



State of Washington REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Added Point of Diversion

PRIORITY DATE February 18, 1960	WATER RIGHT NUMBER 8611 together with change Report of Examination dated August 5, 2005
MAILING ADDRESS Harold Bowers 260 Greenview Drive Richland, WA 99352	SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.086	CFS	5.6

Purpose

PURPOSE	DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON- ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Irrigation	0.086		CFS	5.6		4/1 – 5/15

ADDITIVE	IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
	NON-ADDITIVE	UNITS	WATER SYSTEM ID	CONNECTIONS
	14			

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Walla Walla	Mill Creek	Walla Walla River	32-Walla Walla

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Mill Creek Pumpstation (Bowers)	350732510003	7 N.	35 E.	32	N½N½	46.0479	118.4616
Datum: NAD83/WGS84							

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

350729330002

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

The W½ of Section 29, Township 7 N., Range 35 E.W.M., lying south of Old Highway 12

Proposed Works

Pumpstation, mainlines, and big gun irrigation system

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	January 1, 2016	January 1, 2017

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

Water Right Certificate Nos. WWAC 462, SWC 8611, G3-00339C and G3-01029C shall not exceed 53 acre-feet of water for the seasonal irrigation of 14 acres for Mr. Bower's portion of the water rights, which are appurtenant to the W½ of Section 29, Township 7 N., Range 35 E.W.M., lying south of Old Highway 12.

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.

Department of Fish and Wildlife Requirement(s)

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

No dam or weir may be constructed in connection with this diversion.

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 must file the notice of Proof of Appropriation of water (under which the certificate of water right or certificate of change 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 water right. 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, 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.

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 for change to Surface Water Certificate No. 8611, 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 Road SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 7th day of January, 2015.



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>.

INVESTIGATOR'S REPORT

Dan Tolleson, Department of Ecology
 Water Right Control Number CS3-*15904BHC@2
 Surface Water Certificate No. 8611

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CS3-*15904BHC@2 (Surface Water Certificate No. 8611).

EXISTING Water Right Attributes

Name on Water Right:	Edward Stiller and Quentin Schwenke
Priority Date:	2/18/1960
Place of Use	That portion of Gov't Lot 1, Section 32 T. 7 N., R. 35 E.W.M., lying northerly of State Highway 12. ALSO: The W½ of Section 29, T. 7 N., R. 35 E.W.M. EXCEPTING THEREFROM, however, the right of way of State Highway 12 over and across said premises. ALSO EXCEPTING THEREFROM; the following described tract: Beginning at the NW corner of Section 32, T. 7 N., R. 35, and run thence South 0°11'21" W, along the West line of said Section, a distance of 215.57 feet to a point in the Northerly right of way of SR 12, thence N 68°47'00" E, along said Northerly right of way, 1455.80 feet to the True Point of Beginning for this description; thence continued N 68°47'00" E, along said right of way, 692.51 feet; thence N 21°13'00" W, 629.11 feet; thence S 73°21'58" W, 391.03 feet, thence S 67°41'39" W, 302.78 feet; thence S21°13'00" E, 654.60 feet to the true point of beginning: (Stiller 10 acres)

County	Waterbody	Tributary To	WRIA
Walla Walla	Mill Creek	Walla Walla River	32-Walla Walla

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Storage and Irrigation of 162 acres*	1.0	CFS	65	4/1	5/15

*Irrigation of 162 acres is authorized from water stored in what was commonly referred to as "Stiller Pond", which is located within the SW¼SW¼ of Section 29, T. 7N., R. 35 E.W.M.

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Mill Creek		7 N.	35 E.	28	NW¼SE¼		

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 in NAD83/WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Harold Bowers
Date of Application:	1/10/2006
Place of Use	The W½ of Section 29, T. 7 N., R. 35 E.W.M., lying south of Highway 12

County	Walla Walla
Waterbody	Mill Creek
Tributary To	Walla Walla River
WRIA	32-Walla Walla

Purpose	Irrigation of 14 acres				
Rate	0.086	Unit	CFS	Ac-ft/yr	5.6
Begin Season	01/01	End Season	12/31		

Source Name	Mill Creek	Parcel	350732510003	Twp	7N	Rng	35E	Sec	32	QQ Q	N¼N¼	Latitude	46.0479	Longitude	118.4616
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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 Williamette Meridian; Datum in NAD83/WGS84.

Legal Requirements for Requested 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 county or counties where the water is to be stored, diverted and used. Notice of this application was published in the *Waitsburg Times* on February 16 and 23, 2006. No protests were received regarding this application.

Consultation with the Department of Fish and Wildlife

The Department must give notice to the Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. Notice was sent by email on July 18, 2014. A letter was received from WDFW on September 8, 2014, that indicated they do not oppose the change since it will not have any additional impacts. The project is subject to state Hydraulic Code (Chapter 77.55 RCW) and fish screening statutes (RCW 77.57.010, RCW 77.57.040 and RCW 77.57.070).

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*.

INVESTIGATION

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, permits, and claims; (3) USGS topographic maps and aerial photographs; (4) existing and proposed diversion, irrigation system, and the places of use; (5) Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32 and Watershed Planning; (6) State of Washington Irrigation Guide (Natural Resources Conservation Service 1997); and (7) discussions with Department of Ecology regional program staff. A field investigation was conducted, by Dan Tolleson and Evelyn Cummings with Harold Bower on August 13, 2014. The project is located two miles west of the City of College Place, Washington. The water right is located in the Walla Walla Basin, which is managed under Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32.

The place of use authorized under this water right is primarily located within the W¹/₂ of Section 29, with a few acres located within Section 32, all within T. 7 N., R. 35 E.W.M. This parcel of land is mostly irrigated farm land, with a few homes and roads. The northern portion of the place of use is now bisected by new Highway 12 and there is an old pond (Stiller Pond) used for an aquifer recharge program. Mr. Bowers owns the 14 acres of this place of use located south of Old Highway 12. His portion of the place of use is used as irrigated farm land with a big gun irrigation system.

This water right originally had one authorized ditch diversion that was used to provide water to Stiller Pond. The water from Stiller Pond was used for irrigation. This water right is no longer used to fill the pond and provide irrigation for that portion of the place of use lying north of old Highway 12. The applicant proposes to add one existing pump station located downstream within the N¹/₂N¹/₂ of Section 32, T. 7 N., R. 35 E.W.M. This pump station is proposed to be the only source for Mr. Bowers' portion of the water right.

History of Water Use

Surface Water Certificate No. 8611 (together with Reservoir Permit 257) was issued in November of 1962 as supplemental supply to existing rights which includes Walla Walla Adjudicated Certificate 462. This right was issued as an alternate source, meaning the annual quantity and acres of irrigation were non-additive. An application for change was approved, under this water right, in a Report of Examination (ROE) dated 8/5/2005. This approval authorized a change in the place of use and placed the majority of the water right into the trust water program until 2029. The approval also delineated how the right was historically used and divided up between the three land owners. Mr. Bower's portion of the right is not in the trust program. His proportionate share was determined to be 0.086 cubic feet per second, 5.6 acre-feet, seasonally for the irrigation of 14 acres. The reservoir permit allows for the storage of water in "Stiller Pond". The *Proof of Appropriation* form related to the change was accepted in 2007.

Reservoir permit 257 has not been used for the purpose of storing water since approximately 2005. The pond use has been changed to a shallow aquifer recharge facility under Temporary Permit S3-30680 and Preliminary Permit S3-30674. The applicant has indicated that he no longer has any interest in the reservoir permit portion of this project, since "Stiller Pond" is no longer useable. Mr. Bowers has indicated that he is still interested in pursuing the irrigation portion of Certificate 8611.

Aerial photographs were used to help verify the extent of development, historical and beneficial use of Mr. Bower's portion of this water right. Approximately 14 acres have been historically irrigated south of Old Highway 12, which is the portion of the place of use owned by Mr. Bowers. This is consistent with the previously issued Report of Examination dated 9/5/2005. The irrigation of Mr. Bower's 14 acres of the place of use has continued since the report was issued in 2005.

According to the 2005 Report of Examination, Mr. Bower's portion of the instantaneous quantity of the right was 0.086 cubic feet per second. It is estimated that this instantaneous quantity was historically put to full use. The proposed pumping station can produce more water than is authorized under this right, which is a result of the pumpstation being used as a source for multiple rights. Since this system has multiple water rights, water diversion will need to be coordinated so as not to exceed the quantities authorized under each right. In addition, this water right has a limited season from April 1 to May 15, which cannot be exceeded. Water use beyond what is authorized may be subject to fines of up to \$5,000, per day, per violation.

The maximum authorized water duty of this certificate is 0.4 acre-feet per year, per acre. Historically, the highest water use under this certificate was for the irrigation of alfalfa. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that an estimated 2.7 acre-feet, per acre, is required for alfalfa in the Walla Walla area. At a 75% efficiency rate of application, the maximum water duty, for the crop listed above is 3.6 acre-feet per year, per acre. Since this right is used as an alternate source in a portfolio of water rights and only has a six week season, the quantity authorized is adequate. Therefore, an allocation of 5.6 acre-feet per year for the irrigation of 14 acres is appurtenant to Mr. Bower's portion of the place of use from April 1 to May 15.

Proposed Use

Mr. Bowers proposes to add one existing point of diversion to supply his portion of Surface Water Certificate No. 8611.

Diversion Metering

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 data shall be recorded weekly and maintained by the property owner for a minimum of five years. The maximum rate of withdrawal and the annual total volume shall be submitted to the Department of Ecology by January 31st of each calendar year. Recorded water use data shall be submitted to the Eastern Regional Office.

Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water right certificates, permits, and claims within the project and the surrounding area. The search focused primarily on Sections 29 and 32 within, T. 7 N., R. 35 E.W.M. This review shows five other water rights appurtenant to the authorized place of use, in addition to this water right. The overlapping rights are as follows:

Certificates Nos. G3-22110C and 7832: According to the ROE dated 8/5/2005, and Mr. Bowers, both of these water rights are not used on his lands. There are appurtenant to the portion of the place of use lying north of the Old Highway 12.

Certificates Nos. G3-01029C, G3-00339C, 8611 and 462 are appurtenant to the lands owned by Mr. Bowers. The relationship of these water rights for his parcel of land is listed in the table below:

Bowers Portion of Water Rights

Certificate	Acres Primary	Acres Non-additive	Qi Maximum	Qi Season	Qa Primary	Qa Non-additive	Source
WWAC 462	14	--	0.279 cfs	1/1 - 12/31	53	--	Mill Creek
SWC 8611	--	14	0.086 cfs	4/1 - 5/15	--	5.6	Mill Creek
G3-00339C	--	14	20 gpm	1/1 - 12/31	--	32	Gravel well
G3-01029C	--	14	22 gpm	1/1 - 12/31	--	35	Gravel well
Maximum Total	14				53		

- Water Right Certificate Nos. WWAC 462, SWC 8611, G3-00339C and G3-01029C shall not exceed 53 acre-feet of water for the seasonal irrigation of 14 acres.

- Surface Water Certificate Nos. WWAC 462 and 8611 shall not exceed 0.272 cfs from 4/1 – 5/15; 0.186 cfs from 5/15 – 7/1; 0.139 cfs from 7/1 – 10/1; 0.279 cfs from 10/1 – 4/1, for the seasonal irrigation of 14 acres.
- Ground Water Certificate Nos. G3-00339C and G3-01029C shall not exceed 42 gallons per minute for the seasonal irrigation of 14 acres.

The validity and extent of above listed water rights are not determined in this report.

Impairment Considerations

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, not including earlier filed applications (HB 1832); 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.

The applicant is requesting authorization to change the authorized point of diversion for his portion of Surface Water Certificate No. 8611. Mr. Bowers proposes to move the authorized point of diversion downstream approximately 1¼ mile to an existing pump station. This proposed pump station has been in use for many years without issue. There is no significant change in the stream or major diversions between the authorized and proposed point of diversion. Therefore, no impairment is anticipated by changing the authorized point of diversion. The proposed change will not increase the amount of water withdrawn from Mill Creek nor will it increase or expand the right.

Conclusions

In accordance with Chapters 90.03, approval of this application to add one point of diversion as granted under Surface Water Certificate No. 8611 will not enlarge the quantity of water historically authorized, nor will it impair existing rights provided the terms and conditions above are followed.

The amount of water recommended is a maximum limit that shall not be exceeded, and the water user may only use that amount of water within the specified limit that is reasonable and beneficial. This authorization does not increase in any way the original amounts authorized.

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:

0.086 cubic feet per second

5.6 acre-feet

Irrigation of 14 acres (alternate right), from April 1 to May 15

Point of Diversion

Mill Creek Pumpstation - N½N½ of Section 32, Township 7 North, Range 35 E.W.M.

Place of Use

As described on Page 1 of this Report of Examination.

Dan Tolleson

Dan Tolleson, Report Writer

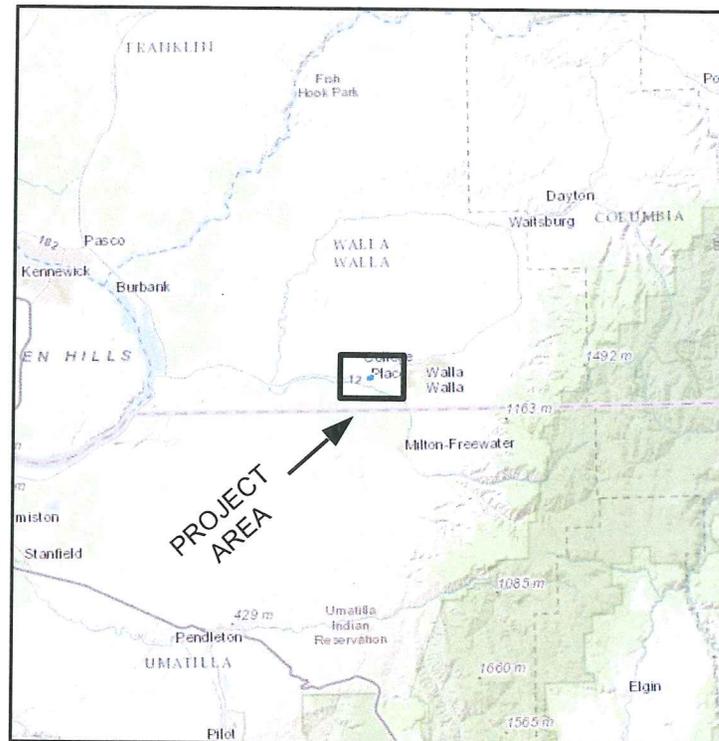
1-7-2015

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.

Harold Bowers
 8611 together with change
 Report of Examination dated August 5, 2005

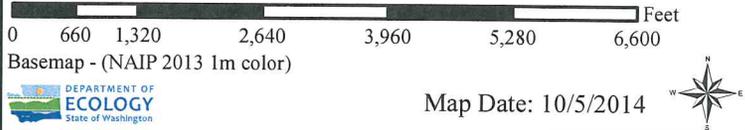
T07N/R35E



Basemap - (ESRI US Topographic Maps)

Legend

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



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.

ATTACHMENT 1