

State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Changed Place of Use

PRIORITY DATE
September 26, 1986

WATER RIGHT NUMBER
G3-28286

MAILING ADDRESS
PUTNAM BROTHERS LLC
PO BOX 5501
GEORGE WA 98824

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
350	GPM	94.5

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
agricultural irrigation	350		GPM	94.5		4/01 - 10/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
GRANT	GROUNDWATER		41-LOWER CRAB

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well 1	150303000		17N	23E	02	Govt 2	47.00002	119.90404
Well 2	150304001		17N	23E	02	Govt 3	47.00050	119.90919

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

150304001, 150303000, 150488000

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

18 acres within the N½ of Govt Lot 3, Section 2, T. 17 N., R. 23 E.W.M.; 8 acres within N½ of Govt Lot 1 lying south of the canal within Section 2, except that portion of Govt Lot 1 described as follows: That portion of Govt Lot 1 (NE¼ of the NE¼) of Section 2, T. 17 N., R. 23 E.W.M. Grant County Washington described as follows: Beginning at the NE Section corner of said Section 2 and thence S.

REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

00°35'56" W along the East line of said Section 2 a distance of 262.10 feet to the centerline of the USBR canal W53.1D and the point of beginning of this description, thence continuing along the said East line S. 00°35'56" W 1077.12 feet to the SE corner of the said Govt Lot 1, thence along the said South line of the said Govt Lot 1 S. 88°57'08" W. 291.82 feet, thence N. 00°35'56" E. 929.75 feet to the centerline of the Bureau of Reclamation Canal and a point on a curve of the said canal whose tangent bears N. 81°03'35" E., thence along the centerline through a curve whose radius is 143.20 feet concave to the Northwest in a Northeasterly direction through a delta of 20°04'04" for a distance of 50.16 feet, thence continuing along the said centerline N. 60°59'32" E. 281.43 feet to the point of beginning and the end of this description, Being within T. 17 N., R. 23 E.W.M.; also one acre in that portion of the SW¼SW¼SE¼ of Section 35 lying south of the canal T. 18 N., R. 23 E.W.M.

Proposed Works

Two wells and irrigation system

Development Schedule

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

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)

Provisions

This authorization to use public waters of the state is classified as a Family Farm Permit in accordance with chapter 90.66 RCW. This means the land being irrigated under this authorization shall comply with the following definition: Family Farm - a geographic area including not more than 6,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 6,000 acres of irrigated agricultural lands in the state of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm.

This authorization for the withdrawal of public ground waters is within the boundaries of the Columbia Basin Project (RCW 90.44.510). 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 and become Standby Reserve.

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

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.

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.

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 is a valid water right; 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 the Application for Change No. G3-28286, 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501</p>	<p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

Signed at Spokane, Washington, this day of 2013.

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

This report serves as the written findings of fact concerning Water Right Change Application Number G3-28286. In considering the proposed application for change/transfer, the investigation included, but was not limited to, research and review of (1) appropriate rules and statutes; (2) Ground Water Certificate No. G3-28286 and other water rights/claims/applications in the vicinity; (3) water well reports and other wells in the vicinity; (4) USGS topographic maps; (5) discussions with Department of Ecology regional program staff; including review by Ecology hydrogeologists.

Legal Requirements for Requested 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 the Quincy Valley Post Register on November 19 and 26, 2009 and 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.

INVESTIGATION

A field investigation was conducted by Lynn Maser in 2008. This field investigation was conducted to correct a previous administrative error in the water right record, resulting in issuance of a Superseding Certificate in January of 2009. The investigation confirmed the use of the two wells and irrigation of 27 acres within the authorized place of use. Meters were installed and records of the pumps and meter readings were documented by Mr. Maser.

The applicant has proposed to change the place of use of one acre of the water right from a parcel of ground that was sold in Govt Lot 1 to a parcel of ground he historically irrigated in Section 35. The new purchaser was aware of the proposed transfer and did not object to the transfer of the water right. The

real estate contract withheld "all water rights associated therewith" upon the sale of the property containing the one acre of irrigated orchard. No other change to the water right is proposed.

Evaluation of the Right and Beneficial 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), held that Ecology must determine the extent and validity of a water right that is eligible for change before the Department can approve a change or transfer of the 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. In R.D. Merrill Co. v. Pollution Control Hearings Board, 137 Wn.2d 118, 969 P.2d 458 (1999), the Supreme Court held that the place of use and point of withdrawal of an inchoate ground water permit may be changed pursuant to RCW 90.44.100.

The property has been continuously irrigated in orchard development. This right appears to be valid to the extent of the authorization, confirmed by Mr. Maser in 2009.

Other Rights Appurtenant to the Place of Use

In addition to Certificate G3-28286, Ground Water Certificate G3-24886 confirms a right of 200 gallons per minute, 70 acre-feet per year for irrigation of 20 acres. This right is authorized from the well located in Govt Lot 2. The authorized place of use is described as within Govt Lot 2 Section 2, T. 17 N, R. 23 E.W.M.

Total authorized use between these two rights is 550 gallons per minute, 164.5 acre-feet for the irrigation of 47 acres.

Ground Water Application G3-30606 request authorization of 300 gallons per minute, 105 acre-feet per year for irrigation of 30 acres. This application has not been acted on.

The property within the proposed place of use of these permits lies within the boundary of the Columbia Basin Project and within potential delivery of the irrigation district or other water rights associated with the Quincy Basin. The applicant may pursue additional uses of artificially stored ground water or water service contracts.

Should additional contracts or rights be issued that include lands developed under this authorization, these lands will be subject to RCW 90.44.510.

If water from facilities of any legally formed irrigation district is used on any or all of the lands described and developed 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.

RCW 90.44.510 confirms that should water be supplied to these lands and replaced with Columbia Basin Project Water, the permit or certificate, or portion thereof shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation and the authorized number of acres under the permit.

Hydrologic/Hydrogeologic Evaluation

Applications for change of water right permits and certificates are governed by RCW 90.44.100, which states in part that: 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.

The proposed project lies within the boundaries of the Quincy Ground Water Management Subarea as defined in Chapter 173-124 WAC. This Subarea covers the northern portion of the Columbia Basin project (developed by the US Department of Interior, Bureau of Reclamation), and lies mostly within Grant County.

Since the application does not request a change in source, a determination of the same body of ground water is not required.

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.

This proposed change in the place of use shall not increase the amount of water withdrawn from the aquifer nor will it increase the land proposed for irrigation or expand the right. The change in place of use will not impair existing water rights.

No other changes are requested for the permit.

Public Interest Considerations

The proposed change in place of use will not be contrary to the public interest.

Conclusions

There is a water right available for change/transfer under Ground Water Certificate No. G3-28286.

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:

It is not anticipated that the proposed change/transfer would cause impairment to existing water rights.

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 any detrimental impact to the public welfare through issuance of the proposed change/transfer.

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:

As there is no request to change the point of withdrawal, the ground water to be withdrawn is supplied by the same body of public water.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

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:

350 gpm
94.5 acre-feet per year
Agricultural irrigation of 27 acres

Point of withdrawal

Well 1 - 200 feet south and 1210 feet east of the N¹/₄ corner of Section 2, Govt Lot 2, Section 2, Township 17 North, Range 23 E .W.M.

Well 2 - 50 feet south and 50 feet west of the N¹/₄ corner of Section 2, Govt Lot 3, Section 2, Township 17 North, Range 23 E .W.M.

Place of Use

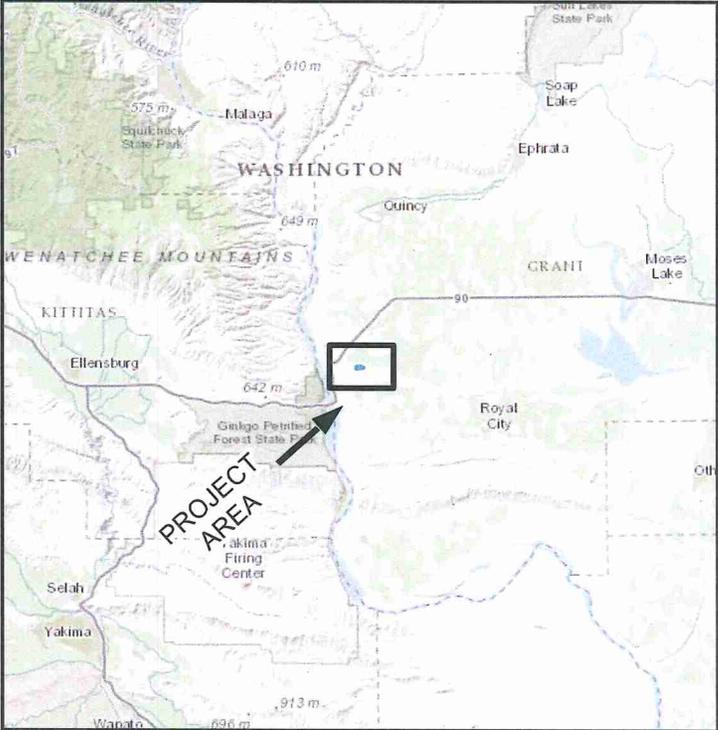
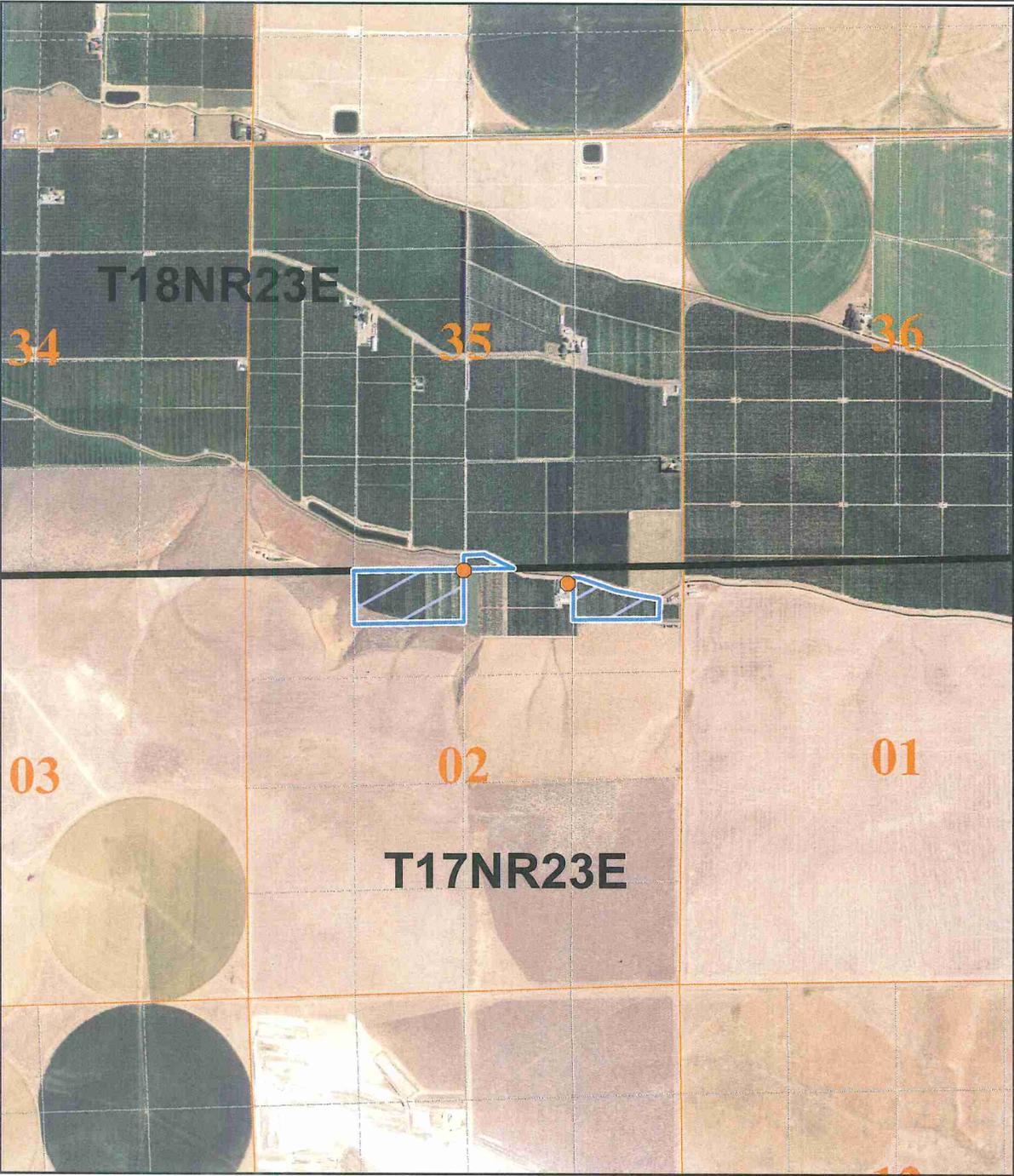
As described on Page 1 of this Report of Examination.

Kevin Brown, Report Writer

Date

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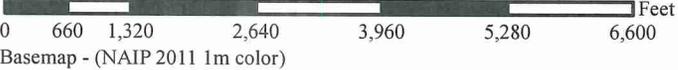
Putnam Brothers LLC
 G3-28286C
 T17N/R23E



Basemap - (ESRI US Topographic Maps)

Legend

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



Basemap - (NAIP 2011 1m color)
 DEPARTMENT OF ECOLOGY
 State of Washington

Map Date: 4/15/2013



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.