STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

REPORT OF EXAMINATION FOR CHANGE

TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

☒ Surface Water (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)

☐ Ground Water (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
1864			Walla Walla River Adjudicated Certificate (Yellowhawk Creek) Vol. 4, Pg. 24

NAME
Jeffery and Karen C. Watson

ADDRESS (STREET)	(CITY)	(STATE)	(ZIP CODE)
2004 Carl Street	Walla Walla	WA	99362

PUBLIC WATERS TO BE APPROPRIATED

SOURCE	TRIBUTARY OF (IF SURFACE WATERS)
Yellowhawk Creek	Walla Walla River

TRIBUTARY OF (IF SURFACE WATERS)

MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE FEET PER YEAR
0.020	---	4.12

QUANTITY, TYPE OF USE, PERIOD OF USE

0.013 cubic feet per second April 1 to July 1, 0.010 cubic feet per second July 1 to October 1, 0.020 cubic feet per second from October 1 to April 1, each year, 4.12 acre-feet per year for the irrigation of 1 acre

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

1381 feet south and 125 feet east of the N1/4 corner of Section 27

46.0602449 degrees North and 118.2923654 degrees west (NAD 27)

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP N.	RANGE, (E. OR W.) W.M.	W.R.I.A.	COUNTY
SW¼NE¼	27	7	36 E.	32	Walla Walla

RECORDED PLATTED PROPERTY

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)
5	5	East Walla Walla Addition

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

Walla Walla County Parcel Numbers: 360727530506, 360727530508, 360727530509, and added place of use is parcel 360727530511

Lot 5 in Block 5, East Walla Walla Addition, and the West 149.89 feet of the SW1/4NE1/4 being within Section 27, T. 7 N., R 36 E.W.M. lying Northerly of Yellowhawk Creek

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DESCRIPTION OF PROPOSED WORKS

One (1) pump, distribution line, and sprinklers

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER PUT TO FULL USE BY THIS DATE:
October 1, 2011	October 1, 2012	October 1, 2013

REPORT

BACKGROUND

Application: An application for change of point of diversion and place of use was submitted by Jeffrey D. and Karen C. Watson to the Department of Ecology on April 10, 2003. The application was accepted and processed. The applicant proposes to change the point of diversion (POD) and add a place of use as granted under Walla Walla River Adjudicated Surface Water Certificate Vol. 4, Page 24.

Attributes of Certificate No. 24

Name on Certificate:	C. A. Beck
Priority Date: 1864	
Class: 5	
Instantaneous Quantity – Q (i):	0.013 cfs from April to July 1 0.010 cfs from July 1 to October 1 0.020 cfs from October 1 to April 1
Annual Quantity – Q (a):	5 acre-feet
Source:	Yellowhawk Creek
Point of Diversion:	NW1/4 of the NE1/4 of Section 27, T. 07 N., R. 36 E.W.M.
Purpose of Use:	Irrigation of 1 acre
Period of Use: Continuous	
Place of Use: *see legal description on certificate*	

Proposed Change for Certificate No. 24

Name of Applicant:	Jeffrey and Karen Watson
Date of Application for Change/Transfer:	April 10, 2003
Instantaneous Quantity – Q (i):	*no change proposed*
Annual Quantity – Q (a):	*4.12 acre feet per year (reduced from 5 acre feet per acre as authorized under the Walla Walla River Adjudication).*
Source:	*no change*
Point of Diversion:	SW1/4NE1/4 of Section 27, T. 7 N., R. 36 E.W.M.
Purpose of Use:	*no change proposed*
Period of Use:	*no change proposed*
Place of Use	Add a place use being the west 149.89 feet of the SW1/4NE1/4 of Sec. 27, T.7 N., R. 36 E.W.M. lying North of Yellowhawk Creek

History: Certificate No. 24 was originally issued to C. A. Beck from a point of diversion located within the NW1/4 of the NE1/4 of Sec. 27, T. 7 N., r. 36 E.W.M. The present property owner proposes to change the point of diversion to a new point located within the SW1/4 of the NE1/4 of this same section, township and range. He also proposes to add a place of use being the west 149.89 feet of the SW1/4NE1/4 of Sec. 27, T. 7 N., R. 36 E.W.M. The purpose of use and quantities will remain the same. The original 1 acre has been historically irrigated and is not subject to relinquishment. The original point of diversion was a ditch that delivered surface water to this property. The ditch has fallen into disrepair and the applicant wishes to locate the point of diversion in Yellowhawk Creek adjacent to his property.

Notice: A notice of application was duly published in accordance with RCW 90.03.280 in the Walla Walla Union Bulletin on January 6th and 13th, 2006. No protests or objections were received.

SEPA: This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21 RCW.

INVESTIGATION

In considering the proposed change, the investigation included, but was not limited to: research and review of (1) appropriate rules and statutes, (2) Walla Walla River Adjudicated Surface Water Certificate Vol. 4, Page 24, and records of other water rights/claims in the vicinity, (3) USGS topographic maps and vicinity/plat maps, (4) discussions with regional program staff, including review by Ecology hydrogeologist, and (5) one site investigation conducted by Jim Lyerla from Ecology on September 8, 2005.

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The project site is located at the east edge of the town of Walla Walla adjacent to Yellowhawk Creek. Yellowhawk Creek is a tributary to the Walla Walla River in Walla Walla County, Washington, being within Water Resource Inventory Area (WRIA) 32. This change is designed to change the original point of diversion located on Yellowhawk Creek and delivered to the site by a ditch to a new point of diversion on Yellowhawk Creek adjacent to the property. The existing ditch is poorly maintained and the applicant proposes to replace his source of surface water from the ditch with a new source diverted directly from Yellowhawk Creek. The original place of use will remain the same and he is proposing to add an additional place of use as described in the body of this report.

Existing Water Rights

A review of Ecology records was conducted for existing surface and ground water rights, including permits and applications in the surrounding area. The search focused on the NE1/4 of Sec. 27 of Township 7 N., Range 36 E.W.M. A total of 15 state issued water rights were found within this ¼ section, including claims registries; 12 of these recorded rights were for surface water diversions and three were for ground water withdrawals. This change will not be detrimental to existing rights based on the field investigation, lack of response to the public notice and the short distance of the move from the original ditch point of diversion to the proposed point of diversion.

In order to evaluate the pending change under Certificate No. 24, it is necessary to review all water rights appurtenant to the place of use as described under said certificate. No other rights were found appurtenant to this land.

EVALUATION OF THE WATER 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), 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.

Jim Lyerla's field investigation and review of Walla Walla County Assessor's aerial photographs disclosed that the place of use is presently irrigated.

The original water right authorized five acre-feet per acre. However, this five acre-feet per acre was a general guide under the Walla Walla River Adjudications and considered conveyance losses as well as on farm application rates. The applicant has moved the point of diversion from the original point of diversion located on a ditch to a pump station adjacent to the irrigated land and will be pumping directly from Yellowhawk Creek. In this situation, conveyance losses are no longer required. Therefore, the originally certificated five acre-feet per acre will be reduced to be consistent with the requirements of the new system for the irrigation of pasture and lawn. The Washington Crop Irrigation Guide (WA210-VI-October 1985) was used to find the highest water requirement of the crops commonly grown on this property. The water requirement for pasture and lawn is 34.83 inches per year per acre. At 70% system efficiency, each acre requires 4.12 acre feet for a total of 4.12 acre feet annually for the irrigation of this 1 acre. This recalculated water duty will be reflected in this water right change. The difference between the original acre-footage allowance of 5 acre-feet (as granted under the Wall Walla Adjudication) and the new acre-footage requirement of 4.12 acre-feet is .88 acre feet. These .88 acre-feet are tentatively determined to be relinquished and not available for change.

Water System

One (1) point of diversion will be recognized for Certificate No. 24 at the applied for location through this application for change as well as the added place of use.

FINDINGS

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:

- A valid right exists that is eligible to be changed;
- The change must not cause detriment or injury to existing rights;
- The change shall not allow for the enhancement of the right perfected under the original certificate; and
- All new points of diversion must be from the same source of water as authorized under the original certificate.

Validity of the Water Right

Surface water has been historically and beneficially used on this 1 acre described as the place of use under the original certificate.

No Impairment to Existing Rights

"Impair" or "impairment" means to: 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, including earlier filed applications, 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 in stream 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.

The proposed change has been evaluated as to the potential for impairment to existing water rights in the area. This change will not alter pumping amounts or practices.

No Enhancement of the Original Certificate

No diversion of water over and above what has been historically put to beneficial use would be authorized through approval of this change. In fact, this water right is being reduced to reflect the recent historic use from the new point of diversion.

Same Source of Water

The point of diversion is from the same source of surface water as authorized for use in the original right.

CONCLUSION

It is the conclusion of the examiner that, in accordance with Chapters 90.03 and 90.44 RCW, this application to change the point of diversion under Walla Walla River Adjudicated Surface Water Certificate No. 24 will not enlarge the right conveyed by the original certificate, nor will it impair existing rights provided the terms and conditions below are followed.

RECOMMENDATIONS

It is recommended that the applicant's request to change the point of diversion and add a place of use under Surface Water Certificate No. 24 be **APPROVED**, subject to the following:

Provisions

"The total quantities authorized under Walla Walla River Adjudication Surface Water Certificate No. 24 shall be limited to 0.013 cubic feet per second April 1 to July, 0.010 cubic feet per second from July1 to October 1, 0.020 cubic feet per second from October1 to April 1, each year, or 4.12 acre-feet per year for the irrigation of 1 acre. These amounts will be verified and may be reduced at the proof examination."

"A future Superseding Certificate for Walla Walla River Adjudicated Surface Water Certificate No. 24 will not issue until final examination is made and water has completely been put to beneficial use for the purposes of use authorized and a final proof examination is completed."

An approved measuring device shall be installed and maintained for the source identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be recorded biweekly *(beginning the first week of April, 2011)* shall be submitted annually to Ecology by January 31st of each calendar year *(beginning 2012).*

"The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements."

At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, and period of use. In the future, Ecology may require additional parameters to be reported or more frequent reporting.

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions."

"By accepting this transfer and change, the holder hereof consents to allow the Department of Ecology to access the property in question during normal business hours to determine whether the conditions and provisions contained or incorporated directly or indirectly herein have been or are being complied with."

"The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and the place of use specified."

"This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise."

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

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

In accordance with the recommendations of the Washington Department of Fish and Wildlife, this authorization shall be issued subject to the following provision:

"This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and game fish screening criteria (pursuant to RCW 77.16.220, RCW 77.55.040 and RCW 77.55.070). Please contact the Department of Fish and Wildlife, 600 Capitol Way N., Olympia, WA 98501-1091, Attention: Habitat Program, Phone: (360) 902-2534, or call (509) 575-2734 for the Yakima Construction Shop to obtain technical assistance for your project. Juvenile salmon screening criteria are attached to the Report of Examination if applicable to your diversion."

Signed at Spokane, Washington, this day of , 2011.

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Victoria Leuba
Water Resources Program
Department of Ecology

W/Draft ROEs/Lyerla 2010/WWAC 24 Watson

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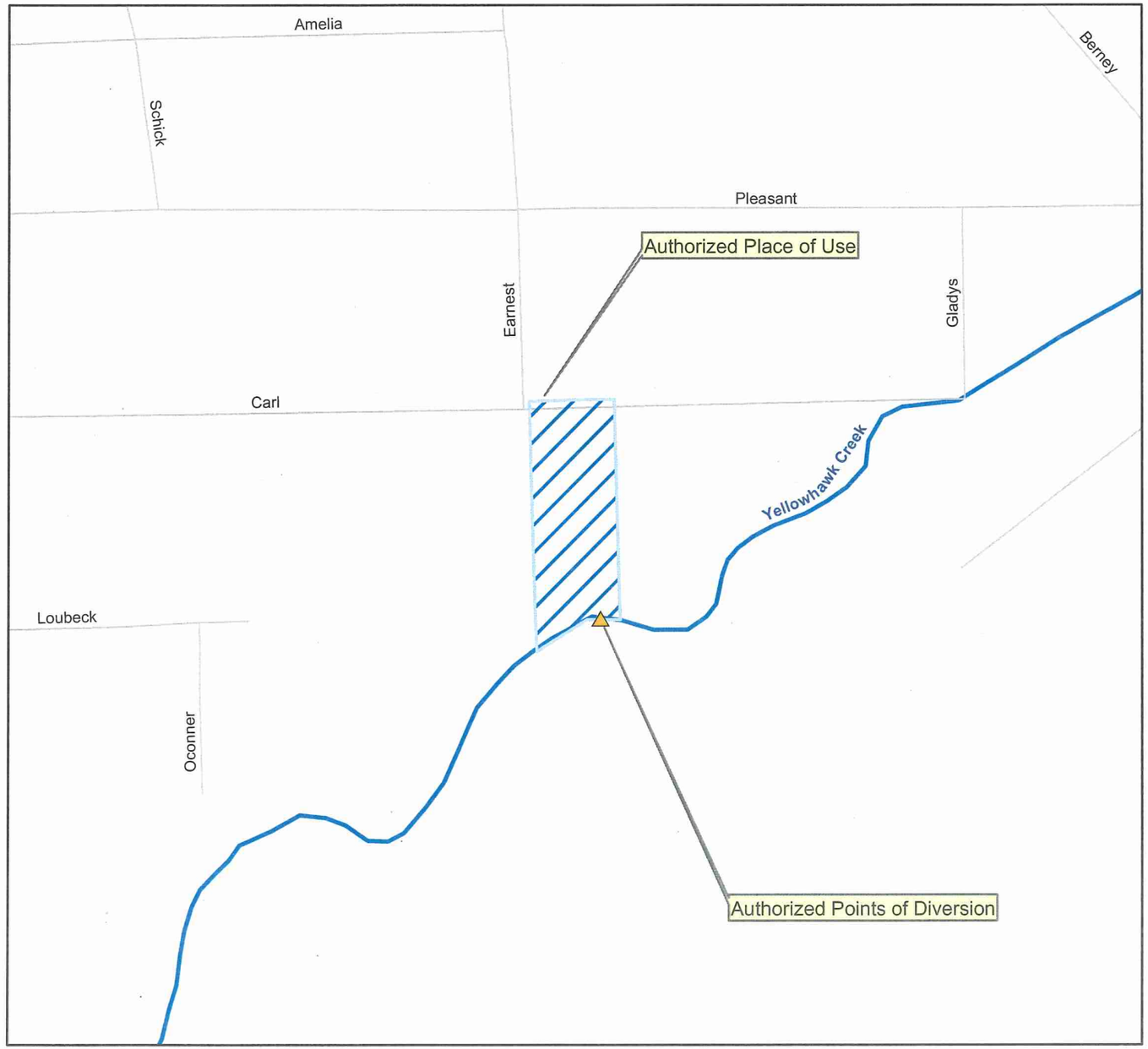
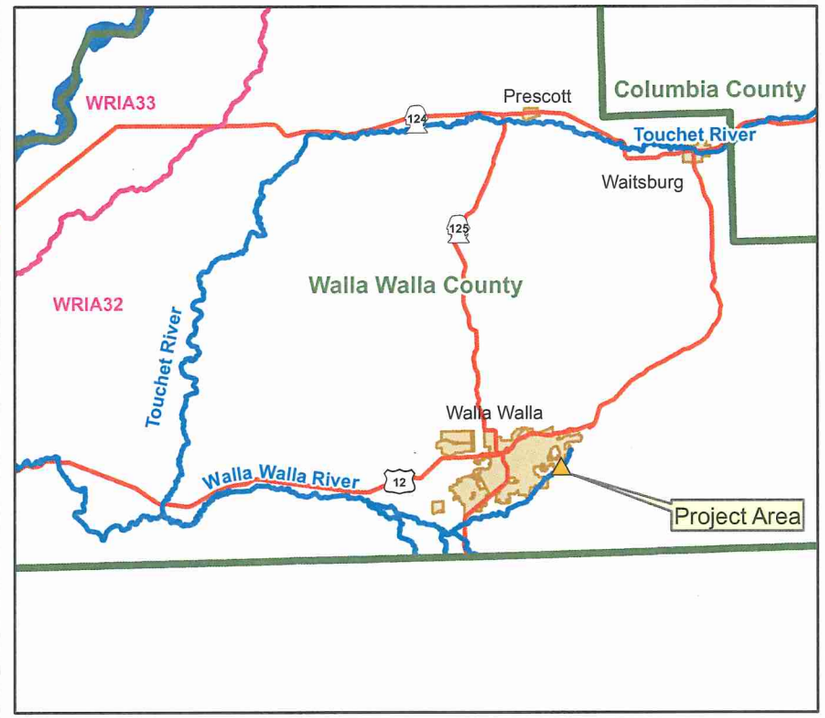
Jeffery & Karen C. Watson
Walla Walla Adjudicated Surface Water Record Number 24
Sec. 27, T 07N, R 36E.W.M.
WRIA 32 - Walla Walla County



330 165 0 330 660 990 1,320 Feet



6 3 0 6 12 Miles

Legend

- County
- WRIA
- Cities
- Local Roads
- Highways
- Townships
- Sections
- Authorized Point of Diverison
- Authorized Point of Withdrawal
- Authorized Place of Use

Comments:
Place of use, points of withdrawal/diversions are as defined on the cover sheet under the heading, 'LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED.'

Attachment 1