



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

**TRUST WATER RIGHT
REPORT OF EXAMINATION
Change of Purpose and Place of Use
WRTS File #: CS4-00169CTCL@4**

PRIORITY DATE	CLAIM NO.	PERMIT NO.	CERTIFICATE NO.
April 7, 1891	Aquavella Court Claim #00169 (Subbasin 7 Reecer Creek)		

NAME OF PARTY CONVEYING RIGHT TO TRUST WATER RIGHTS PROGRAM		
Col Solare LLP (Attn: Steven E. Johnson)		
ADDRESS/STREET	CITY/STATE	ZIP CODE
Columbia Crest Drive, PO Box 231	Paterson, WA	99345-0231

TRUST WATER RIGHT ATTRIBUTES

SOURCE

There are two source options proposed for this trust application. They are described as 'elements' by the applicant.

Element 1 allows for the full quantity to be diverted from the Yakima River at the Olson Ditch Point of Diversion (POD) and is conveyed through the ditch, draining into Reecer Creek, and eventually back into the Yakima River where it will be carried to Red Mountain in Benton County.

Element 2 allows for the water to stay in the Yakima River if the Olson Ditch is unavailable or inoperable, and will be conveyed to Red Mountain in Benton County.

TRIBUTARY OF (IF SURFACE WATERS)

Columbia River

MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE FEET PER YEAR
2.20 cfs		250.8 acre-ft/yr

QUANTITY, TYPE OF USE, PERIOD OF USE

2.20 cubic feet per second (cfs), a total of 250.8 acre-feet per year (afy), Instream Flow use April 1 through October 31. See file No. CS4-00169CTCL@3 for the irrigation project at the end of the Trust reach.

Period of Use	Withdrawal Rate Maximums	Total Withdrawal Quantity Allowed
April 1*- September 30	2.20 cubic feet per second (maximum withdrawal rate)	250.8 acre-feet per year
October 1- October 31	1.885 cubic feet per second (maximum withdrawal rate)	

*The season of use associated with the original Acquavella Court Claim No. 00169 recognized a season of use for irrigation as April 1 to October 31; therefore the Trust Water Right is recognized as having a period of use from April 1 to October 31.

Schedule for Monthly Water flow over Parker and Prosser Dams to convey this Trust Water for use at Red Mountain

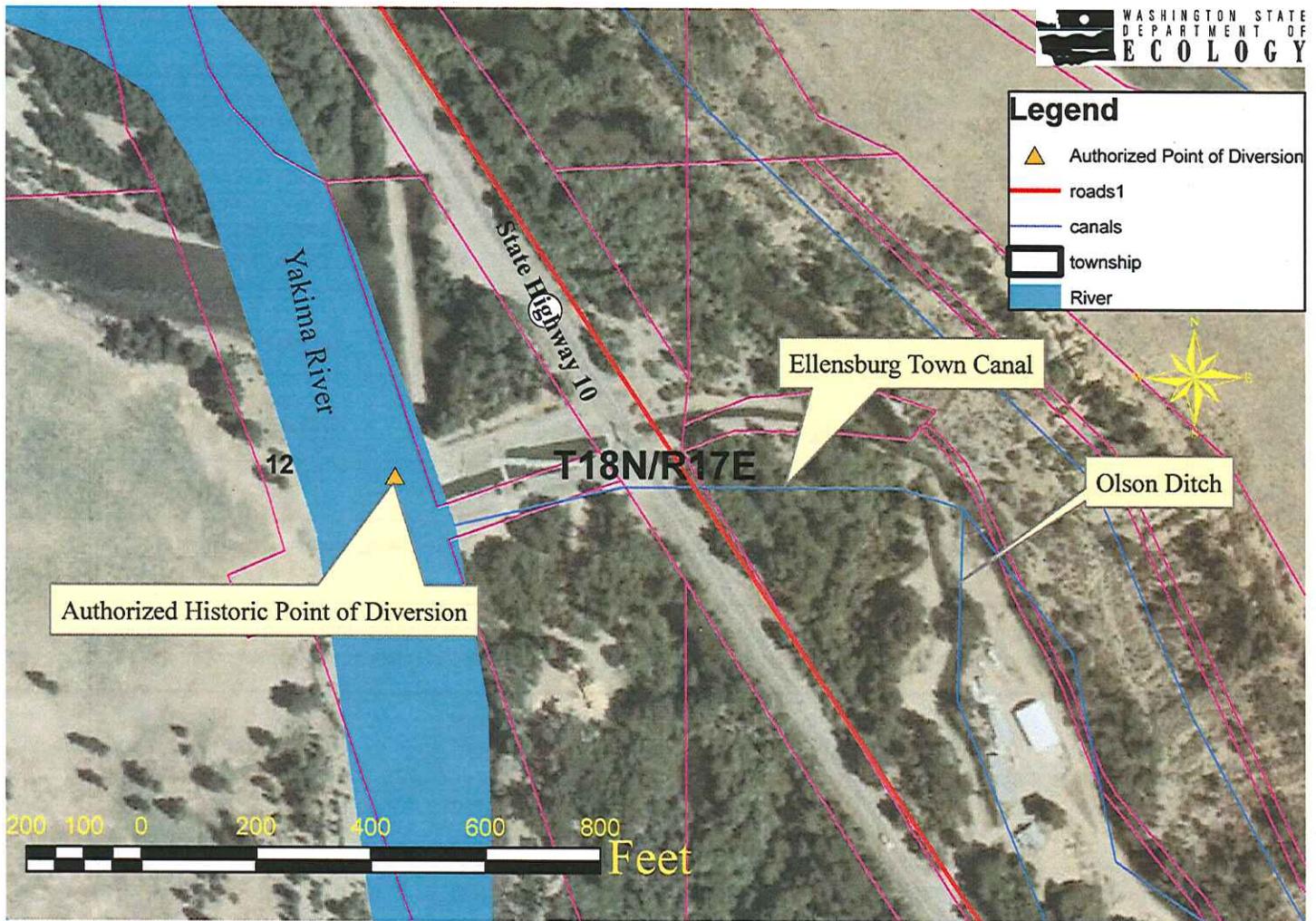
Month	April	May	June	July	August	September	October
Total (approximate) Monthly acre-feet to be used	0.0 af	13.79 af	47.15 af	74.74 af	64.20 af	39.63 af	11.29 af
Total (approximate) acre-feet per day	0.0 af	.445 af	1.57 af	2.41 af	2.07 af	1.32 af	.36 af
Daily cfs Required to Meet (approximate) Monthly Water quantities	0.0 cfs	.225 cfs	.79 cfs	1.22 cfs	1.05 cfs	.67 cfs	.18 cfs

- At an estimated average river velocity of 4 feet per second there would be approximately 4.3 days lag time for water released at Reecer Creek, in Kittitas County, to arrive at Benton County's Red Mountain vineyards. This lag time can be refined as experience is developed.
- The Bureau of Reclamation's management schedule for water deliveries to Parker and Prosser dams reflects lag time.

The above schedule of monthly distribution for water use will be reported on the Bureau of Reclamation's on-going Parker Total Water Supply Available (TWSA) management spreadsheet to insure the water volumes are passed over the Parker and Prosser dams. The trust water is to be kept instream for water-flow and fishery habitat enhancement efforts only. The water

provided at the upstream end of the in stream trust water will be monitored by a ramp flume in Olson Ditch, near the Reecer Creek confluence.

Map 1: Historic Point of Diversion

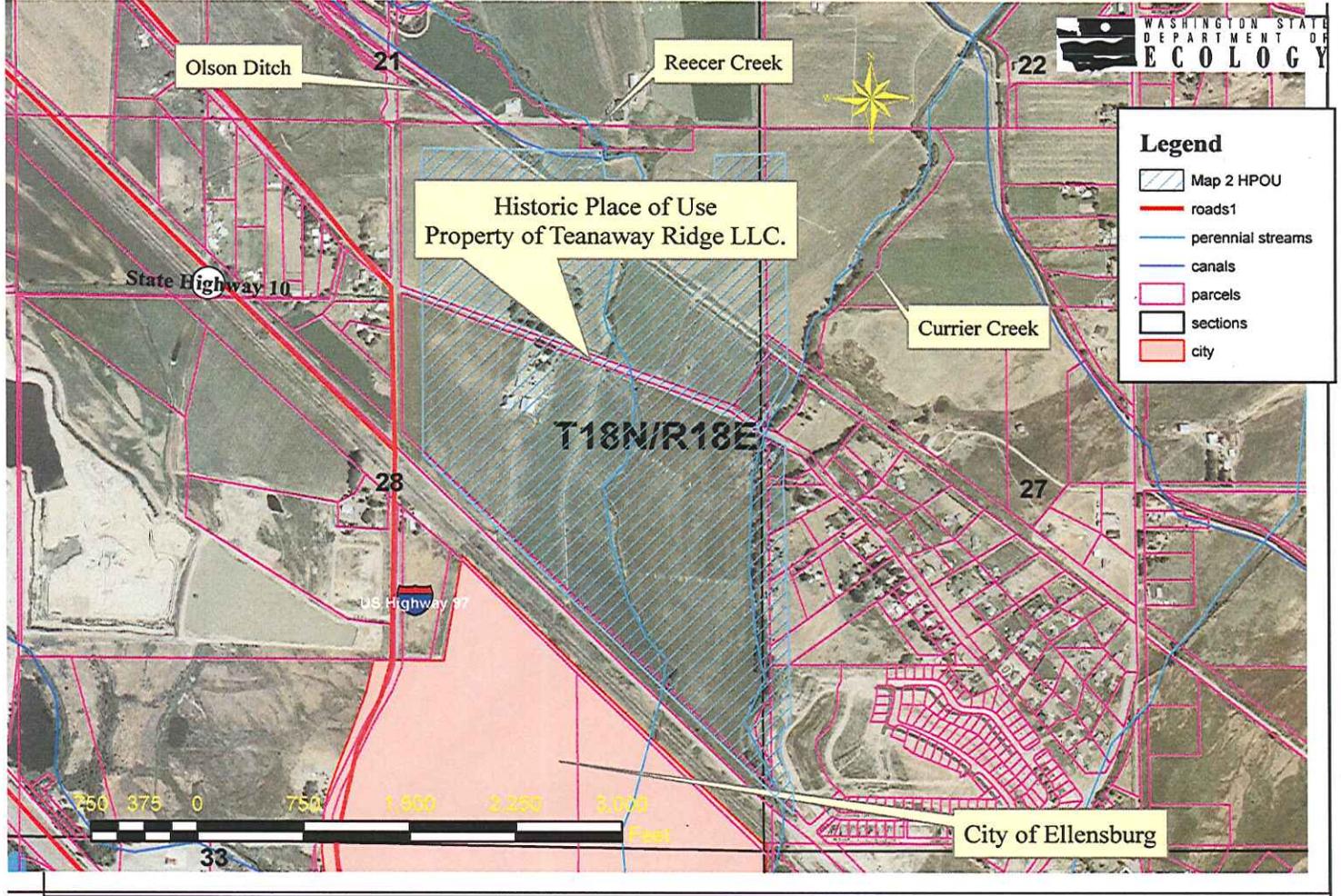


APPROXIMATE LOCATION OF HISTORIC DIVERSION / WITHDRAWAL

500 feet South and 850 feet East from the Center of Section 12, Township 18 N., Range 17 E.W.M.

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) NE1/4 of NW1/4 of SE1/4	SECTION 12	TOWNSHIP 18 N.	RANGE [E. or W.] W.M. 17 E.	WRIA 39	COUNTY Kittitas
PARCEL NUMBER 303233	LATITUDE 47.0639628923307		LONGITUDE 120.648361305596	DATUM NAD 83	

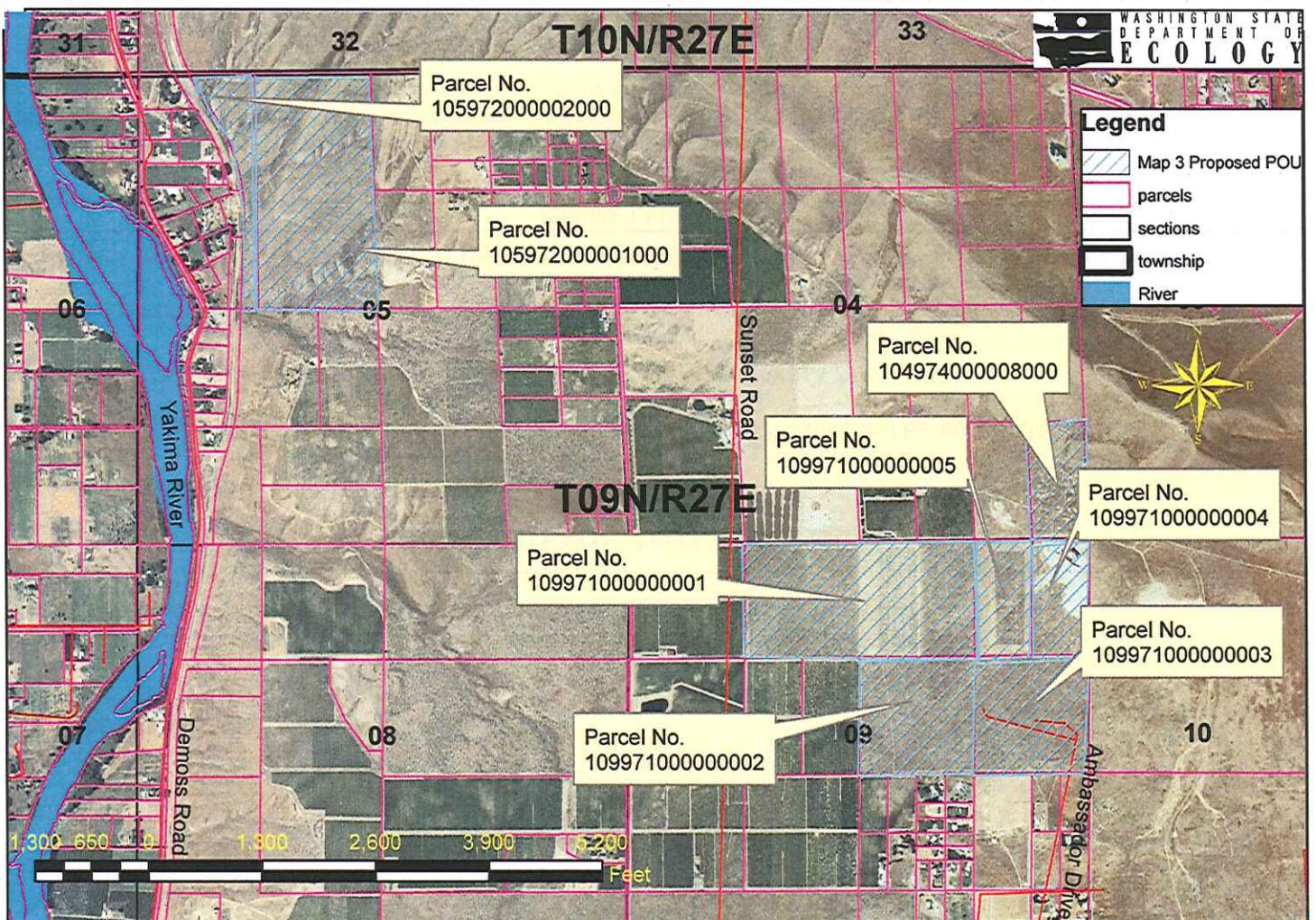
Map 2: Historic Place of use



Historic Place of Use: Section 28, Township 18 North, Range 18 E.W.M. Parcel No. 621033, Kittitas County.

DESCRIPTION OF PLACE OF USE (See Map 3: Below, for Proposed Place of Use)

- **Map 3: Proposed Place of Use (under CS4-00169CTCL@3).**



Proposed Place of Use: Sections 4, 5, and 9, Township 9 N., Range 27 E.W.M. (see file No. CS4-00169 CTCL @3)
Benton County Parcel Numbers:

- 109971000000004
- 109971000000005
- 109971000000003
- 109971000000001
- 109971000000002
- 104974000008000
- 105972000002000
- 105972000001000

The trust water place of use for instream flow enhancement is the affected reaches described below. Irrigation withdrawal for the proposed place of use is will take place at the end of the trust reach.

DESCRIPTION OF AFFECTED REACHES

If Element 1 is exercised

Yakima River – River Miles 27 to 163, a total of 136 miles, runs through Kittitas, Yakima, and Benton Counties, WRIAs 39 and 37.

Reecer Creek – Creek Miles 0 to 2.5, a total of 2.5 miles, within Kittitas County, WRIA 39.

If Element 2 is exercised

Yakima River – River Miles 27 to 167, a total of 140 miles, runs through Kittitas, Yakima, and Benton Counties, WRIAs 39 and 37.

PROJECT SUMMARY

This project is about the downstream conveyance and associated instream value of the conveyed water to the river system. Even though directly linked to providing water for the establishment of vineyards on the western slope of the Red Mountain area of Benton County; that review was completed in the decision under No. CS4-00169 CTCL @3.

TRUST WATER RIGHT TERM

BEGIN DATE April 1, 2008	END DATE In perpetuity until further notice
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**PORTION OF WATER RIGHT
NOT PLACED INTO TRUST
WRTS File #: CS4-00169CTCL@4**

PRIORITY DATE April 7, 1891	CLAIM NO. Acquavella Court Claim #00169 (Subbasin 7 Reecer Creek)	PERMIT NO.	CERTIFICATE NO.
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NAME Teaway Ridge LLC, (Attn: Pat Deneen, General Manager)		
ADDRESS/STREET 1890 West Nelson Siding Road	CITY/STATE Cle Elum, WA	ZIP CODE 98922

WATER RIGHT ATTRIBUTES

SOURCE Yakima River
TRIBUTARY OF (IF SURFACE WATERS) Columbia River

MAXIMUM CUBIC FEET PER SECOND 4.21 cfs (April 1-August 31)* 2.08 cfs (September 1-30)* 0.256 cfs (October 1-31)* 2.40 cfs (November 1 -30) 0.43 cfs (December 1 – March 31)	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE FEET PER YEAR 2099.67* acre-feet
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QUANTITY, TYPE OF USE, PERIOD OF USE 2099.67* acre-feet per year total for irrigation, stock watering and conveyance <ul style="list-style-type: none"> • 1907.40 afy for irrigation of 39.5 acres, conveyance and stock watering; from April 1 – October 31 (130.40 afy consumptive and 1776.9 afy non-consumptive) • 147.78 afy Stock watering from November 1- November 30 • 44.49 afy Stock watering from December 1 – March 31

*See Modified Appendix C of Ecology's Modification of Water Right Change No CS4-00169CTCL@3 (dated January 5, 2007) for a complete description of the water quantities associated with each purpose of use

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL 500 feet South and 850 feet East from the Center of Section 12, T. 18 N., R. 17 E.W.M.

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) NE1/4 of NW1/4 of SE1/4	SECTION 12	TOWNSHIP 18 N.	RANGE [E. or W.] W.M. 17 E.W.M.	WRIA 39	COUNTY Kittitas
PARCEL NUMBER 303233	LATITUDE N 47° 01' 39.9"	LONGITUDE W 120° 35' 18.9"	DATUM NAD 83		

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED

Property is owned by Teaway Ridge LLP, that portion of the E1/2 of Section 28, T. 18 N., R. E.W.M. lying Northeast of the Burlington Northern Railroad Right-of-Way and Southwest of Reecer Creek. Parcel No. 621033, Kittitas County.
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DESCRIPTION OF WATER SYSTEM(S)

- Teaway Ridge LLC (Kittitas County)
- Water has historically been conveyed through the Olson Ditch beginning at the POD from the Yakima River in Section 12, T. 18 N., R. 17 E.W.M. (See Map 1: Historic Point of Diversion). Water will continue to be diverted at the Olson Ditch POD for the remaining 39.5 acres.
 - This water was historically used to irrigate 115.5 acres and provided water for stock at the Green/Pethia property, now owned by Teaway Ridge LLP, where 39.5 acres are still to be irrigated. (See Map 2: Historic Place of Use)
- Col Solare LLP (Benton County)
- The 76 acres that will be fallowed is the source of trust water for this proposed application. This water is 2.20 cfs in Instantaneous Quantity, and 250.8 acre-feet/year for Annual Quantity.
 - An equal amount of water will be extracted from authorized well locations, in Section 5, T. 9 N., R. 27 E.W.M., and used at the approved place of use in Sections 4, 5, and 9 in T. 9 N., R. 27 E.W.M. (See Map 3: Proposed Place of Use)
 - The movement of this water to Benton County can occur in one of two ways, described by the applicant as *Element 1* and *Element 2*. The trust water benefit is realized by increased instream flows in Reecer Creek and the Yakima River.
 - *Element 1* allows for the full quantity to be diverted from the Yakima River at the Olson Ditch POD and is conveyed through the ditch to Reecer Creek, and back into the Yakima River where it will be carried to Red Mountain in Benton County.
 - *Element 2* allows for the water to stay in the Yakima River if the Olson Ditch is not diverting, and will be conveyed to Red Mountain in Benton County.
 - The time of year for this conveyance and trust water benefit is from April 1 through October 31 each year.

PROVISIONS

Provisions related to the Trust Water Right (Col Solare, LLP):

1. Water must be available of at the historical point of diversion for this April 7, 1891 priority trust water right to be exercised.
2. The trust water right must be conveyed to the State's Trust Water Rights Program, in a format approved by Ecology, prior to CS4-00169CTCL@3 and CS4-00169CTCL@4 being exercised.
3. Water used for irrigation on the remaining 39.5 acres in Kittitas County will be metered by Teanaway Ridge LLC., at the Olson Ditch headworks, and by use of a ramp flume near the end of the ditch. The difference between the authorized water quantities actually diverted in Kittitas County, and the amount authorized in total for trust and diversion in Kittitas, shall be the actual amount of trusted water. This is to ensure that the trust water right and the diversion of water for irrigated acreage in Kittitas do not exceed the authorized totals.
4. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any irrigation operation measuring device used to meet the above conditions and to confirm compliance with the fallowed lands and irrigated lands.
5. This authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.

Measurements, Monitoring, Metering, and Reporting

6. The maximum instantaneous quantity (Qi) to be withdrawn under CS4-00169CTCL@3, shall be no greater than 2.2 cubic feet per second (cfs) or 987.36 gallons per minute (gpm) and no greater than what is being delivered in trust.
7. Water used for irrigation at Col Solare vineyards, at Red Mountain, near Benton City, made available for Trust Water Right CS4-00169CTCL@4, will be measured daily and reported annually by January 31st following each irrigation year to the Department of Ecology and to the Washington Department of Fish and Wildlife. *Ecology recommends supplying data as soon after the irrigation season has ended as possible.
8. The following information shall be included with each submittal of water use data: water right holder, contact name if different, mailing address, daytime phone number, WRIA, permit number, source name, pipe size, pump pressure, hours and days of operation.

Provisions related to the portion of the water right NOT placed into trust (Teanaway Ridge, LLC):

Measurements, Monitoring, Metering, and Reporting

1. An approved measuring device shall be installed and maintained for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use," chapter 173-173 WAC. <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html> {Statutory authority: RCW 90.03.360, 90.44.050, [90.44] 250, [90.44] 450, and chapter 43.21A RCW. 02-02-017 (order 00-01), 173-173-020, effective 1/21/2007.}
2. Water use data shall be recorded weekly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of each calendar year. The Department of Ecology is requiring submittal of monthly meter readings to collect seasonal information for water resource planning, management and compliance.
3. The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, county, water right number, source name, well tag number, purpose of use, period of use, Department of Health WFI water system number and source number(s) if applicable, and the following quantities including units: annual quantity used, maximum rate of diversion, monthly meter readings, and peak monthly flow.
In the future, Ecology may require additional parameters to be reported or more frequent reporting. Ecology prefers web-based entry, but does accept hard copies. Ecology will provide forms and electronic data entry information. These are located at <http://www.ecy.wa.gov/pubs/ecy070170.pdf>.
4. Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation, and maintenance requirements are enclosed as a document entitled "Water Measuring Device Installation and Operation Requirements." <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>.
5. A management plan for the fallowed 76 acres, and the remaining irrigated 39.5 acres both totaling the original 115.5 acres of the Greene/Pethia portion of Court Claim No. 00169, will be provided by the applicant to Ecology so that the specific fallowed vs. irrigated acres are accounted for annually. An updated plan need only be submitted to Ecology for approval prior to changing the footprint of the remaining 39.5 irrigated acres (RCW 90.03.390).

Quantity Limits, Flows, and Regulation

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

Schedule and Inspection

7. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any irrigation operation measuring device used to meet the above conditions and to confirm compliance with the fallowed lands and irrigated lands.
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FINDINGS OF FACT AND ORDER

Upon reviewing the investigator's report, I find all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, I find the change of water right as recommended will not be detrimental to existing rights or detrimental to the public interest.

Therefore, I ORDER the requested change of place and purpose of use under Trust Water Right Application No. CS4-00169CTCL@4, be approved subject to existing rights and the provisions specified above.

This decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this decision is issued, if he or she wishes to file an appeal, must file the Notice of Appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this decision**. Appeals must be filed with the Superior Court Clerk's Office, Yakima County Superior Court, 128 North 2nd Street, Yakima, WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III ("Appeals Procedures"). The content of the Notice of Appeal must conform to RCW 34.05.546. Specifically, the Notice of Appeal must include:

- The name and mailing address of the appellant;
- Name and address of the appellant's attorney, if any;
- The name and address of the Department of Ecology;
- The specific application number of the decision being appealed;
- A copy of the decision;
- A brief explanation of Ecology's decision;
- Identification of persons who were parties in any adjudicative proceedings that led to Ecology's decision;
- Facts that demonstrate the appellant is entitled to obtain judicial review;
- The appellant's reasons for believing that relief should be granted; and
- A request for relief, specifying the type and extent of relief requested.

The "parties of record" who must be served with copies of the Notice of Appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

All others receiving notice of this decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within **thirty (30) days of the date the Order was mailed**. The appeal must be filed in the same manner as described above.

Signed at Yakima, Washington, this day of 2008.

Thomas Tebb, L.E.G.
Section Manager
Water Resources Program
Central Region Office

BACKGROUND

Description and Purpose of Proposed Change *(See ROE Primary Map, Attachment 1)

- The use of the water proposed by the subject trust water right change application is related to the establishment of vineyards located on the south-westerly slope of Red Mountain in Benton County.
- The source of the water is confirmed through a Conditional Final Order entered in Subbasin 7, in State v. Acquavella, from Reecer Creek for a portion of the Greene property place of use in Kittitas County. {See Appendix B of the CS4-00169CTCL@3 file.}
- The Greene property and appurtenant water rights are now owned by Teanaway Ridge LLP, confirmed by Statutory Warranty Deed Escrow No. EA-99131, signed and notarized on June 5, 2006, and Order No. 77-2-01484-5 Dividing Water right and Joining Additional Party Defendant Reecer Creek; Subbasin 7 Claim No. 00169, signed August 29, 2006. {See Appendix E of the CS4-00169CTCL@3 file.}
- By taking 76 acres out of irrigation on the Teanaway Ridge LLP property on Reecer Creek, 2.20 cubic feet per second, for a total of 250.8 acre-feet/year of water will be made available for instream flows in Reecer Creek and the Yakima River. These water courses will convey the water to Red Mountain in Benton County as authorized under CS4-00169CTCL@3.
- An equal amount of water is proposed to be withdrawn from a well field (of not more than 4 wells) to be established approximately 250 feet to 400 feet from the eastern bank of (and in hydraulic continuity with) the Yakima River. Two (2) of the 4 wells have been drilled within the approved authorized locations.
- This water is to be used to irrigate 192 acres (1.3 acre-feet per year/acre) of grape plants of varieties appropriate for commercial wine-making. {See Appendix H of the CS4-00169CTCL@3 file.}
- This trust is intended to reoccur each year from April 1 through October 31, in perpetuity.

This application qualifies for expedited processing under WAC 173-152-050(3)(a) whereby water right change applications may be processed prior to applications submitted at an earlier date when the proposed water use, if approved, would substantially enhance or protect the quality of the natural environment.

Attributes of the Certificate and Proposed Change

Table 1 Summary of Existing Attributes and Proposed Changes to Water Right No. CS4-00169CTCL@4

Attributes	Court Claim	Downstream Water Right Change	Proposed Trust Water Right Change
Water Right No.	Acquavella Court Claim No. 00169	CS4-00169CTCL@3	CS4-00169CTCL@4
Name	Olson Ditch – Greene/Pethia Portion (37.7% of Olson Ditch)	Col Solare LLP (85.8% of Greene/Pethia Irrigation)	Col Solare LLP
Priority Date Date of Application for Change	April 7, 1891	April 7, 1891 June 6, 2006	April 7, 1891 August 2, 2007
Instantaneous Quantity (cubic feet per second)	Apr 1 to Aug 31 – 6.41 cfs Sept 1 to Sept 30 – 4.28 cfs Oct 1 to Oct 31 – 2.141 cfs Nov 1 to Nov 30 – 2.4 cfs Dec 1 to Mar 31 – 0.43 cfs	2.20 cfs	2.20 cfs
Annual Quantity (acre-feet)	Apr 1 to Oct 31 – 2158.20 ac-ft Nov 1 to Nov 31 – 147.78 ac-ft Dec 1 to Mar 31 – 44.49 ac-ft	250.8 ac-ft	250.8 acre-feet
Source	Yakima River	Up to 4 wells	Yakima River
Point of Diversion/Withdrawal	<u>Olson Ditch</u> 500 feet South and 850 feet East from the Center of Section 12, T. 18 N., R. 17 E.W.M.	Wells located in Section 5, T. 9 N., R. 27 E.W.M.	N/A
Purpose of Use	Irrigation, Stock Watering, Conveyance,	Irrigation	Instream Flow Enhancement
Period of Use	April 1 to March 31	April 1 to October 31	April 1 to October 31

Place of Use

Portion of E1/2 of Section 28, T. 18 N., R. 18, E.W. M. lying Northeast of the Burlington Railroad right-of-way and Southwest of Reecer Creek.

Portions of Sections 4, 5 and 9, T. 9 N., R. 27 E.W.M.

Trust Water locations of use are Reecer Creek and the Yakima River

Legal Requirements for Proposed Change

The following requirements were met prior to this Report of Examination for Change on No. CS4-00169CTCL@4:

- **Public Notice (Appropriation Procedure) – RCW 90.03.280**

Affidavits of Public Notice were published June 9, 2006 and June 16, 2006 in the Ellensburg Daily Record, in Kittitas County, and June 9, and June 16, 2006 in the Tri-City Herald, in Benton County. There were no public protests.

- **State Environmental Policy Act (SEPA)**

SEPA Review – WAC 197-11-800(4), DNS issued under WAC 197-11-340(2), EIS not required under RCW 43.21C.030(2)(c)

Adoption of Existing Environmental Review – WAC 197-11-965, *Adoption Notice*

The lead agency, Kittitas County Water Conservancy Board, for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

An Environmental Checklist was prepared and a Determination of Nonsignificance was found and issued by the Kittitas County Water Conservancy Board, and was received and reviewed by the Department of Ecology in September 2006. Gregg Hall, from the Kittitas County Water Conservancy Board, was the SEPA “responsible official,” performing duties as outlined and authorized in RCW 43.21C.030.

{See Appendix J of the No. CS4-00169CTCL@3 file for Affidavits of Publication to the Ellensburg Daily Record, in Kittitas County, and the Tri-City Herald, in Benton County, of the Determination of Nonsignificance.}

A Determination of Nonsignificance and Adoption of Existing Environmental Document form has been completed and accompanies this Report of Examination, as authorized in (WAC 197-11-965, *Adoption Notice*)

This is a situation where the water to be used to establish vineyards at Red Mountain in Benton County relies upon the acceptance of trust water to be kept instream from Reecer Creek in Kittitas County to Red Mountain ground wells in Benton County. Therefore, the trust water component was described and reviewed in the application No. CS4-00169CTCL@3’s SEPA review process.

The following SEPA documents have descriptions of trust water components referred to as Element 1 and Element 2:

- Determination of Nonsignificance: Description of Current Proposal.
- Background Section A of the Environmental Checklist, Subsections 1 and 11a.
- Environmental Elements Section B of the Environmental Checklist, Subsection 3a(4), 3b(1)(a).
- Section C, Subsections 1, 2a, b(1), (2), and Subsection 3a,b,c,d,e, and f.

- **Water Resources Statutes and Case Law**

Expedited Processing – WAC 173-152-050(3)(a)

(3) An application for change or transfer to an existing water right may be processed prior to competing applications provided one or more of the following criteria are satisfied:

- (a) The change or transfer if approved would substantially enhance the quality of the natural environment

Trust Water – RCW 90.42.080(3)

(3) Trust water rights may be acquired by the state on a temporary or permanent basis.

Yakima River Basin Water Rights – Acquisition or Donations of Trust Water Rights – RCW 90.38.040(1) and (4)

RCW 90.38.040(1) All trust water rights acquired by the department shall be placed in the Yakima River basin trust water rights program to be managed by the department.

RCW 90.38.040(4) A schedule of the amount of net water saved as a result of water conservation projects carried out in accordance with this chapter, shall be developed annually to reflect the predicted hydrologic and water

supply conditions, as well as anticipated water demands, for the upcoming irrigation season. This schedule shall serve as the basis for the distribution and management of trust water rights each year.

INVESTIGATION

Investigation for this Report of Examination was primarily conducted by Timothy Blocher, former Trust Water Coordinator for the Department of Ecology's Central Region. Supplemental investigation was conducted by Suzanne Blakeney, former Trust Water Coordinator for the Department of Ecology's Central Region. Investigation included the following:

- Examination of the Subbasin 7 (Reecer Creek) Court record for Court Claim No. 00169 including the Conditional Final Order signed by Court Commissioner Sidney Ottem on October 25, 2001.
- Site examination of the historic and proposed points of diversion and withdrawals, and the historic and proposed places of use.
- Examination of 2002 and 2005 airphotos that support the beneficial usage of the water right since the October 25, 2001 Conditional Final Order.
- Examination of the local hydrology and hydrogeology of the proposed changes to the water right.
- Trust Water Right calculations.
- Review of SEPA documents.
- Consultation with the Washington Department of Fish and Wildlife regarding benefits of instream flows.
- Review of RCWs and WACs (laws and rules) that relate to the authorization for aspects of this report of examination.
- Discussion with Pat Taylor, the one person to comment at the Conservancy Board's public hearings held in Ellensburg, July 18, 2006.
- Field verifications (site visits) for the Kittitas County and Benton County pertinent locations were conducted.
 - ✓ 76 of the 115.5 previously irrigated acres located in Kittitas County will be fallowed.
 - ✓ GPS waypoints were marked at the head works to the Olson Ditch and the location of the ramp flume metering device. This portion of the field visits were conducted with Ken Schuster for advice on better placement of the ramp flume.

History of Water Use

The Kittitas County Water Conservancy Board (KCWCB) examined information pertaining to water use on the Greene property place of use after October 25, 2001, the date of entry of the Acquavella Court's CFO for Subbasin 7 Reecer Creek, confirming the validity of the subject water right. The KCWCB considered the CFO, Declaration of Mark Greene {See Appendix I of the CS4-00169CTCL@3 file.}, and site visits to pertinent locations in Kittitas and Benton Counties, by KCWCB members Gregg Hall and Dennis Kelly, conducted on July 13, 2006. The KCWCB decision confirmed October 2006 beneficial use of the water right since the 2001 CFO. 2002 and 2005 aerial photographs also confirm this usage.

Proposed Use

The trust water that is proposed to be kept in Reecer Creek, for the public benefit of establishing salmonid rearing habitat, was assessed by Paul Lariviere and Jonathan Kohr, of the Washington Department of Fish and Wildlife. The write-up of this assessment is contained in letter dated June 19, 2006. The assessment determined that the tailwater section of Olson Ditch and its continuance into Reecer Creek is prime salmonid rearing habitat. WDFW would like to work with the Kittitas County Conservation District to restore riparian vegetation along the John Wayne Trail, which would enhance fish rearing quality of the tail water being released from Olson Ditch, which flows into Reecer Creek.

The use of this water at the end of the 140 mile instream trust will be for vineyard on the south-westerly slope of Red Mountain in Benton County. See Map 3: Proposed Place of Use.

Other Rights Appurtenant to the Original Court Claim Place of Use

Acquavella's Conditional Final Order Subbasin No. 7 (Reecer Creek) No. 77-2-01484-5's Order Dividing Water Right and Joining Additional Party, for Court Claim No. 00169, Exhibit A, confirmed a right from the Yakima River for a portion of the Greene property place of use in Kittitas County.

Source:	Yakima River
Use:	Irrigation of 39.5 acres (the other 76 acres of the original 115.5 acres irrigated under this water right are fallowed) conveyance and stock watering.
Period of Use:	April 1 through October 31 for irrigation and conveyance, continuous for stock watering.
Quantity:	(6.41 cfs from April 1-August 31, 4.28 cfs in September, 2.14 cfs in October, a total of 2158.20 acre-feet.) (2.401 cfs for a total of 147.784 acre-feet in November.) (.433 cfs for a total of 44.486 acre-feet December 1 to March 31)
Priority Date:	April 7, 1891
Point of Diversion:	500 feet south and 850 feet east from the center of Section 12, being within the NE1/4NW1/4SE1/4 of Section 12, T.18 N., R. 17 E.W.M.
Place of Use:	That portion of the E1/2 of Section 28, T. 18 N., R. 18 E.W.M. lying north of State Highway 10, south of the Dry Creek Road and southwest of Reecer Creek.

Hydrologic/Hydrogeologic Evaluation

This application is proposing to put water in trust for approximately 140 miles of the Yakima River from Kittitas to Benton County, to ensure water is available for capture in an aquifer in hydraulic continuity with the Yakima River, downstream in Benton County.

Trust Water Right Calculations

The annual consumptive quantities (ACQ) correspond to the trust water quantities discussed in detail below.

Trust Water Right Calculation Steps:

1. Confirmation that Court Claim No. 00169 has been fully allocated and used beneficially from 2002 to 2005, since the Conditional Final Order was signed on October 25, 2001. Flood irrigation was the application practice used from 2002 to 2005. Irrigation has been verified using 2002 and 2005 air photos.
2. The Court determined the total allocation of the Olson water right to the Greene property (115.5 acres) to be 2158.2 acre-feet per year (afy), or 37.7 percent of the total water right. This calculates to 18.69 ac-ft/acre.
3. For the ACQ analysis, 2003 and 2004 were the irrigation years of highest continuous beneficial use for the cultivation of timothy hay.
4. Guidance document (GUID 1210) suggests that 50% is reasonable historical irrigation efficiency, as this crop has been flood irrigated historically.
5. The Washington Irrigation Guide (WIG) crop irrigation requirement for timothy hay is 2.76 afy/acre for the Ellensburg area (rounded up to 3 ac-ft/acre), with flood irrigation efficiency of 50% and an evaporation factor of 5%, results in a consumptive use of 3.3 ac-ft/acre and a non-consumptive use of 15.39 ac-ft/acre.
6. The annual consumptive quantities correspond with the trust water quantities and therefore the total consumptive use available for instream flow purposes is 250.8 (3.3 ac-ft/acre multiplied by 76 acres equals 250.8 ac-ft)
7. Of the 2,158.2 afy authorized for irrigation use under the former Greene/present-day Col Solare portion of Olson Ditch, 250.8 acre-feet is to be entered into the trust water program for instream flow benefit of approximately 140 river/creek miles of the Yakima River and Reecer Creek.
8. The trust water portion is 250.8 afy for instream flow uses and for withdrawal downstream from wells in hydraulic continuity with the Yakima River, for the irrigation of 192 vineyard acres in Benton County.
9. 1907.4 afy (130.4 afy is consumptive and 1776.9 is non-consumptive) is to remain for the cultivation of 39.5 acres of timothy hay, including stock water and conveyance, April 1 - October 31.
10. These figures balance the water quantity available under the former Greene/present-day Col Solare portion of the Olson Ditch water right, and validate the existence of a trust water portion as requested in the application.

Trust Water Place of Use

The proposed trust water would be kept in either Reecer Creek if water is conveyed through the Olson Ditch, as Element 1, or left in the Yakima River, as Element 2, if the Olson Ditch should not be in operation. So the trust water would be used instream for the first 2.5 river miles in Reecer Creek and approximately 136 river miles of the Yakima River, or entirely in the Yakima River for approximately 140 miles, if the Olson Ditch is not operational.

Trust Water Management

The vineyard irrigation schedule, using 1.3 afy, per acre, for a total of 192 acres delivered through drip irrigation technology for the production of commercial wine, will take place along the following approximate month to month schedule:

It is recognized that the grapes used for calculating Crop Irrigation Requirements (CIR) for the Washington Irrigation Guide (WIG), in the Richland area are concord grapes for juicing and not the varieties being used for wine production, at Red Mountain, in Benton County. The wine grapes being produced at Red Mountain are being irrigated with drip irrigation technology and require only 1.3 acre-feet per year, per acre. While using less water, the irrigation schedule follows the same approximate pattern as the schedule in the WIG for grapes grown in the Richland area. Consultation with Steve Johnson, of Ste. Michelle Wine Estates Ltd., verified that there would be virtually no use in April and early May, with a gradual ramping up of irrigation volumes from late May to an August-September peak, and a dramatic ramp down from late September to the end of October. The monthly irrigation volume percentages for grapes are delineated in the table below, for the irrigation season of 214 days:

Monthly Irrigation Water Volume Percentages for the Irrigation of Commercial Wine Grapes

April (30 days)	May (31 days)	June (30 days)	July (31 days)	August (31 days)	Sept. (30 days)	Oct. (31 days)
0.0	5.5%	18.80%	29.80%	25.60%	15.80%	4.5%

Following the Crop Irrigation Requirements (CIR) for grape production in the Richland area, as delineated in the WIG, and using the 192 acre/250.8 acre feet limitations of this trust water application, the volumes for an approximate monthly schedule at Col Solare’s Red Mountain vineyard are delineated in the table below:

Approximate Schedule for Monthly Water Use Totals at Red Mountain for the Irrigation of Commercial Wine Grapes

April (30 days)	May (31 days)	June (30 days)	July (31 days)	August (31 days)	Sept. (30 days)	Oct. (31 days)
0.0 acre-feet (af)	13.79 af	47.15 af	74.74 af	64.20 af	39.63 af	11.29 af

Although the applicant’s water right is confirmed for a maximum instantaneous quantity (Qi) of 2.2 cfs, it is also confirmed for an annual quantity (Qa) of 250.8 acre-feet. Therefore the Qi cannot be maintained continuously or the Qa would be

exceeded. It is understood that there may be peak usage periods where 2.2 cfs is used, but a continuous Qi of 0.59 cfs over the irrigation season would use the confirmed Qa of 250.8 acre-feet.

Schedule for Monthly Water passed over Parker and Prosser Dams to Supply This Trust Water for use at Red Mountain

Month	April	May	June	July	August	September	October
Total (approximate) Monthly acre-feet to be used	0.0 af	13.79 af	47.15 af	74.74 af	64.20 af	39.63 af	11.29 af
Total (approximate) acre-feet per day	0.0 af	.445 af	1.57 af	2.41 af	2.07 af	1.32 af	.36 af
Daily cfs Required to Meet (approximate) Monthly Water quantities	0.0 cfs	.225 cfs	.79 cfs	1.22 cfs	1.05 cfs	.67 cfs	.18 cfs

- At an estimated river velocity of 4 feet per second, there would be approximately 4.3 days lag time for water released at Reecer Creek, in Kittitas County, to arrive at Red Mountain vineyards.
- The Bureau of Reclamation’s management schedule for water deliveries in the Yakima Project to Parker and Prosser Dams, reflect s lag time.

The above schedule of monthly distribution for water use will be reported to the BOR for its ongoing Parker TWSA (Total Water Supply Available) management to insure the water volumes are passed over Parker and Prosser Dams.

The trust water will be used for instream flow and fishery habitat enhancement efforts only. This instream trust water will be monitored by a ramp flume in Olson Ditch, near the Reecer Creek confluence. A proposal to meter the Olson Ditch and Ellensburg Town Canal diversions at the headworks to the diversions is being developed to adequately monitor several trust water rights developing with Olson Ditch water users.

Impairment Considerations

There will be no impairments to Olson Ditch users as the water is to be kept in Olson Ditch, unless the Olson Ditch becomes inoperable. In the case of inoperability of Olson Ditch, it would not be because of this proposed change in purpose of use.

Target and Parker Considerations for Yakima River Basin Management (Administration of Transferred Water Right)

Ecology will administer the donated water as a trust water right under Chapter 90.38 RCW. The certificate of trust water right that Ecology issues will be in the name of the State of Washington, managed jointly by the State of Washington Department of Ecology and the United States Bureau of Reclamation (USBR) as a separate block of water under the Total Water Supply Available (TWSA), for use in perpetuity for instream flow enhancement, in the Yakima River. This will increase target flows at Parker and Prosser Diversion Dams. Therefore this trust water must be metered, monitored, and reported to the Department of Ecology so the department, in turn, can provide advance quantities needed for the USBR to set target flows at Parker and Prosser Dams.

Consideration of Protests and Comments

There were no protests or written objections received during the 30-day protest period. Oral or written comments were made from Pat Taylor, as well as applicant representatives at the aforementioned open public meetings or public hearing of the KCWCB.

CONCLUSIONS

- A portion of Court Claim No. 00169 was appurtenant to the Greene/Pethia property in Kittitas County, and 115.5 acres have been historically and beneficially irrigated. It is concluded through the interpretation of 2002 and 2005 airphotos that the subject water has been beneficially used during those years and therefore the water right has not experienced five years of non-use since the October 25, 2001 CFO validation of Court Claim No. 00169.
- In accordance with RCW 90.03.380, the author makes a tentative determination that a portion of Court Claim No. 00169 represents a valid right to transfer to the Trust Water Rights Program, 2.2 cfs at a maximum, never to exceed, 250.8 acre-ft/yr of water conveyed through the Olson Ditch, Reecer Creek, and the Yakima River.
- Trust water quantities are limited to the consumptive use portion of 250.8 acre-feet.
- SEPA review has been correctly processed, with a Determination of Nonsignificance and Adoption of Existing Environmental Document prepared for approval.
- Approval of this water right change as provisioned will not enlarge the water right or impair existing water rights.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to No. CS4-00169@4 be approved in the amounts and within the limitations listed below and subject to the provisions listed in the Report of Examination.

Trust Water Right Attributes:

The primary reach begins at the headworks of Olson Ditch on the Yakima River. The primary reach continues down Olson ditch to its confluence with Reecer Creek which drains into the Yakima River and continues 136 miles to Red Mountain in Benton County, where water will then be withdrawn from a well filed in Section 5, T. 9 N., Range 27 E.W.M.

2.20 cfs, 250.8 acre-ft/yr from April 1st to October 31st for instream flow purposes in the primary reach as follows:

Period of Use	Withdrawal Rate Maximums	Total Withdrawal Quantity Allowed
April 1- September 30	2.20 cubic feet per second (maximum withdrawal rate)	250.8 acre-feet per year
October 1- October 31	1.885 cubic feet per second (maximum withdrawal rate)	

Schedule for Monthly Water flow over Parker and Prosser Dams to convey this Trust Water for use at Red Mountain

Month	April	May	June	July	August	September	October
Total (approximate) Monthly acre-feet to be used	0.0 af	13.79 af	47.15 af	74.74 af	64.20 af	39.63 af	11.29 af
Total (approximate) acre-feet per day	0.0 af	.445 af	1.57 af	2.41 af	2.07 af	1.32 af	.36 af
Daily cfs Required to Meet (approximate) Monthly Water quantities	0.0 cfs	.225 cfs	.79 cfs	1.22 cfs	1.05 cfs	.67 cfs	.18 cfs

- At an estimated average river velocity of 4 feet per second there would be approximately 4.3 days lag time for water released at Reecer Creek, in Kittitas County, to arrive at Benton County’s Red Mountain vineyards. This lag time can be refined as experience is developed.

Report by: _____
 Melissa Downes
 Water Resources Program

_____ Date