BEFORE THE
DEPARTMENT OF ECOLOGY
STATE OF WASHINGTON

IN THE MATTER OF APPLICATION FOR CHANGE UNDER SURFACE WATER CERTIFICATE NUMBER 84	)))	FINDINGS OF FACT AND ORDER

Upon review of the Examiner's report, I find that all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, in accordance with the Examiner's conclusions and recommendations, I find that said change will not impair existing rights or be detrimental to the public welfare.

IT IS ORDERED that a change of diversion be made under the aforesaid application authorizing appropriation of public waters in the amount, and for the use, and subject to the provisions set forth in the Examiner's report.

RCW 43.21B provides that any person who feels aggrieved by an order, such as the one above, may appeal to the Pollution Control Hearings Board of Washington within thirty (30) days from the transmittal date of said order. A copy of pertinent regulations relating to the procedures for requesting a hearing may be obtained from this Department upon request.

Signed at Yakima, Washington this 22nd day of March, 1978.

Russell K. Taylor

Russell K. Taylor, Regional Manager

Signed at Yakima, Washington
this 20th day of March, 1978.

A. Herb King

A. HERB KING
Resource Management Division
Department of Ecology

jvw

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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Russell K. Taylor

Russell K. Taylor, Regional Manager

IN THE MATTER OF THE) REQUEST OF JO ANNE C. HEATTER) FOR CHANGE OF POINT OF DIVERSION) FOR AHTANUM CREEK CERTIFICATE) NO. 84)	REPORT FINDINGS OF FACT AND DECISION

REPORT

This request for change in point of diversion was received in the Spokane Regional Office on April 30, 1973.

An affidavit of publication was received November 26, 1973, in the Spokane Regional Office.

Protests to this request were received from D. F. and Vivian Woerner on October 16, 1973, W. A. and Pearl Decoto on November 16, 1973, and from Stella M. Davis on November 16, 1973. The protests were all received prior to the expiration date of the protest period as established by the public notice published in the Yakima Herald-Republic on October 10, 1973, and October 17, 1973. Each of the protestants asserted that this change would adversely effect their water rights.

INVESTIGATIONS

Files in this office establish that the water right for this parcel of land stems from Surface Water Certificate Number 84 decreed right State of Washington VS Annie Wiley Achepol et al, Cause Number 18279, being a portion of said lands described in said certificate. The point of diversion noted in the certificate is on the west line of NE¼ SE¼ also the ditch schedule prepared for the litigation in progress in 1957 established a point of diversion upstream a short distance from the point described in Certificate Number 84.

The priority of the right established by Certificate Number 84 is a Class 4; 1867. The priority of rights of the protestants are a Class 5; 1868. The rights of the protestants are located downstream from the diversion. Therefore, there are no intervening rights either geographically or by priority.

CONCLUSIONS

Water would be available and subject to diversion to satisfy Class 4 rights prior to diversion of Class 5 or lesser rights.

The probable effect on existing rights would be negligible if in fact any would occur.

The applicant could divert from a location to avoid the ditch loss that would occur if diverted from a point upstream. The loss would in all probability be less to rights downstream in that the water carried in the creek would have a greater volume for that distance.

Therefore, I respectfully recommend favorable action on this proposed change in point of diversion.

Signed at Yakima, Washington
this 20th day of March, 1978.

A. Herb King

A. HERB KING
Resource Management Division
Department of Ecology

jvw