State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

PRIORITY DATE	WATER RIGHT NUMBER
March 4, 1981	G3-26830

NAME & ADDRESS
City of Newport
200 S. Washington Avenue
Newport, WA 99156

Total Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
270	GPM	436

Purpose

PURPOSE	WITHDRAWAL RATE	ANNUAL QUANTITY	PERIOD OF USE (mm/dd)
Municipal	270 GPM	436 AF/YR	01/01 - 12/31

Source

SOURCE	COUNTY	WATERBODY	WATER RESOURCE INVENTORY AREA
Eleven (11) wells	PEND OREILLE	GROUNDWATER	62

PUBLIC WATER SYSTEM INFORMATION	WATER SYSTEM ID	APPROVED CONNECTIONS
City of Newport, Washington	59350	1196

Source Locations

Source	Parcel #	Well Tag	Twp	Rng	Sec	QQ	Latitude	Longitude
Well B	N/A	AHC032	31N	45E	24	SE¼NE¼	48.17523°N	117.04845°W
Well C	N/A	AHC026	31N	45E	24	SE¼NE¼	48.17402°N	117.04728°W
Well D	N/A	AHC030	31N	45E	24	NE¼SE¼	48.17333°N	117.05240°W
Well E	N/A	AHC031	31N	45E	24	NE¼SE¼	48.17334°N	117.05237°W
Well F	N/A	AHC027	31N	45E	24	SE¼NE¼	48.17425°N	117.04939°W
Well G	N/A	AHC028	31N	45E	24	SE¼NE¼	48.17436°N	117.04987°W
Well H	N/A	AHC033	31N	45E	24	NW¼NE¼	48.17875°N	117.05763°W
Well I	N/A	AHC029	31N	45E	24	SE¼NE¼	48.17447°N	117.05034°W
Well J	N/A	BAF333	31N	45E	24	SW¼NE¼	48.17649°N	117.05344°W
Well K	N/A	BAF335	31N	45E	24	SW¼NE¼	48.17628°N	117.05415°W
Well M	N/A	N/A	31N	46E	19	SW¼SW¼	48.16962°N	117.04523°W

Datum: WGS84

GPM = Gallons per minute; AF/YR = Acre-feet per year; Sec. = Section; QQ = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E = East of the Willamette Meridian

Place of Use (See Attached Map)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Area served by the City of Newport. The place of use (POU) of this water right is the service area described in the most recent Water System Plan approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

Proposed Works

Eleven (11) wells, pumps, reservoirs and distribution system

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
September 1, 2018	September 1, 2019	September 1, 2020

Measurement of Water Use

How often must water use be measured?	Weekly
How often must 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

Existing water rights for the City of Newport including this authorization total 1,034 gallons per minute and 1,418 acre-feet per year, continuously, for municipal supply (Under G3-30739, Ground Water Certificate Nos. G3-22797C, G3-25887C and G3-26830C).

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.

Wells, Well Logs and Well Construction Standards

All wells constructed in the state shall 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 shall be decommissioned.

All wells shall 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 shall 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. An air line and gauge may be installed in addition to the access port.

Measurements, Monitoring, Metering and Reporting
An approved measuring device shall be installed and maintained for each of the sources identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be recorded weekly and maintained by the property owner for a minimum of five years, and shall be promptly submitted to Ecology upon request.

WAC 173-173 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 shall 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 permit. 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 find the change of water right as recommended will not be detrimental to existing rights or the public welfare.

Therefore, I ORDER **approval** of Change Application No. CG3-26830C@2, 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 Road SW Ste 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 27th day of April, 2016.

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

WASHINGTON STATE - DEPARTMENT OF ECOLOGY
Water Resources Program - Eastern Regional Office
Water Right Control Number CG3-26830C@2
Ground Water Certificate No. G3-26830C

BACKGROUND

An application for change/transfer was submitted by the City of Newport, Washington, to the Department of Ecology on May 26, 2015. The City proposes to add four (4) points of withdrawal and change the place of use.

EXISTING Water Right Attributes

Recorded Name:	City of Newport
Priority Date:	March 4, 1981
Source	7 wells (Well's B, D, E, F, G, H, J)
GPM	270
AF/YR	436
Purpose of use	Municipal supply
Place of Use	Area served by the City of Newport Municipal Supply System within Pend Oreille County, Washington and Bonner County, Idaho. The place of use (POU) of this water right is the service area described in the most recent Water System Plan approved by the Washington State Department of Health, so long as the City of Newport is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.
County	Pend Oreille
WRIA	62 – Pend Oreille

REQUESTED Water Right Attributes

Applicant Name:	City of Newport
Date of Application:	May 26, 2015
Source	11 wells (Well's B, C, D, E, F, G, H, I, J, K, M)
GPM	270
AF/YR	436
Purpose of use	Municipal supply
Place of Use	Area served by the City of Newport. The place of use (POU) of this water right is the service area described in the most recent Water System Plan approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

Source	Parcel #	Well Tag	Twp	Rng	Sec	QQ	Latitude	Longitude
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Legal Requirements for Proposed Change

The following is a list of requirements that must be met prior to authorizing the 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 area where the water is to be stored, diverted and used. Notice of this application was published in the Newport Miner on June 17 and 24, 2015. 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;
(c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
(d) 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);
(e) 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.

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

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, if:

(a) The additional or replacement well taps the same body of public ground water as the original well. RCW 90.44.100(2)(a),
(b) Where a replacement well is approved, the user must discontinue use of the original well and properly decommission the original well. RCW 90.44.100(2)(b),
(c) Where an additional well is constructed, the user may continue to use the original well, but the combined total withdrawal from all wells shall not enlarge the right conveyed by the original permit or certificate. RCW 90.44.100(2)(c),
(d) Other existing rights shall not be impaired. RCW 90.44.100(2)(d).

When changing or adding points of withdrawal to groundwater rights (RCW 90.44.100), or when consolidating exempt wells with an existing permit or certificate (RCW 90.44.105), the wells must draw from the *same body of public groundwater*. Indicators that wells tap the *same body of public groundwater* include:

(a) Hydraulic connectivity.
(b) Common recharge (catchment) area.
(c) Common flow regime.
(d) Geologic materials that allow for storage and flow, with recognizable boundaries or effective barriers to flow.

RCW 90.03.386(2) states that a municipal water supplier may change its service area through the water system plan approval process. As long as the municipal water supplier is in compliance with the approved plan, the place of use for the water right is the service area of the plan.

INVESTIGATION

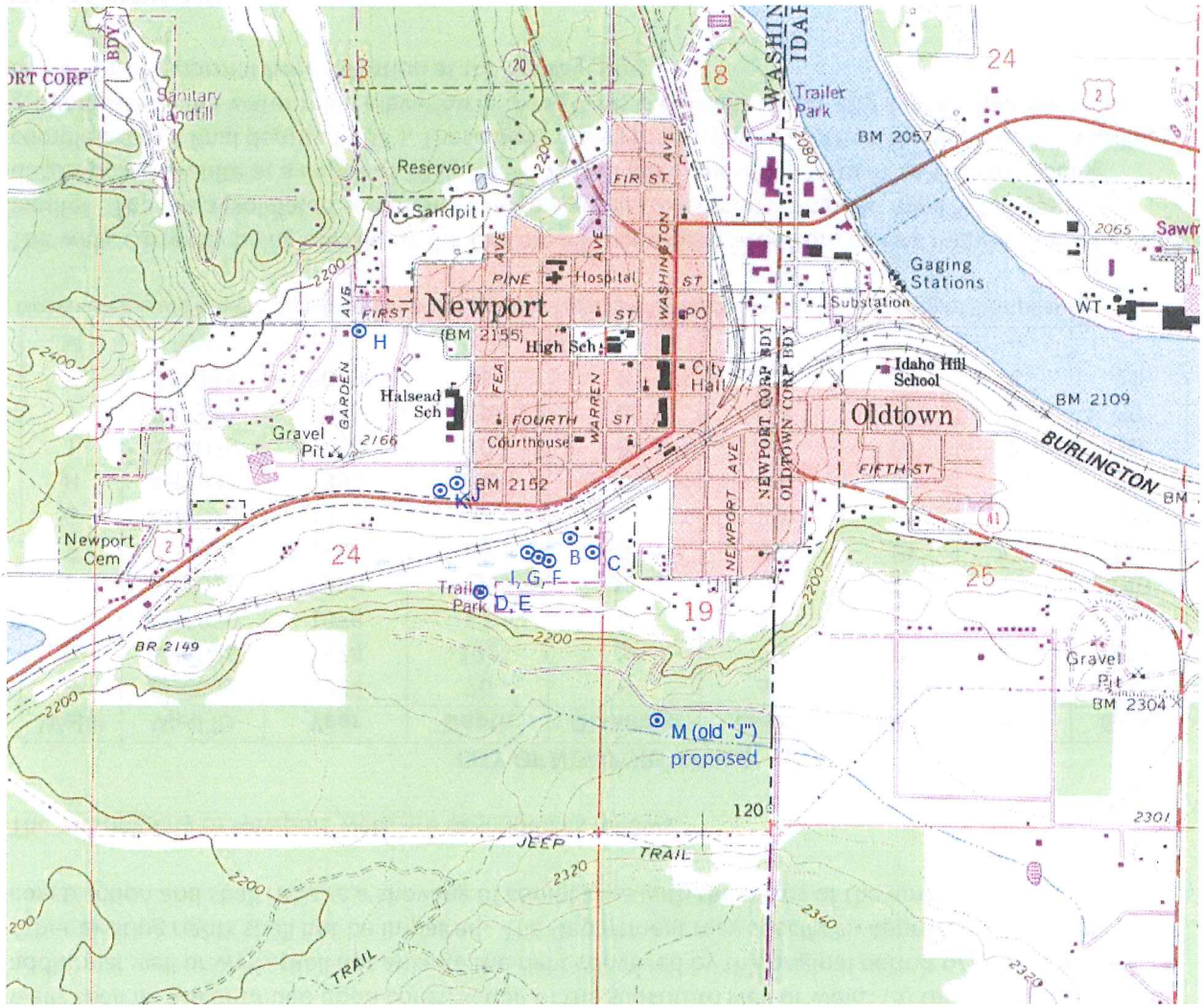
In considering the proposed application, the investigation included, but was not limited to:

- Appropriate Washington State RCW's and WAC's
- Ground Water Certificate Nos. G3-22797C, G3-25887C and G3-26830C
- Ecology's Water Rights Tracking System (WRTS) and Well Log Database
- USGS topographic maps and aerial photography
- Site visit with Ray King, City of Newport Administrator
- Conversations with Ashley Williams and Necia Maiani of Welch-Comer
- Review by Department of Ecology regional program staff

A field investigation was conducted by Gene Drury with Ray King on September 30, 2015. The current water system has 10 wells. The system operates an Upper Zone consisting of Wells D & E and a Lower Zone consisting of Wells B, C, F, G, H, I, J and K. Wells B, D, E and F are primarily used for the water system. Wells B and F are seasonal wells. The other wells are used for emergency/back-up supply. Well C is not connected to the system and contains high manganese levels. Wells C and I were originally to be decommissioned and were removed from the water rights in 2009. However, the City wishes to keep these wells as standby sources and so they will be added back to the City's water rights.

The City had originally intended to drill a new Well "L" near the Pend Oreille River in Sec. 18, T. 31 N., R. 46 E.W.M. but has since dropped these plans. The City instead decided to drill new Wells J and K in 2015 under RCW 90.44.100 within the SW¼NE¼ of Sec. 24, T. 31 N., R. 45 E.W.M. An additional new Well M is scheduled to be constructed soon and was formally identified as Well "J" in previous Ecology change decisions. The location of Well M (Old "J") was approved in Change Reports of Examination issued by Ecology on June 9, 2009.

CITY OF NEWPORT – WELL LOCATIONS



USGS 7.5 Minute (Topographic Map) - "Newport"

The existing City wells are authorized under Ground Water Certificate Nos. G3-22797C, G3-25887C and G3-26830C for a total of 684 gallons per minute and 1098 acre-feet per year. The City integrated these three water rights in 2009. With the addition of G3-30739, the total will be 1034 gallons per minute and 1418 acre-feet per year.

The City has two storage reservoirs of 1.2 million gallons and 900,000 gallons. A 400,000 gallon tank is also proposed to increase fire flow for the City.

WATER USE – City of Newport

YEAR	ACRE-FEET
2011	533
2012	502
2013	518
2014	471
2015	352

The existing water use is authorized under Ground Water Certificates Nos. G3-22797C, G3-25887C and G3-26830C. The City integrated these three water rights in 2009. The City is moving away from relying on the spring water from West Bonner. The lower water use totals in recent years is attributed to the City installing new meters on its sources and addressing water main leaks and system losses. Also, 2015 was a drought year and customer use was reduced.

Hydrogeologic Analysis

The hydrogeologic analysis for the PUD's application was provided by John Covert, hydrogeologist for Ecology's Water Resources Program.

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 existing City of Newport wells are described as follows:

CITY OF NEWPORT WELLS

Well#	Well ID	Year	Depth	Diameter	Casing	SWL	HP	GPM
B	AHC032	1974	76	8	51	6	7.5	180
C	AHC026	1974	100	8	70	10	7.5	100
D	AHC030	1978	67	8	56	6	20	260
E	AHC031	1990	105	10	90	21	15	150
F	AHC027	1990	80	8	70	19	7.5	120
G	AHC028	1990	90	8	70	22	7.5	120
H	AHC033	1995	160	8	70	21	7.5	70
I	AHC029	1996	70	8	70	10	2	30
J	BAF333	2015	138	8	138	47	2	30
K	BAF335	2015	93	8	88	47	2	20
M	N/A	--	--	--	--	--	--	--

Note: Well J and K were constructed under existing rights per RCW 90.44.100(3) Showing of Compliance

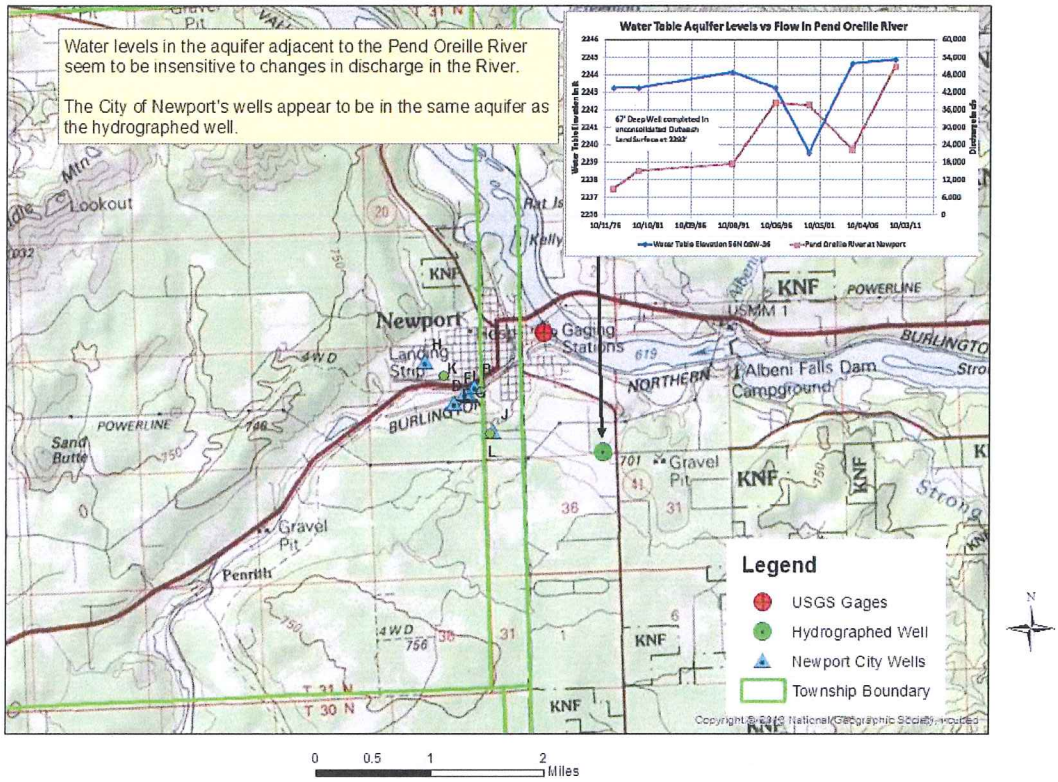
The wells currently being utilized by the City are all producing water from an unconfined sand and gravel aquifer. The unconsolidated sediments overlie a granitic basement complex. Well "F" tagged decomposed granite at a depth of 105'. Well J tagged decomposed granite at 148' (before being completed to a final depth of 138'). These wells are all producing water from the same body of public groundwater. The water table elevation in these wells is typically about 100' higher than the Pend Oreille River's normal river elevation at the nearby gage.

The previously approved, but to date undrilled new well (M) located in the SW¼SW¼ of Sec. 19, T. 31 N., R. 46 E.W.M. will need to be completed within the unconsolidated sediments as that well was integrated with the City's other water rights on a previous change.

Since the mid 1970s, the USGS has been periodically measuring the water level in an unconsolidated sand and gravel well in the NE ¼ NE ¼ of Section 36, T. 56 N., R. 06 W. in Bonners County, Idaho. This well is located about a mile SE of Newport's existing wells. The monitored well and the City's existing wells are completed in similar lithologies and are spatially about the same distance from the Pend Oreille River. Overlaying the head in this well with the flow in the Pend Oreille River at the Newport USGS gage demonstrates that the water level in the unconsolidated aquifer is insensitive to changes in the discharge of the adjacent river. Flows in the river change by 30,000 cfs yet the head in the aquifer varies by less than one foot and higher flows don't always correspond to higher heads. While this aquifer is likely tributary to the Pend Oreille River, it is clearly not in bank storage nor is it likely that regulation of groundwater pumping from the unconsolidated aquifer in this area would be beneficial to protecting instream flows during a regulatory event. When bank storage wells are regulated, the effect on the adjacent streamflow is essentially instantaneous and therefore it makes sense to provision such rights to protect an instream flow.

The City's existing and proposed new wells are producing water from an aquifer that is tributary to but not in bank storage with the Pend Oreille River. The heads measured in the City's wells are around 100' higher in elevation than the pool elevation of the river downstream from the dam. These unconsolidated aquifer wells will not need to be provisioned as interruptible to the minimum flows typically applied to groundwater rights located near the Pend Oreille River. Flows would not respond in a timely manner to the cessation of pumping during a regulatory event at these well sites.

Water Table Wells near Newport vs Pend Oreille Flows



Impairment Analysis:

"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 requires evidence of a substantial and lasting or frequent impact reflecting such conditions.

The amount of water authorized will not be increased or expanded by this authorization. The same amount of water will be authorized and remain within the same body of public ground water. The change should not impair the existing rights.

Other Water Rights Appurtenant to the Place of Use

The City currently holds three existing water rights for 684 gallons per minute and 1,098 acre-feet per year. These water rights are for municipal water supply purposes as defined under RCW 90.03.015 and have been determined to be valid and in good standing. With the addition of new Ground Water Permit G3-30739, the water right total will be 1,034 gallons per minute and 1,418 acre-feet per year. The recorded rights are as follows:

CITY OF NEWPORT WATER RIGHTS

WATER RIGHT	PRIORITY DATE	Q(i)	Q(a)	USE
G3-22797C	March 1, 1974	344	550	Municipal Supply
G3-25887C	March 20, 1978	70	112	Municipal Supply
G3-26830C	March 4, 1981	270	436	Municipal Supply
SUB-TOTAL:		***684***	***1,098***	
G3-30739	May 14, 2015	350	320	Municipal Supply
TOTAL:		**1,034**	**1,418**	

Q(i) = instantaneous quantity in gallons per minute; Q(a) = annual quantity in acre-feet per year

Consideration of Protests and Comments

No protests were filed.

Findings:

Water has been used under Ground Water Certificate No. G3-26830C for municipal water supply purposes and is in good standing.

When considering an application for change to a water right, Ecology must determine that the proposed change/transfer can be made without detriment or injury to existing water rights. Factors considered when determining potential impact include the following:

Impairment Considerations

A review of Ecology records was conducted for existing water rights in the vicinity of the City's points of withdrawal. No other rights were found that would be impaired by this change.

No Enhancement of Original Right

No withdrawal of water over and above what has been historically put to beneficial use and/or originally authorized under existing rights will be allowed through approval of this change.

Public Interest Considerations

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.

Same Source of Water

All of the wells involved in this change proposal withdraw water from the same body of public ground water.

Conclusions

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, this application to change under Ground Water Certificate No. G3-26830C will not enlarge the quantity of water historically authorized, nor will it impair existing rights provided the terms and conditions below are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to Ground Water Certificate No. G3-26830C is approved in the amounts and within the limitations listed below and subject to the provisions beginning on Page 2, and following.

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:

Qi: 270 gallons per minute
Qa: 436 acre-feet per year
Purpose: Municipal Supply
Points of Withdrawal: 11 Wells
Place of Use: As described on Page 1 of this Report of Examination.

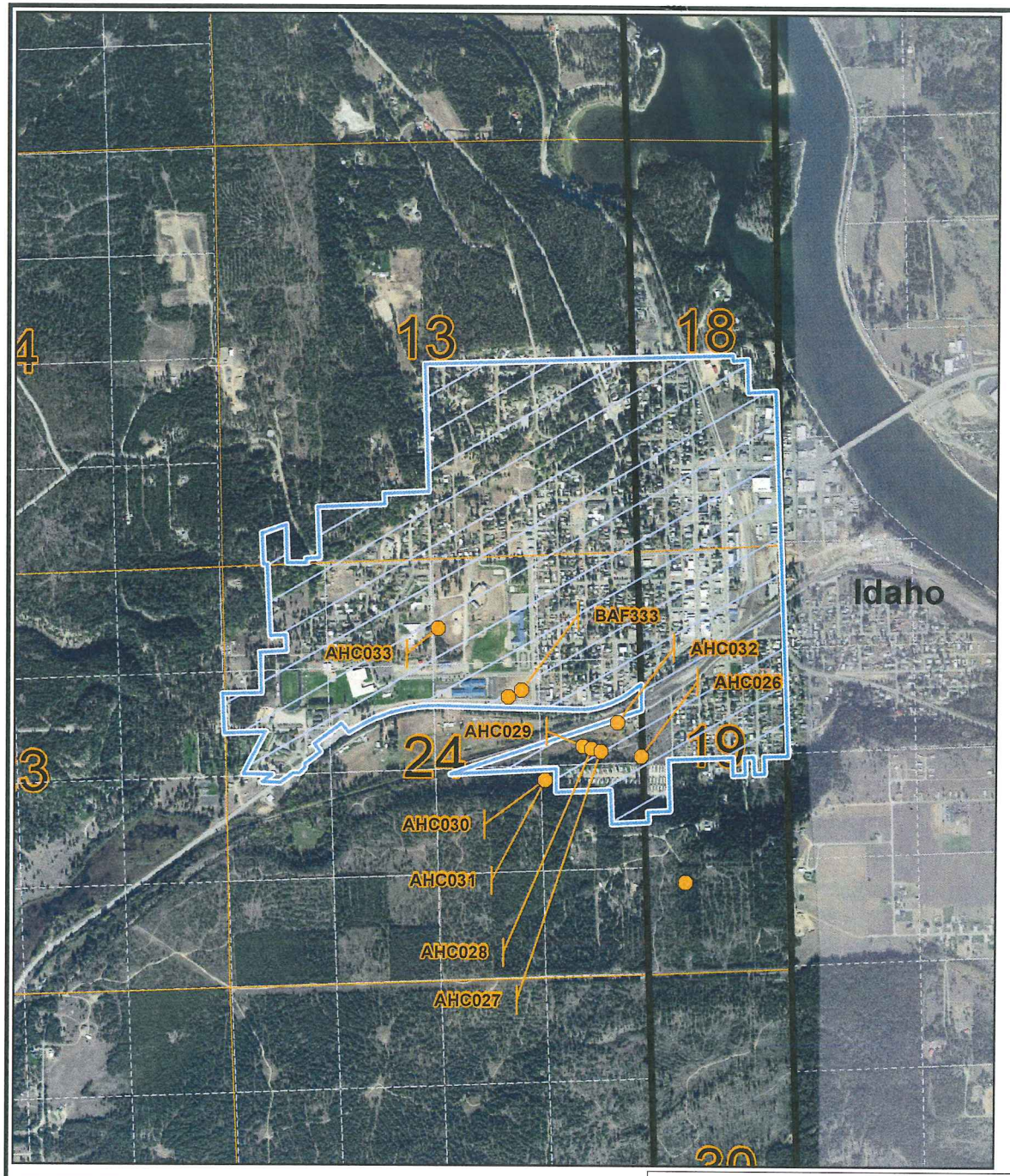
As described on Page 1 of this Report of Examination.

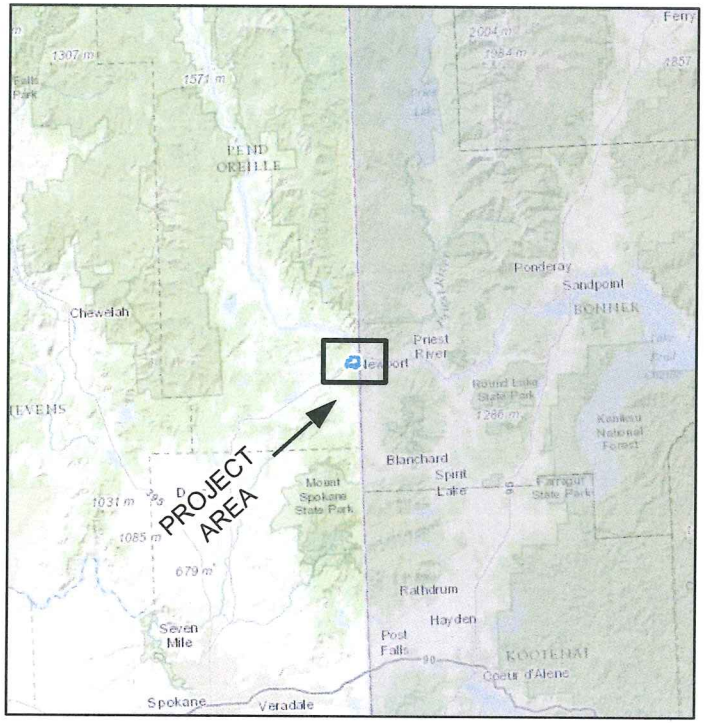
4-27-2014

Gene Drury, 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.

City of Newport
G3-26830
T31N/R45E, T31N/R46E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Withdrawal

(Source locations may vary in their accuracy and precision as stated within the body of the report.)

0 660 1,320 2,640 3,960 5,280 Feet

Basemap - (NAIP 2015 Air Photo)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 4/14/2016

Comment:
Place of use and source locations are as defined within the Report of Examination cover sheet for the document identfied in the header above.

ATTACHMENT 1