW 90.14 ultimately lies with the Superior Court through the general adjudication process provided for by Sections 90.03.110 through 90.03.240 RCW. The Department does, however; recognize that water use may be occurring under these claims.

HYDROGEOLOGIC ANALYSIS

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 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.

Proposal and facilities

The Town proposes to change the point of withdrawal, change the purpose of use and the place of use as granted under Ground Water Certificate No. 209-D, integrating this right into the municipal supply of the town. No new facilities are requested.

The original well is described as a 12 inch well completed to a depth of 327 feet. The well encountered basalt at 48 feet below ground surface, and produced water from the basalt between 48 and 327 feet below ground surface.

The existing town wells in to which this right is proposed for integration are described as follows:

SO 1: This 6" diameter well is 285 feet deep. The well was constructed in 1944. The static water level at that time was reported to be 50 feet below land surface. There is no record of the lithology present in this well, but it is assumed to produce from basalt.

SO 2: This 20" diameter well is 193 feet deep. The well was constructed in 1978. The static water level in 1978 was reported to be 52 feet below land surface. The well is described as being cased and sealed through sediments into basalt at 67 feet. It produces water from basalt formations between 67 and 193 feet below ground surface.

SO 3: This 16" well is 202 feet deep. The well was constructed 1987. The static water level is estimated at approximately 61 feet below land surface. This well encounters basalt at 60 feet, is cased to 176 feet below ground surface, and produces water from basalt between 172 and 202 feet below ground surface.

The wells associated with this change application are all producing water from the Columbia River Basalt aquifer system. As such, they all produce water from the same body of public groundwater.

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.

FINDINGS

There is a water right available for change/transfer under Ground Water Certificate No. 209-D in the amount of 200 gallons per minute, 200 acre-feet per year, each year, for continuous municipal water supply purposes.

This application is requesting authorization to add three points of withdrawal, change the purpose of use and the place of use as granted under Ground Water Certificate No. 209-D. It appears that this right is valid and has been historically and beneficially exercised for municipal water supply purposes by the Town of Wilson Creek.

Conclusions

All producing wells involved in this change application are wells producing from basalt aquifers, thus they all produce from the same body of public ground water. No additional instantaneous or annual quantities are to be changed, and installation of additional points of withdrawal does not enlarge the existing rights. The proposed change to the authorized place of use does not enlarge the existing rights. No impact to existing beneficial uses or to surface water is anticipated.

RECOMMENDATIONS

The applicant's request to add three points of withdrawal, change the purpose of use and the place of use as granted under Ground Water Certificate No. 209-D is **approved**, subject to the following:

- 200 gallons per minute, 200 acre-feet per year, each year, for continuous municipal water supply purposes

The authorized points of withdrawal are as follows:

• S02	AEH380	22N	29E	01	SW¼SE¼
• S01	ABR403	22N	29E	01	SW¼SW¼
• S03	ABR402	22N	29E	01	SW¼SE¼

The authorized place of use will be as follows:

- Area Served by the Town of Wilson Creek "The place of use of this water right shall be consistent with the service area map contained within the most recently approved water system plan (including amendments)."

The total amount of water authorized for withdrawal under Ground Water Certificate Nos.G3-23663, 289-D and 209-D are limited to 1200 gallons per minute, 284 acre-feet per year, for municipal supply.

Reported by Kevin Brown Date_____