



State of Washington
DRAFT
 REPORT OF EXAMINATION
 FOR WATER RIGHT CHANGE

File NR CS2-SWC8008
 WR Doc ID 41842

Added or Changed Point of Withdrawal/Diversion
 Changed Season of Use

PRIORITY DATE August 13, 1958	WATER RIGHT NUMBER CS2-SWC8008
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MAILING ADDRESS JACK STOKMAN PO BOX 337 WOODLAND 98674	SITE ADDRESS (IF DIFFERENT)
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Total Quantity Authorized for Withdrawal or Diversion

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

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Irrigation	Denied			Denied		

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Clark	Lewis River		27-Lewis

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
LEWIS RIVER			05N	01E	10			

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

Denied

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Denied

Proposed Works

Denied

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
NA	NA	NA

Findings of Facts

Upon reviewing the investigator’s report, I find all facts and relevant and material to this application have been thoroughly investigated. The applicant has not asserted any exemption from relinquishment of a portion of this right, nor has he requested to add additional acres of irrigation through the Annual Consumptive Quantity calculations described in RCW 90.03.380.

Therefore, I ORDER this application to change Surface Water Certificate No. 8008 be denied.

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.

Mailing Addresses	Addresses
<p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p> <p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>	<p>Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501</p> <p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>

- **Please send a copy of your appeal to:**
Michael J. Gallagher, Section Manager
Water Resources Program
Southwest Regional Office
P.O. Box 47775
Olympia WA 98504-7775

Signed at Olympia, Washington, this _____ day of _____ 2011.

Michael J. Gallagher, 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>.

INVESTIGATOR'S REPORT

Tammy Hall, Department of Ecology

Water Right Control Number CS2-SWC8008

BACKGROUNDDescription and Purpose of Proposed Change

On March 30, 2004, Jack Stokman filed an *Application for Change* to add a point of diversion and a place of use to Surface Water Right Certificate (SWC) 8008. The applicant also wished to change the period of use from seasonal to year-round. This project is located in the Water Resources Inventory Area (WRIA) 27, the Lewis Basin.

Attributes of the Existing Water Right and Proposed Change

Table 1. Attributes of Surface Water Certificate (SWC) 8008.

Name	Vance W. Witt
Priority Date	08/13/1958
Source	Lewis River
Instantaneous Quantity	0.8 cfs
Annual Quantity	160 af/yr
Purpose of Use	Irrigation of 80 acres
Period of Use	May 1 to October 1
Place of Use	As described within the NW ¼ of Section 10, T. 5 N., R. 1 E.W.M.

Table 2. Current authorized use of SWC 8008 and Proposed Change.

Attribute	Existing	Proposed
Source	Lewis River	Same
Place of Use	30 acres in authorized Place of Use Parcels: 252688000, 252682000, 252691000, 252687000	30 acres in authorized Place of Use: AND 5 acres: Parcel 252232000
Purpose of Use	Irrigation	Same
Point of Diversion (TRS)	NW ¼ Section 10, in T. 5 N., R. 1 E.W.M.	NW ¼ Section 10, in T. 5 N., R. 1 E.W.M. AND ½ SW ¼ Section 9, in T. 5 N., R. 1 E.W.M.

Legal Requirements for Proposed Change

The following is a list of requirements that must be met prior to authorizing the proposed change in SWC 8008.

Public Notice

A public notice of the proposed transfer was published in The Reflector, a weekly newspaper in Battle Ground, Washington, for a period of two consecutive weeks beginning on April 21 to April 28, 2004. There were no letters of protest or concern received as a result of this notice.

State Environmental Policy Act (SEPA)

A SEPA determination evaluates if a proposed withdrawal will cause significant adverse environmental impacts. A SEPA threshold determination is required for:

- 1) Surface water applications for more than 1 cubic feet per second (cfs). For agricultural irrigation, the threshold increases to 50 cfs, if the project isn't receiving public subsidies.
- 2) Groundwater applications requesting more than 2,250 gpm.
- 3) Projects with several water right applications where the combined withdrawals meet the conditions listed above.
- 4) Projects subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA).
- 5) Applications that are part of several exempt actions that collectively trigger SEPA under WAC 197-11-305.

This application does not meet any of these conditions and is categorically exempt from SEPA.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states a water right put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed, as long as it would not harm or injure other water rights.

The Washington Supreme Court has held that when Ecology processes an application for change to a water right, they are required to make a tentative determination. A tentative determination establishes the extent and validity of the claim or water right to verify that it is eligible for change. *R.D. Merrill v. PCHB and Okanogan Wilderness League v. Town of Twisp*.

INVESTIGATION

Documents used to investigate and prepare this report include:

- The State Ground and Surface Water Codes, administrative rules, and policies.
- The State Environmental Policy Act (SEPA).
- Water right certificates, permits, applications and claims, on file with the Department of Ecology.
- Topographic local area maps and aerial photographs of the site.

- Information submitted by the applicant.
- Telephone and written correspondence from Jack Stokman.
- Notes from a site visit on June 3, 2008 conducted by Abby Brown (Ecology).

History of Water Use

SWC 8008, issued to Vance W. Witt on August 13, 1958, authorized diversion of 0.80 cubic feet per second (cfs) and 160 acre-feet (ac-ft) per year from the Lewis River for seasonal irrigation of 80 acres. Following is a summary of the history of water use of SWC 8008.

- Vance W. Witt irrigated the original place of use, an 80-acre parcel beginning in 1958. Land owners after Mr. Witt also irrigated the entire 80 acres allowed under SWC 8008 until 1978.
- In 1978, George B. Hoffman purchased the property. In a signed affidavit, Mr. Hoffman stated that he irrigated the entire 80-acre parcel from 1978 until 1993, when he subdivided his property.
- In 1993, Jack Stokman purchased ten acres of the Hoffman property, land riparian to the Lewis River, where the point of diversion for SWC 8008 was located. In a letter dated September 15, 2005, Mr. Hoffman stated: "...Had used water rights from 1978-1993 and at that point in time, transfer water rights to Jack Stokman."
- Early in 1995, Mr. Stokman began irrigating his property and adjoining land he was leasing, which total roughly 30 acres. All three parcels were part of the Hoffman property and in the original place of use of SWC 8008. The remaining 50 acres of the original parcel were not irrigated after 1995.
- In 2003, Mr. Stokman purchased 6.51 acres, 1.6 miles downstream from the property he was irrigating under SWC 8008. This property, located at NW Hayes Road, at roughly River Mile (RM) 10, was outside of the original place of use as identified on the certificate.
- On March 30, 2004, Mr. Stokman filed Change Application CS2-SWC8008 to irrigate this property using water from the Lewis River.
- In 2005, he began irrigating the Hayes Road property without authorization while continuing to irrigate 30 acres in the original place of use.

Relinquishment from nonuse

Under RCW 90.14.130-180, a water right is completely or partially relinquished if the water user voluntarily fails to put the water to a beneficial use for a period of five successive years. The statutory standard is applicable to the nonuse of water on or after July 1, 1967, unless exceptions to relinquishment discussed in RCW 90.14.140 apply.

SWC 8008 was last fully exercised in 1993 by George Hoffman. After 1993, Mr. Stokman only irrigated about 30 acres of the original 80-acre original place of use. In 1998, after five continuous years of

nonuse, the unused portion of SWC 8008, which had allowed irrigation of an additional 50 acres, lapsed into relinquishment. Only water used to irrigate 30 acres in the original place of use is tentatively determined to be valid and eligible for change.

In order to add additional irrigated acres to a water right, the applicant must request Ecology to calculate the Annual Consumptive Quantity (ACQ) based on calculations described in RCW 90.03.380. Mr. Stokman does not propose changes in irrigation practices or efficiency to reduce the ACQ to “free-up” some of this water to add additional acres to this right. Therefore, no additional acres of irrigation can be added to this right.

Conclusions

Based on my tentative determination, SWC 8008 is currently only valid to irrigate 30 acres. Because Mr. Stokman is not requesting adding additional acres to this right under the ACQ calculations, no additional acres of irrigation can be added to this right.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request to change SWC 8008 be denied.

Report Writer

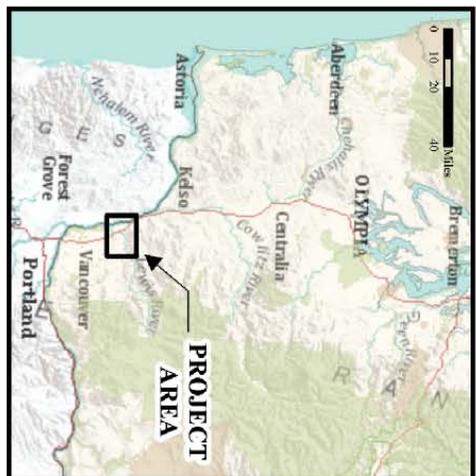
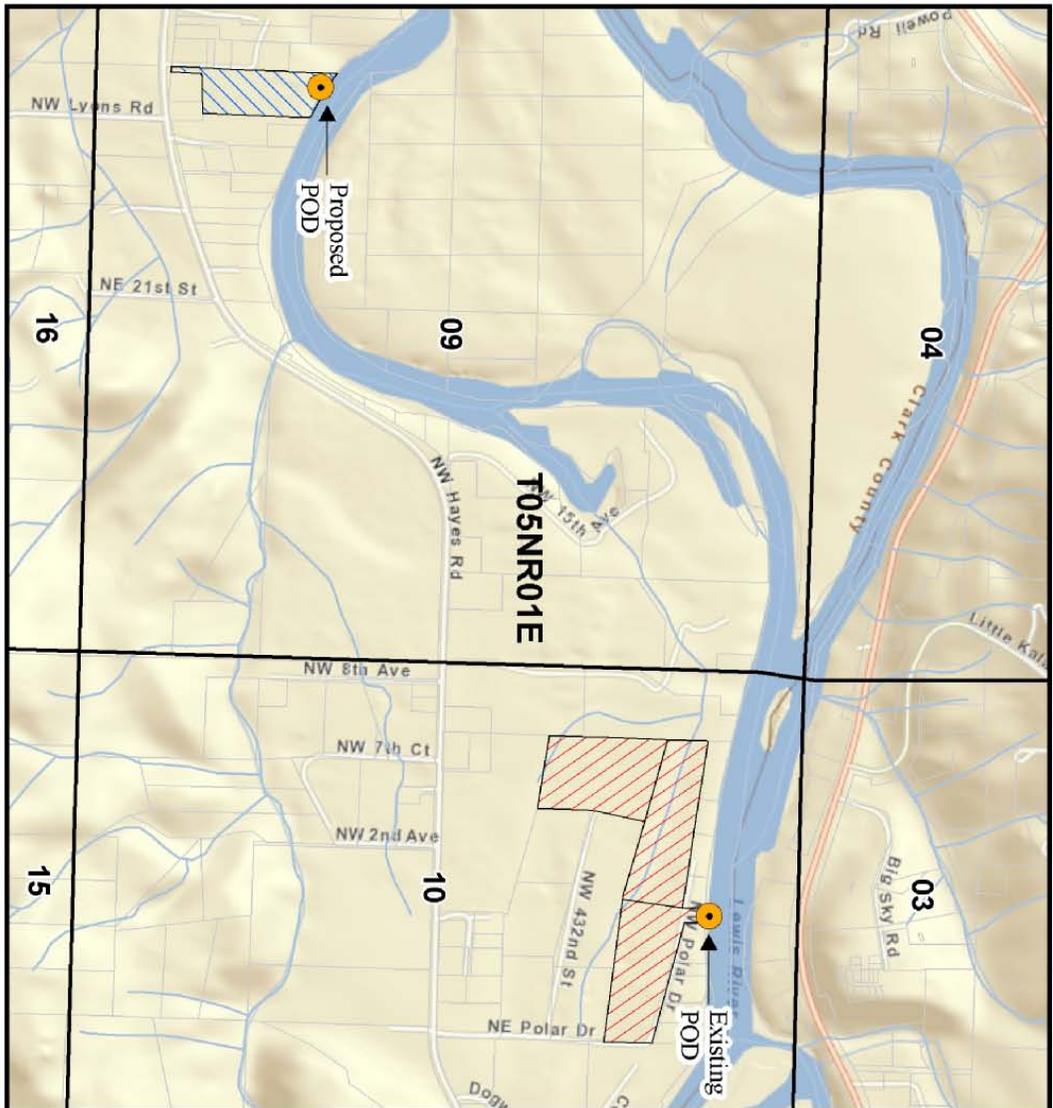
Date

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.

References:

Department of Ecology, 2006, *Digest of Water Resources Decisions Pollution Control Hearings Board And Appellate Courts, 2005 Edition, Cases through October 1, 2005*, Publication Number 06-11-002.

Attachment #1: Location Map



Application GCS2-8008
 Sec. 9/10 T. 5 N. R. 1 E. W.M.
 WRIA 28 - Clark County

CLARK COUNTY
 DEPARTMENT OF
 ECOLOGY

- Legend**
- POINT OF DIVERSION (POD)
 - PROPOSED PLACE OF USE (POU)
 - EXISTING PLACE OF USE (POU)
 - PARCELS
 - SECTION LINES

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

Map Created 8/2/2011