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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
APPLICATION FOR CHANGE  
**REPORT OF EXAMINATION**

TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

- Surface Water** (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)
- Ground Water** (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE 1861 (Class 2)	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER Vol.4, Pg. 6 (A)
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NAME <b>MARK R. KLICKER</b>			
ADDRESS (STREET) Route 4, Box 226	(CITY) Walla Walla	(STATE) Washington	(ZIP CODE) 99362

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE  
Mill Creek

TRIBUTARY OF (IF SURFACE WATERS)  
Walla Walla River

MAXIMUM CUBIC FEET PER SECOND 0.200	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR 50
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QUANTITY, TYPE OF USE, PERIOD OF USE  
0.133 cubic feet per second from April 1 to July 1; 0.100 cubic feet per second from July 1 to October 1; and 0.200 cubic feet per second from October 1 to April 1, when allowed (see provisions), for the seasonal irrigation of 10 acres.

**LOCATION OF DIVERSION/WITHDRAWAL**

APPROXIMATE LOCATION OF DIVERSION-WITHDRAWAL  
300 feet North and 650 feet East from the SW corner of Sec 13

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) SW¼SW¼ (Gov't Lot 5)	SECTION 13	TOWNSHIP N. 7	RANGE, (E. OR W.) W.M. 36 E.	W.R.I.A. 32	COUNTY Walla Walla
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**RECORDED PLATTED PROPERTY**

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)
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**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED**

Beginning at a point on the line between Sections 23 and 24 in T. 7 N, R. 36 E.W.M., which is 11.50 chains north of the point of intersection of said Section line with the southerly line of the United States Military Timber Reserve, and running thence south 65°00' west 9.90 chains, thence south 40°00' west 3.17 chains; thence south 70°00' west 7.00 chains, thence south 84°55' west 2.44 chains, more or less, to a point in the westerly line of said Timber Reserve; thence north 9°00' west along the westerly line of said Timber Reserve to the northwest corner thereof; thence north 81°00' east along the northerly line of said Timber Reserve a distance of 45.75 chains to the subdivisional line between the east and west halves of the southwest quarter of Section 13 in said Township and Range; thence south on said subdivisional line a distance of 9.00 chains; thence south 70°00' west 20.40 chains to a point in the west line of said Section 13; thence south on the section line a distance of 19.45 chains to the point of beginning.

EXCEPTING therefrom, however, so much of the following described tract as lies within that above described: Beginning at a rock marking the corner of Sections 13, 14, 23, and 24, said Township and Range; thence along the east line of Section 14, north 0°31'03" west 259.90 feet; thence south 65°35'50" west 1146.38 feet; thence south 71°50'25" west 592.75 feet; thence south 78°04'59" west 827.49 feet to the east line of the City of Walla Walla property; thence along said east line of the City of Walla Walla property south 3°53'55" east 223.48 feet to the south line of that historically known as the Joseph G. Thomas property; thence along the said south line

Legal description continued on page 4.

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**DESCRIPTION OF PROPOSED WORKS**

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Diversion controlling works, measuring flume, pump, pipeline, sprinklers

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**DEVELOPMENT SCHEDULE**

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BEGIN PROJECT BY THIS DATE:

Started

COMPLETE PROJECT BY THIS DATE:

October 1, 1997

WATER PUT TO FULL USE BY THIS DATE:

October 1, 1998

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**REPORT**

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**BACKGROUND**

An application for change was submitted by Mark R. Klicker to the Department of Ecology on February 17, 1994. The application was accepted and processed. The applicant proposes to add a point of diversion to Walla Walla Adjudicated Surface Water Certificate Vol. 4, Pg. 6.

A notice of application was duly published in accordance with RCW 90.03.280; no protests or objections were received.

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

**INVESTIGATION**

A field examination was conducted by Bill Neve with Mark Klicker on July 16, 1996. The project site is located just east of the U.S.C.E. Bennington Lake project office on the south side of Mill Creek.

Walla Walla River Adjudicated Certificate at Vol. 4, Pg. 6 (Certificate No. 6) authorizes the diversion of water from Titus Creek (0.893 cubic feet per second from April 1 to July 1; 0.670 cubic feet per second from July 1 to October 1; and 1.340 cubic feet per second from October 1 to April 1, when allowed) for the irrigation of 67 acres. The established priority date for this certificate is 1861, Class 2.

Titus Creek is a tributary of Mill Creek, and flows a distance of approximately 4 miles to the north of, and parallel to, Mill Creek before discharging back into the source stream. Waters are diverted from Titus Creek on a seasonal basis for irrigation and stockwater purposes, normally ceasing on October 1st of each year.

The proposed additional point of diversion would be from Mill Creek at a point approximately 1 mile upstream from the point where Titus Creek discharges back into Mill Creek. The diversion point (Jones Ditch) is presently used by Dwelley Jones to divert water under Certificate of Surface Water Right No. 5695. Certificate No. 5695 has a priority date of April 23, 1953.

Certificate No. 5695 authorizes diversion of water from Mill Creek during the period of October 1 to July 1, only. It has been normal practice to shut off diversions from Mill Creek into this ditch on or before July 1 each year. Because of the relative senior priority of Certificate No. 6, changing a portion of this right for diversion into the Jones Ditch would necessitate a higher level of monitoring of the water diverted into this ditch so that the diversion rate does not exceed those quantities authorized at any particular time of the year.

The applicant has installed a flume in the ditch to monitor diversion rate in the ditch. The applicant has also communicated to this writer that he intends to sell the subject property shortly. Access to this flume will be a condition to any change authorized through this application, a fact which should be communicated by the seller to any future purchaser.

The applicant has expressed the desire to have 10 acres of water right, together with a proportional allotment of water, transfer to his land south of Mill Creek. Kirk Klicker, who farms the remainder of the place of use North of Mill Creek, has agreed to this apportionment.

The applicant is reminded that any change in ownership of the subject property prior to completion of this change will require an assignment form to be completed and submitted to the Department to transfer interest in this change to the new owner.

CONCLUSIONS

In accordance with RCW 90.03.380 it is the conclusion of this examiner that this application for change to add one (1) point of diversion will not enlarge the right conveyed by the original certificate and that existing rights will not be impaired.

It is the conclusion of the examiner that this application for change for an additional point of diversion should be approved, subject to the following provisions:

"This authorization adds a point of diversion as provided by Chapter 90.03.380 RCW and if perfected will supersede a portion (10 of 67 acres) of Certificate of Water Right recorded in Vol. 4 of Water Right Certificates at Page 6, dated May 23, 1929. Said Certificate was issued by a decree of the Superior Court of the State of Washington in and for Walla Walla County, made and entered on the 12th day of September, 1928 and recorded in Vol. 16 of the Superior Court Journal of said County at Page 1."

"When the supply of water for irrigation purposes from April 1 to October 1 is insufficient in the Walla Walla Valley to fill any right in the above mentioned decree, the owner of such right is entitled to divert water during the period of October 1 to April 1. The total diversion shall not exceed 5 acre feet per acre for any year beginning October 1."

"An approved measuring device shall be installed and maintained in accordance with RCW 90.03.360 and /or WAC 508-64-020 through WAC 508-64-040. Department personnel shall have right of access to said measuring device at all times for the purpose of monitoring/regulating the flow of water in the Jones Ditch. Failure of the landowner of the subject property to provide Department personnel access to said measuring device for the previously stated purposes may result in curtailment of water into the Ditch."

"The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and the place of use specified."

The water source and/or water transmission facilities are not wholly located upon the land owned by the applicant. Issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtainment of such right is a private matter between applicant and owner of that land.

"This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise."

"A superseding certificate of water right will not be issued until a final examination is made."

"The water quantities and uses recommended and/or the number of acres to be irrigated may be reduced at the time of issuance of a final water right commensurate with the capacity of the installed system and the uses and/or the number of acres actually irrigated."

"Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities."

Signed at Spokane, Washington  
This 16th day of December, 1996

*for* Cindy A. Christian  
WILLIAM L. NEVE  
Shorelands & Water Resources Program  
Department of Ecology

Legal Description Continued

of the Joseph G. Thomas property south  $84^{\circ}00'$  east 135.8 feet; thence north  $54^{\circ}25'$  east 409.2 feet; thence south  $77^{\circ}45'$  east 211.20 feet; thence north  $56^{\circ}20'$  east 316.80 feet, more or less, to the westerly line of the United States Military Timber Reserve; thence southerly along the westerly boundary line of the said United States Military Timber Reserve to a point from which the said corner of Sections 13, 14, 23 and 24 is north 597.52 feet and east 1341.63 feet; thence north  $78^{\circ}04'59''$  east 104.38 feet; thence north  $65^{\circ}35'50''$  east 1361.39 feet to the east line of said Section 23 and thence along said Section line north  $1^{\circ}08'14''$  west 13.51 feet to the place of beginning.