



State of Washington REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Changed Place of Use
Changed Point of Withdrawal

PRIORITY DATE
January 1, 1925

WATER RIGHT NUMBER
Water Right Claim 137505

MAILING ADDRESS
JOE A AND LORI P GARRO
P.O. BOX 1396
MOSES LAKE 98837

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
900	GPM	262.5

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
irrigation	900		GPM	262.5		04/01 - 10/31

IRRIGATED ACRES

ADDITIVE	NON-ADDITIVE		
75			

Source Location

COUNTY	WATERBODY	TRIBUTARY TO				WATER RESOURCE INVENTORY AREA		
GRANT	GROUNDWATER					41-LOWER CRAB		
SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Proposed well	16027000		18N	26E	06	SE	TBD	TBD
Datum: NAD83/WGS84								

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

160270000

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

SE¼ of Section 6, T. 18 N., R. 26 E.W.M.

Proposed Works

A new well and irrigation system

Development Schedule

BEGIN PROJECT

July 1, 2014

COMPLETE PROJECT

July 1 2015

PUT WATER TO FULL USE

July 1 2016

The applicant is currently cropping and irrigating in the original location. Irrigation at the original place of use shall cease once the new system is planted and begins to irrigate.

Measurement of Water Use

How often must water use be measured?

Weekly

How often must water use 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

This change authorization shall not be construed as validation as to the extent or priority of this claim to a vested right. This claim can only be confirmed through Superior Court Adjudication.

Wells, Well Logs and Well Construction Standards

All wells constructed in the state must 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 must be decommissioned.

All wells must 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 must 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.

The well shall remain within the unconsolidated sands and gravels.

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.

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 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 contracting with a Certified Water Rights Examiner, 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.

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 concur with the investigator that there is a water right eligible for change; 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 No. G3-137505, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this document. 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 this document:

- File your appeal and a copy of this document 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 document on Ecology in paper form - by mail or in person. (See addresses below.) Email 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 Suite 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 Spokane, Washington, this 24th day of July, 2013.



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>.

BACKGROUND

An application for change/transfer was submitted by Joe and Lori Garro to the Department of Ecology on December 18, 2012. The applicant proposes to change the point of withdrawal and place of use to Ground Water Claim 137505.

A notice of application was duly published in accordance with RCW 90.03.280 in the Columbia Basin Herald on April 9 and 16, 2013 and no protests were received.

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

Attributes of Ground Water Claim No. 137505

Recorded Name:	Claire Hansen
Priority Date(date of first use):	1929
Instantaneous Quantity – Q(i):	900 gallons per minute
Annual Quantity – Q(a):	900 acre-feet per year
Source:	A well
Point(s) of withdrawal:	NW¼, Sec. 26, T. 19 N., R. 27 E.W.M.
Purpose of Use:	Stock and irrigation of 141 acres
Place of Use:	NW¼ of Section 26, T. 19 N., R. 27 E.W.M.

INVESTIGATION

The NW¼ of Section 26 is owned by multiple parties. The applicant, Mr. Garro, owns the majority of the NW¼ and is irrigating ¾ of a standard pivot of approximately 95 acres. The well is located in the SE¼NW¼ of the section and serves only the pivot. The remaining property within the NW¼ is owned by Greg Hansen, Clair Hansen, Troy Lathem and Gary Fisher. The claimed well (137505) is located on the property of the applicant and is serving only his property for the purposes of irrigation. The well is located approximately 1180 feet east and 805 feet north from the west quarter corner of Section 26. Although no well log exists, the applicant has described the well as approximately 160 feet deep in the unconsolidated sands and gravels.

The applicant proposes to transfer his portion of this claimed right to property located in the SE¼ of Section 6, T.18 N. R. 26 E.W.M. The proposed property is currently undeveloped.

Two claims were filed for the NW¼ of Section 26, both by Clair Hansen. The second claim, 137504 claims the use of 700 gallons per minute, 900 acre-feet per year for the irrigation of 141 acres, domestic supply and stockwater. The claimed place of use is also the NW¼ of Section 26. Both claims identify an irrigation right for 141 acres in the NW¼ of Section 26. The difference between these two claims is the well location. The well used under Claim 137504 is described as located 70 feet south and 10 feet west of the north quarter corner of Section 26 on the land of Greg Hansen. This well is serving the Hansen property only. The Hansen property consists of approximately 4 acres and is located in the NE¼NE¼NW¼ of Section 26. There are two residences using the well for domestic supply and

irrigation. The well described under Claim 137504 is used only for agricultural irrigation on the Hansen property. It appeared that Water Right Claim 137504 was also being used for multiple domestic supply and irrigation within the ownership of Greg Hansen. A separate application for change was filed by Mr. Garro for Water Right Claim 137504. After reviewing the record, this well did not serve the Garro property and this application for change on Claim 137504 was withdrawn.

A portion of the NW¼NW¼ of Section 26 is owned by Troy Lathum. Water is not served to his property from either of the claimed wells.

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.

Ground Water Claim 137505 claimed a use of 900 gallons per minute 900 acre-feet per year for the irrigation of 141 acres and stockwater. The claimed date of use is 1929. Review of recent aerial photos and older photos back to 1949 confirm approximately 75 acres of the property had been developed by 1949. The 75 acres of property continued to be irrigated up through 1952, primarily on the land now owned by Mr. Garro and Mr. Hansen. Photos from 1983 confirm the installation of the 95 acre pivot on the Garro property. The pivot has continued to be used for irrigation since that time.

Based on the information provided and the aerial photo review, it appears the claim was used for irrigation of approximately 75 acres in 1949. There is no information to quantify the amount of water actually used. A reasonable quantity for irrigation in this area is 3.5 acre-feet per year. This is consistent with the standard allotment in the Columbia Basin Project.

Based on the photo analysis, a right existed for 900 gallons per minute, 262.5 acre-feet per year for the irrigation of 75 acres by 1949. Development and expansion of the property after 1949 should have been filed for a new water right under the Ground Water Code, RCW 90.44.

The intent of the Claims Registration Act, Chapter 90.14 RCW, was to document those uses of surface water in existence prior to the adoption of the State Surface Water Code, Chapter 90.03 RCW, which was adopted in 1917, and those uses of ground water in existence prior to the adoption of the State Ground Water Code, Chapter 90.44 RCW, which was adopted in 1945. Since each code(s) adoption, the only means of acquiring a water right within the state is by filing for, and receiving, a permit from the Department of Ecology or one of its predecessors or by establishing a right under the "domestic exemption" under the ground water code (RCW 90.44.050). The Department of Ecology recognizes that the final determination of the validity and extent associated with a claim registered in accordance with RCW 90.14 ultimately lies with the Superior Court through the general adjudication process provided for by Sections 90.03.110 through 90.03.240 RCW.

Hydrologic/Hydrogeologic Evaluation

Applications for change/transfer 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 proposed project lies within the boundaries of the Quincy Ground Water Management Subarea as defined in Chapter 173-124 WAC. This Subarea covers the northern portion of the Columbia Basin project (developed by the US Department of Interior, Bureau of Reclamation), and lies mostly within Grant County.

As the application for change requests a change in well location, a determination of the same body of ground water is required.

The original well, in Sec. 26, T. 19 N., R. 27 E.W.M, is described as constructed in 1929. No other information is available. The applicant indicated the existing irrigation well is constructed to a depth of approximately 160 feet into the unconsolidated sands and gravels.

The proposed well, in Section 6, T. 18 N., R. 26 E.W.M., must be completed within the unconsolidated sands and gravels to remain within the same body of public ground water. Multiple wells are constructed in the vicinity of the proposed location, and are productive from the unconsolidated sands and gravels. Nearby wells vary in depth from 57 feet to 210 feet in the unconsolidated sands and gravels. This proposed well may not produce water from basalt formations.

Impairment Considerations

“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 flows 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.

Three water rights are on record for Section 6, T. 18 N., R. 26 E.W.M. Artificially Stored Groundwater Permit Nos. QB-11-A in the NE $\frac{1}{4}$ of Section 6, QB-101 in the NW $\frac{1}{4}$ of Section 6 and QB-22 in the SW $\frac{1}{4}$ of Section 6. These rights all use wells constructed into the unconsolidated sands and gravels.

The proposed property is also located near the Winchester Wasteway. The proposed well location is outside of the established Buffer Zone. The Buffer Zone was designated to protect the interest of the Bureau of Reclamation capture and reuse facilities.

These existing irrigation wells are constructed in the unconsolidated sands and gravels. Since these wells are located in the unconsolidated aquifer, there may be seasonal fluctuation in the water table. These potential seasonal fluctuations are not considered to be impairment. The proposed well location change and change in place of use will not impair existing water rights.

The proposed change to change the point of withdrawal and place of use will not enlarge the quantity of water identified above. The proposed well is required to be constructed into the same body of public ground water.

The property within the proposed place of use of the claim lies within the boundary of the Columbia Basin Project and potentially within delivery of the irrigation district. Should contracts be issued by the district that include lands developed under this authorization, these lands will be subject to RCW 90.44.510. If water from facilities of any legally formed irrigation district is used on any or all of the lands described and developed herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available. RCW 90.44.510 confirms that should water be supplied to these lands (agricultural or non-agricultural) and replaced with Columbia Basin Project Water, the permit or certificate, or portion thereof shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation and the authorized number of acres under the permit.

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 detrimental impact to the public welfare through issuance of the proposed change.

CONCLUSIONS

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, this application for change to add a point of withdrawal and change the place of use will not enlarge the quantity of water identified, nor will it impair existing rights or be detrimental to the public welfare provided the terms and conditions are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to Ground Water Claim 137505 be approved in the amounts and within the limitations listed below and subject to the provisions.

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:

- 900 gpm
- 262.5 acre-feet per year
- Agricultural irrigation of 75 acres

Point of [Diversion Withdrawal]

Proposed within the SE¹/₄ of Section 6, T. 18 N., R. 26 E.W.M.

Place of Use

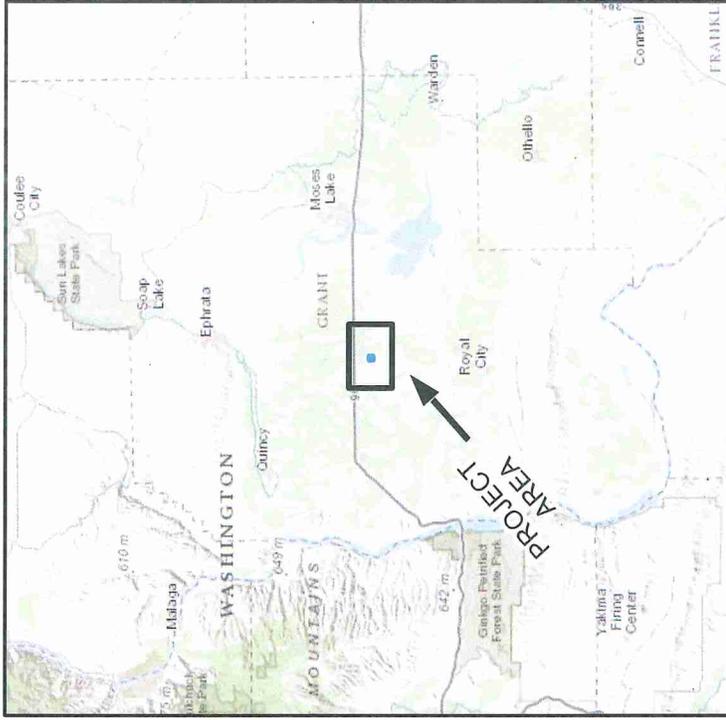
SE¹/₄ of Section 6, T. 18N N., R. 26 E.W.M.

Report by: *Victoria Leuba for*
Kevin Brown
Water Resources Program

7/24/13
Date

ATTACHMENT 1

Joe Garro
Water Right Claim 137505
T18N/R26E



Basemap - (ESRI US Topographic Maps)

Legend

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



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.



Map Date: 6/3/2013

Basemap - (NAIP 2011 1m color)

