File NR G4-33086
WR Doc ID 5600609

State of Washington
Department of Ecology
Office of Columbia River
TERM PERMIT G4-33086P

PRIORITY DATE
12/24/2012

WATER PERMIT APPLICATION NUMBER
G4-33086

MAILING ADDRESS
Granite Farms, LLC
Attn: Brad Smith
3866 Hanson Loop Rd
Burbank, WA 99323

SITE ADDRESS (IF DIFFERENT)
Former Port of Walla Walla tree farm near Wallula, WA.

See Place of Use description below.

Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
4350	GPM	1353

Total withdrawals from all sources must not exceed the total quantity authorized for withdrawal listed above.

Purpose

	WITHDRAWAL RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE
PURPOSE	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	(mm/dd)
Irrigation	4350		GPM	1353		4/1 - 9/30

REMARKS

(1) Water used under this authorization is mitigated by water being leased by the applicant from Ecology under an associated water service contract. Mitigation water is subject to the terms of Ecology's lease contract with the Port of Walla Walla (Contract C 1100119).
(2) Mitigation water for this Term Permit is provided from water formerly used under G3-28146C.
(3) This TEMPORARY AUTHORIZATION expires on November 30, 2020, or earlier. See *Provisions* below for details.

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
580	0	N/A	

Source	COUNTY	WATERBODY	WATER RESOURCE INVENTORY AREA
Five Wells	Walla Walla	Groundwater	32-Walla Walla

Well No.	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q
Well 1	31-07-11-00-001		07N	31E.W.M.	11	SW
Well 2	31-07-11-00-001		07N	31E.W.M.	11	SW
Well 3	31-07-11-00-001		07N	31E.W.M.	11	SW
Well 4	31-07-11-00-001		07N	31E.W.M.	11	SW
Well 5	31-07-11-00-001		07N	31E.W.M.	11	SW

Place of Use

PARCELS
31-08-35-41-0003, 31-07-02-00-0001, 31-07-11-00-0001

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
Sections 2 and 11 of T. 7 N., R. 31 E.W.M. and that portion of Section 35, T. 8 N., R. 31 E.W.M. owned by the Port of Walla Walla.

Proposed Works

Five existing wells providing water to an irrigation system comprised of center pivots with drop down sprinklers.

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (By Jan 31 of the following year)
What volume should be reported?	Total annual volume in acre-feet
What rate should be reported?	Annual peak rate of withdrawal in gpm

Provisions

Temporary Authorization, Termination, Cancellation

This temporary authorization relies upon mitigation water leased from Ecology under an associated water service contract and is subject to the terms of that contract.

The associated water service contract remains in effect for a maximum of eight (8) irrigation seasons yet allows for early termination under certain circumstances. As such, this temporary authorization shall remain in effect for up to eight irrigation seasons (until November 30, 2020, at the latest), or at such time as the associated water service contract is terminated.

This temporary authorization shall be subject to cancellation for non-compliance with its limitations and provisions. In such instance, should non-compliance continue, enforcement proceedings by Ecology may be initiated.

This temporary authorization shall be subject to cancellation for non-payment of lease fees as outlined in the associated water service contract. In such instance, should water use continue, enforcement proceedings by Ecology may be initiated.

Wells, Well Logs and Well Construction Standards

All wells constructed in the state shall meet the construction requirements of Chapter 173-160 WAC titled "Minimum Standards for the Construction and Maintenance of Wells" and Chapter 18.104 RCW 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 in the future, 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 shall 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", Chapter 173-173 WAC.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.
Chapter 173-173 WAC 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.

Quantity Limits, Flow and Regulation

This authorization is subject to the following minimum flows as specified in WAC 173-563-040 and WAC 173-563-050 and the following table. It is subject to regulation by the Department of Ecology for protection of instream resources whenever the March 1 forecast of April-September runoff at The Dalles is 60 MAF or less, and when gaged flows are predicted by the BPA 30-Day Power Operation Plan to violate the following minimum flow provisions at:

Primary Control Station: McNary
River Mile: 292.0

Minimum Average Weekly Flows
Columbia River Projects
(1,000 cubic feet/second)

PRIMARY CONTROL STATION: RIVER MILE:	Chief Joseph* (545.1)	Wells/ Rocky Reach* (515.6) (473.7)	Rock Island & Wanapum* (453.4) (415.8)	Priest Rapids (397.1)	McNary (292.0)	John Day (215.6)	The Dalles (191.5)
Jan	30	30	30	70	60	60	60
Feb	30	30	30	70	60	60	60
Mar	30	30	30	70	60	60	60
Apr 1-15	50	50	60	70	100	100	120
Apr 16-25	60	60	60	70	150	150	160
Apr 26-30	90	100	110	110	200	200	200
May	100	115	130	130	220	220	220
Jun 1-15	80	110	110	110	200	200	200
Jun 16-30	60	80	80	80	120	120	120
Jul 1-15	60	80	80	80	120	120	120
Jul 16-31	90	100	110	110	140	140	140
Aug	85	90	95	95	120	120	120
Sep	40	40	40	40	60	85	90
Oct 1-15	30	35	40	40	60	85	90
Oct 16-31	30	35	40	70	60	85	90
Nov	30	30	30	70	60	60	60
Dec	30	30	30	70	60	60	60

* For the reach from Grand Coulee through Wanapum, minimum average weekly flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff and adjustment) at Priest Rapids, whichever is higher. As provided in WAC 173-563-050(1), the minimum average weekly flows set forth in this subsection are subject to a reduction of up to 25 percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs.

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.

Easement and Right-of-Way

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a

private matter between applicant and owner of that land.

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.

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 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 No. G4-33086, 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

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.

Signed at Yakima, Washington, this 2nd day of August 2013.

Derek I. Sandison, Director
Office of Columbia River

INVESTIGATOR'S REPORT
Application for Water Right -- Granite Farms LLC
Water Right Control Number G4-33086
Thomas Perkow, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Term Permit Application Number G4-33086.

Table 1: Summary of Requested Term Permit

Applicant Name:	Granite Farms LLC
Date of Application:	12/24/2012
Place of Use	Sections 2 and 11 of T. 7 N., R. 31 E.W.M. AND Section 35, T. 8 N., R. 31 E.W.M.

Source	County	Waterbody	WRIA
Five Wells	Walla Walla	Groundwater	32-Walla Walla

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation	4350	GPM	1353	03/01	11/30

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q
Well 1	31-07-11-00-001		07N	31E.W.M.	11	SW SW
Well 2	31-07-11-00-001		07N	31E.W.M.	11	SW SW
Well 3	31-07-11-00-001		07N	31E.W.M.	11	SW SW
Well 4	31-07-11-00-001		07N	31E.W.M.	11	SW SW
Well 5	31-07-11-00-001		07N	31E.W.M.	11	SW SW

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum: NAD83/WGS84.

Legal Requirements for Approval of Appropriation of Water

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 Times on March 14 and March 21, 2013. No responses were received in the 30-day response period provided.

Notice to the Washington Department of Fish and Wildlife

Under RCW 77.57.020, Ecology must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. Such notice was sent to WDFW on March 21, 2013. In a letter dated April 4, 2013, WDFW indicated that they do not oppose the approval of the subject application. WDFW indicated also that they recognize that this permit would be fully mitigated and is temporary. WDFW asks that the termination date be clear and that a SEPA evaluation, should it be required, evaluate impacts to instream flows resulting from these withdrawals.

Consultation under Chapter 173-563 WAC

Under WAC 173-563-020(4), before any application is considered for approval or denial after July 27, 1997, Ecology must consult with appropriate local, state, and federal agencies and Indian tribes. The consultation process solicits input regarding possible impacts on fish and existing water rights. Consultation letters were sent on March 21, 2013. No responses other than the WDFW responses discussed above were received in the 30-day response period provided.

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 (22,440 gallons per minute), 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.

INVESTIGATION

Proposed Use

Five wells to provide irrigation water to center pivots with drop-down sprinklers serving 580 acres.

Other Rights Appurtenant to the Place of Use

None authorizing irrigation.

Impairment Considerations

Impairment is an adverse impact on the physical availability of water for a beneficial use that is entitled to protection. A water right application may not be approved if it would:

- Interrupt or interfere with the availability of water to an adequately constructed groundwater withdrawal facility of an existing right. An adequately constructed groundwater withdrawal facility is one that (a) is constructed in compliance with well construction requirements and (b) fully penetrates the saturated zone of an aquifer or withdraws water from a reasonable and feasible pumping lift.
- Interrupt or interfere with the availability of water at the authorized point of diversion of a surface water right. A surface water right conditioned with instream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the instream flow more frequently or for a longer duration than was previously the case.

- Interrupt or interfere with the flow of water allocated by rule, water rights, or court decree to instream flows.
- Degrade the water quality of the source to the point that the water is unsuitable for beneficial use by existing users (e.g. via sea water intrusion).

Water use under this authorization is mitigated proportionately by water no longer being used and temporarily placed into the State's Trust Water Right Program (TWRP). This mitigation water derives from eight water rights temporarily leased by Ecology's Office of Columbia River (OCR). Six of these rights, comprising a combined total of 1,658 ac-ft, predate Chapter 173-563 WAC and are not subject to curtailment during periods of low flow described within this rule. However, two of these eight rights, comprising a combined total of 3,103 ac-ft, are subject to Chapter 173-563 WAC.

All of the water in the TWRP predating Chapter 173-563 WAC has already been allocated under separate Term Permits (S4-33079P and S4-33082P), leaving only water that is subject to Instream Flows and which may be curtailed during periods of low flow as described within Chapter 173-563 WAC. However, should senior leases expire in whole or in part, and older water not subject to Chapter 173-563 WAC become available, this authorization may benefit in whole or in part. Such mitigation water accounting will be managed by OCR and discussed with the applicant prior to each irrigation season.

Portions of the following discussion rely on a separate Technical Memorandum authored by a Hydrogeologist licensed to practice in Washington on staff with Ecology. The five wells proposed for use under the subject application are the same wells that provided the water that is now in the TWRP and being offered as mitigation. Previous hydrogeological investigations and the Technical Memorandum referenced above conclude that these wells are completed within unconsolidated sediments and in an aquifer hydraulically connected with the Columbia River. Mitigation water provided is proportionate to that proposed. The groundwater use proposed mimics that which was historically pumped, and there has been no reported well interference from the historical pumping. As such, interruption or interference to other water users is not expected.

This authorization would be subject to curtailment during periods of low flow as outlined in Chapter 173-563 WAC and, as such, interruption or interference with Instream Flows is not expected.

Water Availability

For water to be available for appropriation, it must be both physically and legally available.

Physical availability

For water to be physically available for appropriation there must be ground or surface water present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. In addition, the following factors are considered:

- Volume of water represented by senior water rights, including federal or tribal reserved rights or claims;
- Water right claims registered under Chapter 90.14 RCW;
- Ground water uses established in accordance with Chapter 90.44 RCW, including those that are exempt from the requirement to obtain a permit; and
- Potential riparian water rights, including non-diversionary stock water.

- Lack of data indicating water usage can also be a consideration in determining water availability, if the department cannot ascertain the extent to which existing rights are consistently utilized and cannot affirmatively find that water is available for further appropriation.

The Technical Memorandum mentioned above indicates that the unconsolidated aquifer into which the five wells would draw water from is in hydraulic communication with the Columbia River, and these wells are located close to the Columbia River. These five wells were previously used to pump considerably more water than that proposed under the subject application.

Legal availability

To determine whether water is legally available for appropriation, the following factors are considered:

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.
- Fisheries and other instream uses (e.g., recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where further reducing the flow level of surface water would be detrimental to existing fishery resources.
- The Department may deny an application for a new appropriation in a drainage where adjudicated rights exceed the average low flow supply, even if the prior rights are not presently being exercised.

Water use under this authorization is mitigated by water placed into the State's Trust Water Right Program under a lease agreement. That lease agreement (C 1100119) remains in effect for a maximum of eight (8) irrigation seasons yet allows for early termination under certain circumstances. As such, this temporary authorization shall remain in effect for up to eight irrigation seasons (until November 30, 2020, at the latest), or at such time as the associated water service contract is terminated. The mitigation water would not be available during periods of low flow as described in Chapter 173-563 WAC. As such, water may not be available to be diverted under this authorization during such low flow periods.

Water use under this authorization would be mitigated by water formerly used under G3-28146C.

Beneficial Use

The proposed use of water – irrigation – is defined in statute as a beneficial use (RCW 90.54.020(1)). Beneficial use also encompasses reasonable use. The proposed use of 1353 ac-ft/yr to irrigate 580 acres of row crops equates to 2.33 ac-ft per acre each year. Data from the Washington Irrigation Guide and institutional knowledge support this annual quantity of irrigation for the production of row crops in this area under the proposed irrigation system. This quantity would not result in a waste of water resulting from excess irrigation of row crops in this area.

Public Interest Considerations

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

All legal requirements have been satisfactorily addressed:

1) The proposal was properly noticed.
2) Notice was given to the Washington Department of Fish and Wildlife for consultation.
3) Consultation with relevant agencies and tribes was solicited.
4) Impairment is not expected.
5) Water is available through mitigation.
6) Water will be applied to beneficial use without waste.
7) The proposed water use will not be detrimental to the public interest.

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 on the *Term Permit.*

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:

4350 gpm
1353 acre-feet per year
For the purpose of irrigating 580 acres

Points of Withdrawal

Five wells located with the SW¼,SW¼, Section 11, Township 7 North, Range 31 E.W.M.

Place of Use

Sections 2 and 11 of T. 7 N., R. 31 E.W.M. and that part of Section 35, T. 8 N., R. 31 E.W.M. owned by the Port of Walla Walla.

Thomas Perkow *Date* 8/1/13

If you need this publication in an alternate format, please call 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.