

Board Name: Kittitas County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

FOR ECOLOGY USE ONLY

Date Stamp

Reviewed by:

Applicant Name: Nunnally Holdings LLC Application Number: S4-83504-J (KITT-24-02)

This record of decision was made by a majority of the board at an open public meeting of the (Board Name) Kittitas Water Conservancy Board held on (date meeting was held) 4/15/25. The undersigned board commissioners certify that they each understand the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that each commissioner, having reviewed the report of examination, knows and understands the content of the report.

☒ **Approval:** The (board name) Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on (date report of exam was signed) 4/15/25 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The (board name) Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on (date report of exam was signed) _____ and submits this record of decision to the Department of Ecology for final review.

Signed:

Water Conservancy Board Name: Kittitas County		Date: 4/15/25
Chair Name: Mark Crowley	Signature: <i>Mark W Crowley</i>	
(choose one) <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Deny <input type="checkbox"/> Abstain <input type="checkbox"/> Recuse <input type="checkbox"/> Other (please explain)		

Water Conservancy Board Name: Kittitas County		Date: 4/15/25
Title: _____	Name: Jason McCormick	Signature: <i>Jason McCormick</i>
(choose one) <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Deny <input type="checkbox"/> Abstain <input type="checkbox"/> Recuse <input type="checkbox"/> Other (please explain)		

Water Conservancy Board Name: _____		Date: _____
Title: _____	Name: _____	Signature: _____
(choose one) <input type="checkbox"/> Approve <input type="checkbox"/> Deny <input type="checkbox"/> Abstain <input type="checkbox"/> Recuse <input type="checkbox"/> Other (please explain)		

Water Conservancy Board Name: _____		Date: _____
Title: _____	Name: _____	Signature: _____
(choose one) <input type="checkbox"/> Approve <input type="checkbox"/> Deny <input type="checkbox"/> Abstain <input type="checkbox"/> Recuse <input type="checkbox"/> Other (please explain)		

Water Conservancy Board Name: _____		Date: _____
Title: _____	Name: _____	Signature: _____
(choose one) <input type="checkbox"/> Approve <input type="checkbox"/> Deny <input type="checkbox"/> Abstain <input type="checkbox"/> Recuse <input type="checkbox"/> Other (please explain)		

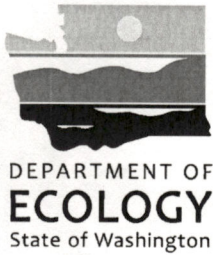
RECEIVED
APR 17 2025
DEPT OF ECOLOGY
CENTRAL REGIONAL OFFICE

Mailed with all related documents to the Dept of Ecology (send to the Regional office below), and any other interested parties.

Please check the appropriate Regional Office:

<input type="checkbox"/> Northwest Region Office PO Box 330316 Shoreline, WA 98133-9716 (206) 594-0000	<input type="checkbox"/> Eastern Region Office 4601 N. Monroe St. Spokane, WA 99205-1265 (509) 329-3400
<input type="checkbox"/> Southwest Region Office PO Box 47775 Olympia, WA 98504-7775 (360) 407-6300	<input checked="" type="checkbox"/> Central Region Office 1250 W. Alder St. Union Gap, WA 98903-0009 (509) 575-2490





Board Name: Kittitas County Conservancy Board

WATER CONSERVANCY BOARD

Application for Change/Transfer

OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON

REPORT OF EXAMINATION

NOTE TO APPLICANT: Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology makes a final decision affirming, in whole or in part, the board's recommendation. It is advised that the applicant not proceed until the appeal period of Ecology's decision is complete.

NOTE TO AUTHOR: Read the instructions for completing a water conservancy board report of examination. Use the Tab key to move through the form or with your mouse, select the fields to enter information.

☒ Surface Water

☐ Ground Water

Date Application Received	September 17, 2024	Water Right Document Number (i.e., claim, permit, certificate, etc.)	S4-83504-J
Water Right Priority Date	June 30, 1872	Board-Assigned Change Application Number	KITT-24-02
Name: Nunnally Holdings LLC	Phone: (509) 766-1542	Email: VICJ@Lynden.com	
Address (street): PO BOX 579	City: Moses Lake	State: Washington	Zip: 98837
Changes Proposed: <input checked="" type="checkbox"/> Change purpose <input type="checkbox"/> Add purpose <input type="checkbox"/> Add irrigated acres <input type="checkbox"/> Change point of diversion/withdrawal <input type="checkbox"/> Add point of diversion/withdrawal <input checked="" type="checkbox"/> Change place of use <input checked="" type="checkbox"/> Other (Temporary, Trust, Interties, etc.) Trust water for Instream Flow			
SEPA: The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: <input type="checkbox"/> Exempt <input checked="" type="checkbox"/> Not Exempt			

BACKGROUND AND DECISION SUMMARY

Please include a map(s) reflecting all referenced existing and proposed point(s) of diversion or withdrawal and place(s) of use (RCW 90.03.260(7); WAC 173-153-070 (6)(c).

Existing Right (Tentative Determination)							
Maximum cub ft/second	0.135 from April 1 to June 30 0.076 from July 1 to October 31		Maximum gal/minute	N/A			
Maximum acre-ft/yr	50.2		Describe Type(s) of use, and period(s) of use	Irrigation of 10 acres from April 1 to October 31			
Source	Manastash Creek		Tributary of (if surface water)		Yakima River		
At a Point Located:	Parcel No. 17-17-14010-0011		1/4	NW	1/4	NE	Section 14
Township N.	17 N.	Range	17 E.W.M.	WRIA	39	County	Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED That portion of the S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, T. 17 N., R. 18 E.W.M. lying westerly of the West Side Canal. Kittitas County Parcel Nos. 18125.							
Parcel no.	18125	1/4	NE	1/4	NE	Section	8
Township N.	17 N.	Range	18 E.W.M.	WRIA	39	County	Kittitas

RECEIVED
APR 15 2025
CENTRAL REGIONAL OFFICE

Proposed Use							
Maximum cub ft/second	0.135 from April 1 to June 30 0.076 from July 1 to October 31		Maximum gal/minute	N/A			
Maximum acre-ft/yr	50.2		Describe Type(s) of use, and period(s) of use	Instream Flow			
Source	Manastash Creek			Tributary of (if surface water)		Yakima River	
At a Point Located:							
Parcel No.	N/A	1/4	N/A	1/4	N/A	Section	N/A
Township N.	N/A	Range	N/A	WRIA	39	County	Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
Instream flow in Manastash Creek from the historic point of diversion at a point located 500 feet south and 150 feet east from the north quarter corner of Section 14, being within the NE 1/4 SE 1/4 of Section 14, Township 17 North, Range 17 East Willamette Meridian (E.W.M.), and ending at the Manastash Creek – Yakima River Confluence.							
Parcel no.	N/A	1/4	N/A	1/4	N/A	Section	N/A
Township N.	N/A	Range	N/A	WRIA	39	County	Kittitas

Board's Decision on the Application							
Maximum cub ft/second	0.135 from April 1 to June 30 0.076 from July 1 to October 31		Maximum gal/minute	N/A			
Maximum acre-ft/yr	50.2		Describe Type(s) of use, and period(s) of use	Instream Flow			
Source	Manastash Creek			Tributary of (if surface water)		Yakima River	
POW No.	1/4	1/4	Section	Township	Range	Description	Parcel No.
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
Instream flow in Manastash Creek from the historic point of diversion at a point located 500 feet south and 150 feet east from the north quarter corner of Section 14, being within the NE 1/4 SE 1/4 of Section 14, Township 17 North, Range 17 East Willamette Meridian (E.W.M.), and ending at the Manastash Creek – Yakima River Confluence.							
Parcel no.	N/A	1/4	N/A	1/4	N/A	Section	N/A
Township N.	N/A	Range	N/A	WRIA	39	County	Kittitas

Description of Proposed Works
The purpose of this application is to change the purpose and place of use to instream flow in Manastash Creek. The resulting water right will be permanently placed in the State's Trust Water Rights Program and exclusively used for instream flow.

Development Schedule	
Begin project by this date (At least 75 days after Board's ROD issuance):	Begun
Complete project by this date:	Completed upon ROE issuance
Complete change & put water to full use by this date:	Completed upon ROE issuance

Report
BACKGROUND [See WAC 173-153-130(6)(a)]

On September 17th, 2024, Nunnally Holdings LLC (Applicant) of Moses Lake, Washington filed an application to change the purpose and place of use under Certificate of Adjudicated Water Right (Certificate) S4-83504-J (Water Right). The application was accepted at an open public meeting and the Board assigned application number KITT-24-02.

Nunally Holdings LLC is the current water right holder for Certificate S4-83504-J. The Applicant is applying to place the water right in the State's Trust Water Right Program (TWRP). Once the change is complete the Water Right will remain instream for perpetuity to benefit instream flows.

This change (and parallel change on Certificate S4-83516) is intended to finalize previous instream flow investments by the Washington Department of Ecology (Ecology) with prior property owners, and transfer of the balance of the water for instream flow benefit in conjunction with Trout Unlimited.

Attributes of the water right as currently documented

Name on certificate, claim, permit: Chaparral County Estates, LLC

Water right document number (e.g., cert #, claim #, permit #, superseding document #): Certificate of Adjudicated Water Right S4-83504-J

As modified by certificate of change number: N/A

Priority date, first use Date of priority or claimed date water was originally first put to beneficial use: June 30, 1872

Water quantities: Qi (Instant qty): 0.233 from April 1 to June 30 and 0.177 from July 1 to October 31
Qa (Annual qty): 71.1 ac-ft/yr

Source (well, river, etc): Manastash Creek

Point of diversion/withdrawal (Distance from ¼¼, Section, Township, Range EWM): A point located 500 feet south and 150 feet east from the north quarter corner of Section 14, being within the NE¼SE¼ of Section 14 Township 17 North, Range 17 E.W.M. Parcel No. 17-17-14010-0011.

Purpose of use: Irrigation Number of Acres if Irrigation: 10

Period of use: April 1 to October 31

Place of use: That portion of the S½NE¼NE¼ of Section 8, T. 17 N., R. 18 E.W.M. lying westerly of the West Side Canal. Kittitas County Parcel Nos. 18125.

Existing provisions (family farm act, interruptable, etc.):

Water shall not be diverted when stream flow is equal to or less than 60 cfs at a point upstream of the new point of diversion.

An approved stream gage shall be permanently installed in Manastash Creek at a location describes as a point 600 feet north ad 700 feet east from the southwest corner of Section 12 being within the SW¼SW¼ of Section 12, T. 17 N., R. 17 E.W.M. (This is the historic Reed Ditch Diversion).

Water shall not be diverted from the new point of diversion unless the following minimum rate of flow are measure at Reed Ditch Diversion: six cubic feet per second (from April 1 through June 30) and 3 cubic feet per second (July 1 through October 31) or, during periods of proration, the prorated rates. The Reed Ditch Diversion location is given above.

The six cubic feet per second (from April 1 through June 30) and 3 cubic feet per second (July 1 through October 31), or such prorated portions thereof to be measured at the Reed Diversion shall be archived through the methods or acquisitions addressed in the Manastash Creek, including flows measured at Reed Diversion, will continue to be regulated by priority date consistent with State vs. Acquavella, Yakima County Superior Court No. 77-2-0148-5, and Washington State Law.

Tentative determination of the water right

The tentative determination is provided on the front page of this report.

History of water use

Describe the historical water use information that was considered by the board:

A water right with attributes described above was confirmed under Certificate S4-83504-J (Attachment 1), in the Yakima River Basin surface water (Acquavella) adjudication for Subbasin No. 11, Manastash Creek drainage basin, with a Conditional Final Order (CFO) signed on June 14, 2001.

Historically, surface water was diverted from Manastash Creek at the authorized point of diversion, otherwise known as the "Anderson Diversion". The diverted water was then conveyed via gravity eastward through the Anderson Ditch to the authorized place of use. In 2012 the point of diversion was moved upstream to the consolidated Manastash Water Ditch Association (MWDA) diversion.

Water was historically applied to the place of use using a combination of wheelline and rill irrigation methods. In 2011, irrigation infrastructure was upgraded across the property as part of an Irrigation Efficiency Grant Program (IEGP). Following the IEGP construction, the majority of the property was irrigated using lateral move and wheelline sprinklers with a small portion of the property still relying on rill irrigation methods. The main crop grown on the property was Timothy Hay.

When available, water was used to irrigate the existing place of use until 2017 then the water right was placed in the State's Temporary Trust Water Right Program to protect it from relinquishment. Following the temporary trust donation the place of use has been hydrated using KRD shares. At the time of this application the subject water right is still in temporary trust.

Previous changes

Describe any previous change decisions associated with the water right:

Since the water right was confirmed by the Superior Court, this water right has been the subject of multiple change applications. A complete narrative and timeline of these changes are included below:

- **2006** – Anderville Farms (the property owner at that time) submits water right change (CS4-02253CTCL) to move the authorized Point of Diversion (POD) from the historic Anderson Diversion, upstream to the new Manastash Water Ditch Association (MWDA) diversion.
- **2010** – Anderville farms submits a water right application (CS4-02253sb11) associated with an Irrigation Efficiency Grant Program (IEGP) through the Kittitas County Conservation District (KCCD). The application proposed to install new sprinklers to increase the efficiency of the existing irrigation system and reduce the Total Irrigation Requirement (TIR) of the property. In exchange, the water saved due to these efficiencies would be placed instream for perpetuity.
The change application and IEGP agreement committed the following quantities to instream flow: An annual amount of 18.25 ac-ft/yr and an instantaneous amount of 0.106 cfs from April 1st to June 30th and 0.053 cfs from July 1st to October 31st.
- **2011** – IEGP construction is complete. However, the change ROE is never completed by Ecology, and water savings not deeded to Ecology.
- **2012** – Ecology approves the 2006 change application (CS4-02253sb11) moving the point of diversion upstream to MWDA diversion. Because the water right is moved upstream additional instream flow provisions are added to the water right to protect existing water users within the affected reach.
- **2017** – The water right is placed in Ecology's Temporary Trust Water Rights Program to protect the water right from relinquishment due to non-use. The associated trust water right numbers are CS4-02253sb11@1 and CS4-83504-J.
- **2017/2018** – The Anderville Farms entered into a cost-share agreement with the KCCD to help pay for a pipeline project. The proposed project would replace the existing gravity delivery line with a pressure pipe delivery to utilize pressure from the KRD's 13.8 pipeline, allowing the property owner to run the sprinklers without a pump. In exchange for cost share, Anderville Farms agreed to place 60.5 ac-ft/yr from the two state water rights into the TWRP for instream flow in Manastash Creek. Although a change application was submitted in 2017 (CS4-02253sb11@2) and construction of the pipeline was completed by 2018, the Change ROE is never completed by Ecology, and water savings not deeded to Ecology.

SEPA

The board has reviewed the proposed project in its entirety (Provide a detailed explanation of how the board complied with the State Environmental Policy Act):

Although this water right application is categorically exempt from SEPA under WAC 197-11-800(4) as it will not appropriate more than one cubic foot per second of surface water, the project as a whole (transfer of both S4-83504 and S4-83516) triggers the SEPA threshold. Therefore, the Board has reviewed the proposed project in its entirety, including the subject transfers to the State's Trust Water Right Program (TWRP).

The Kittitas County Water Conservancy Board acted as lead agency for the SEPA review for this proposal. A checklist was completed, and a Determination of Non-Significance (DNS) was issued by the Kittitas County Water Conservancy Board. Notice of the DNS was published on Ecology's SEPA Registry on January 27, 2025. No action was taken on this application for 14 days following the publication of the determination per WAC 197-11-340. A copy of the DNS is included in the supporting documents.

The information or conclusions in this section were authored and/or developed by (Name of Person): Dan Haller, CWRE and Silas Sleeper of Aspect Consulting.

COMMENT AND PROTESTS [See WAC 173-153-130(6)(b)]

Public notice of the application was given in The Daily Record of Ellensburg Washington on October 24th and October 31st 2024. The protest period ended on November 30th, 2024. There were no protests received during the 30-day protest period. The Board notified the following parties of this application: Washington State Department of Fish and Wildlife (WDFW), Confederated Tribes and Bands of the Yakama Nation, and Washington State Department of Archaeology & Historic Preservation.

No oral and written comments were received at an open public meeting of the Board or other means as designated by the Board.

The information or conclusions in this section were authored and/or developed by (Name of Person): Dan Haller, CWRE and Silas Sleeper of Aspect Consulting.

INVESTIGATION [See WAC 173-153-130(6)(c)]

The following information was obtained from the following:

- Research of records including the Ecology Water Rights Tracking System (WRTS) database, the Ecology Well Log Database, Kittitas County online Compass for tax parcel ownership, aerial imagery (i.e. Google Earth, USGS Earth Explorer, Landsat, Department of Natural Resources), Acquavella adjudicated records and Ecology water right files.
- Conversations with current landowners, attorney, and other interested parties.
- A site visit was completed on February 18, 2025, by Mark Crowley (Kittitas County Water Conservancy Board), Justin Bezold (Trout Unlimited) and Silas Sleeper (Aspect Consulting). During the site visit, the place of use was observed and history of water use discussed.

Proposed project plans and specifications

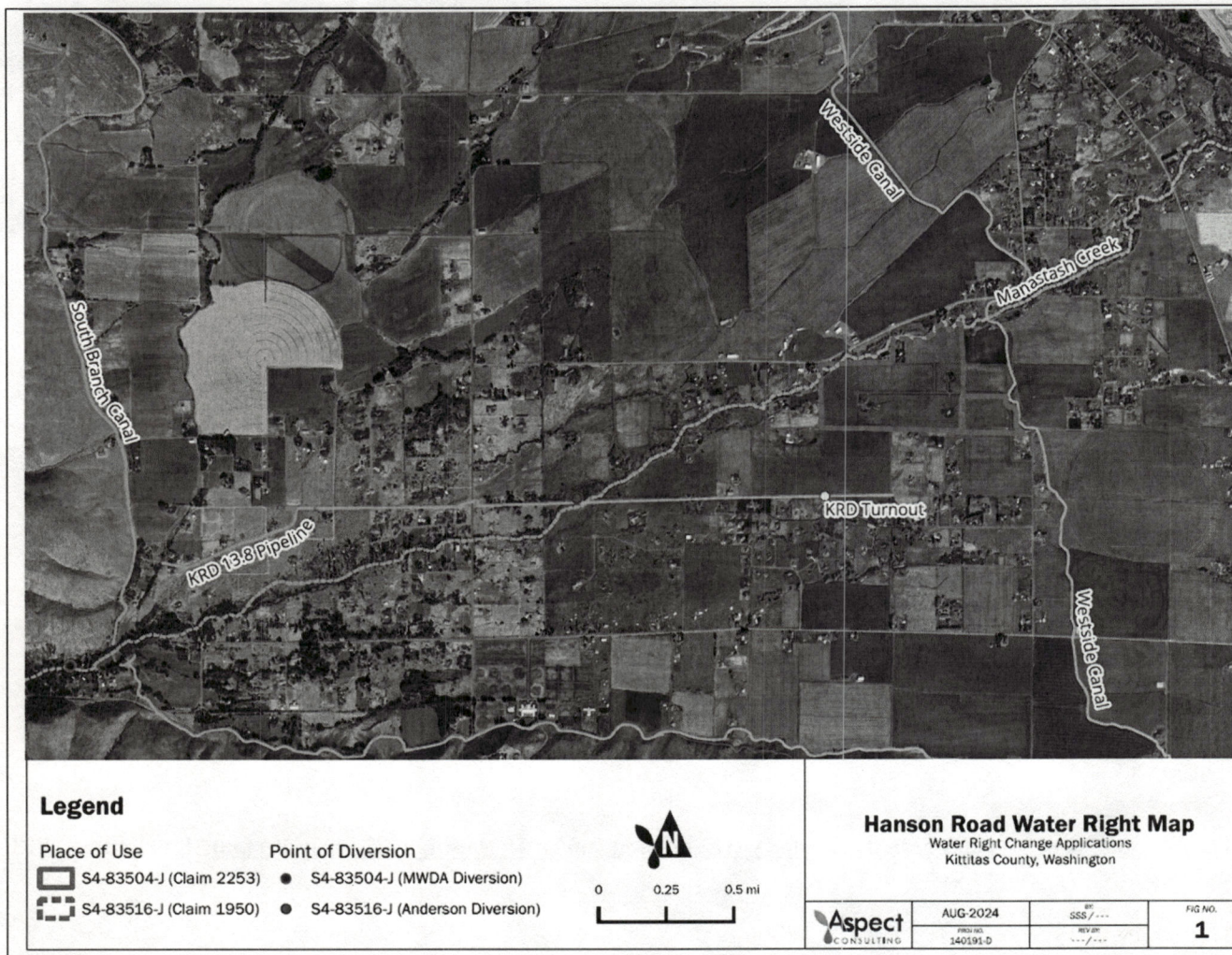
Describe proposed use of water to include # of connections, method of irrigation, type of crop, commercial use, etc. Also describe any issues related to development, such as the proposed development schedule and an analysis of the effect of the proposed transfer on other water rights, pending change applications & instream flows established under state law.

The purpose of this application is to change the purpose and place of use to instream flow in Manastash Creek. The resulting water right will be permanently placed in the State's Trust Water Rights Program and exclusively used for instream flow.

Figure 1 below shows the location of the existing point of diversion and place of use.

RECEIVED

APR 15 2025



Other water rights appurtenant to the property (if applicable)

Describe any other water rights or other water uses associated with both the current and proposed place of use and an explanation of how those other rights or uses will be exercised in conjunction with the right proposed to be transferred.

The historic farm block is composed of 12 parcels that are served by two adjudicated state water rights (S4-83504-J and S4-83516-J) and irrigation district (Kittitas Reclamation District) shares. The second state water right (S4-83516-J) authorizes the diversion of 720.2 ac-ft/yr from Manastash Creek for the irrigation of 101 acres. Historically, the two state water rights (S4-83504-J and S4-83516-J) have been used to irrigate the property and managed as a single entity.

KRD shares for the property total 122 acres (Table 2). The applicant met with Kittitas Reclamation District (KRD) to understand how the state water rights could be conveyed without triggering stacking issues or “Shaw” court case implications that create enlargement potential. Based on KRD’s guidance, the applicant understands that the Manastash rights can be conveyed for a nonconsumptive environmental purpose while continuing to receive KRD service.

Therefore, this application proposes to change the purpose of use to instream flow in Manastash Creek (a nonconsumptive environmental purpose). Benefits of the proposed change will occur in Manastash Creek from the point of diversion, downstream to the confluence with the Yakima River. Below the confluence of the Yakima River, the proposed change will be water budget neutral.

Table 1. KRD Shares on the Subject Property

Parcel ID	Land Acres	KRD Acres	Water Right Authority
18125	17.07	16	S4-83504-J / KRD
18122	8.96	9	S4-83516-J / KRD
18121	13.29	14	S4-83516-J / KRD
18119	10.676	11	S4-83516-J / KRD
18118	12.03	12	S4-83516-J / KRD
708433	7.69	8	S4-83516-J / KRD
18116	9.03	9	S4-83516-J / KRD
698433	10.84	11	S4-83516-J / KRD
18117	7.35	7	S4-83516-J / KRD
678433	12.56	12	KRD only
18115	8.24	7	S4-83516-J / KRD
58333	6.46	6	S4-83516-J / KRD
Total acreage associated with entire property	124.2	122	
Total acreage associated with state water rights	111.64	110	

Note: In 2024, the applicant has applied to transfer 13 acres of KRD shares off the property associated with land urbanization from new home construction.

Public Interest (groundwater only)

If the proposed transfer is authorized pursuant to RCW 90.44.100, describe whether it is detrimental to the public interest. Public interest shall not be considered if the proposed transfer is authorized pursuant to RCW 90.03.380 exclusively.

Pursuant to RCW 90.42.040(4)(a) exercise of a trust water right may be authorized only if the department first determines that the public interest will not be impaired. The Board and Ecology consider how the change in purpose and acceptance into the TWRP will affect an array of factors such as wildlife habitat, recreation, water quality, and human health. The environmental amenities and values associated with the area were taken into account during the consideration of this change application. Consideration of these factors allows the author to reach the conclusion that this transfer will not impair the public interest.

Tentative Determination

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use.

Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings. Describe any information indicating that an existing water right or portion of a water right has been relinquished or abandoned due to nonuse and the basis for the determination.

Summary

The Board's tentative determination is based upon the following findings: the water right has been the subject of the *Acquavella* Adjudication which established legal standing of this right through signing of the CFO on June 14, 2001. Since signing of the CFO, the property was irrigated with the Water Right until 2017 when the water right was donated

to trust. In addition, Ecology completed a tentative determination on this water right in 2012 as part of the water right change. Ecology's tentative determination concurred with the adjudicated quantities listed in the 2001 CFO. Therefore, because the water right has been put to continuous beneficial use within a consecutive five-year window, the water right remains valid and is eligible for change.

However, based on a review of aerial imagery it appears that only 106 acres have historically been irrigated within the place of use of the two state water rights (S4-83504-J and S4-83504-J). The two state water rights authorize the combined irrigation of 111 acres and therefore approximately 5 irrigated acres have been relinquished under Water Right S4-83516-J.

Estimate of Water Use

The amount of water beneficially used on the property was determined using a multiple line of evidence approach, including review of aerial photographs, Landsat imagery, Ecology records, previous change applications, Acquavella adjudicated records and crop water use calculations.

A description of each of these is provided below.

Ecology's 2010 Tentative Extent and Validity Determination

During Ecology's review of the IEGP application, Eric Hartwig from the Department of Ecology completed a tentative extent and validity review of the two state water rights (S4-83504-J and S4-83504-J). To inform the extent and validity of the water rights, Ecology reviewed aerial imagery for 2002, 2005, 2006 and 2009 and the last 5-years of power meter records. Based on their review of available data, Ecology determined that both state water rights were valid for the quantities listed on the CFO. Ecology's findings are documented in a letter (dated October 27, 2010) which is included as Attachment 2. Based on the boards' review It appears that this overstates the property's water over use by approximately 5 acres.

Aerial Photo Review

Aerial photographs taken during the irrigation season for the years 2003, 2005, 2006, 2009, 2011, 2013, and 2015 were reviewed for evidence of irrigation and to measure irrigated acreage. Each of the photographs shows clear evidence of active irrigation occurring across the property.

As seen above, the parcel data indicates that the total acreage associated with the state water rights are approximately 111.6 acres. However, due to parcel overlap lap to the north (with Manastash Creek), to the west (with a canal) and to the south (with the neighboring property) the actual irrigatable acreage of the property is approximately 106 acres.

Copies of the aerial photographs with the authorized places of use outlined in blue (S4-83516) and red (S4-84504) are provided in Attachment 3. A summary of the aerial photo review is included below in Table 2.

Table 2. Aerial Photo Review

Year	Irrigated Acres (S4-83516)	Irrigated Acres (S4-84504)	Total Irrigated Acres
2003	90	16	106
2005	90	16	106
2006	90	16	106
2009	90	16	106
2011	90	16	106
2013	90	16	106
2015	90	16	106

Based on a review of the water right's fact pattern and aerial imagery, the board decided that relinquishment of 5 acres under the property's two water rights would be removed from S4-83516.

Quantities Previously Committed to Instream Flow

As discussed above, the property's state water rights were the subject of two different cost-share agreements with the KCCD. The first being the IEGP project in 2011 and the second being the pressurized pipeline project in 2017. Although both of those projects were completed, Ecology never finalized the associated water right changes and

therefore the instream flow conveyances were never officially memorialized. When accounting for the previous instream flow conveyances (presented in Table 3 below) the remaining annual quantity of the two state water rights is approximately 557.5 ac-ft/yr.

Table 3. Summary of Previous Instream Flow Projects

	Adjudicated Quantities		IEGP Contribution		Post IEGP		Pipeline Contribution	Post Pipeline
Water Right	S4-83504	S4-83516	S4-83504	S4-83516	S4-83504	S4-83516	Both	Both
Qa	71.1	720.2	18.25	135.05	52.85	585.15	60.5	577.5
Qi (4/1 - 6/30)	0.233	2.353	0.106	0.784	0.127	1.569	0.2	1.496
Qi (7/1 - 10/31)	0.117	1.177	0.053	0.392	0.064	0.785	0.01	0.839

Trust Water Calculations

This section describes how the water use values were calculated to identify how much water will be eligible for transfer from the discontinued use of Manastash Creek water for the irrigation of 106 acres.

In absence of reliable direct water use records, Ecology and Water Conservancy Boards use various estimation methods, such as the Washington Irrigation Guide (WIG), to estimate water use. The updated WIG data show the estimated average amount of water required by a crop above the portion of the requirement that might be met by antecedent moisture in the root zone under average climatic conditions (the amount of water a crop needs in excess of rainfall). The monthly WIG data indicate that the Crop Irrigation Requirement (CIR) for clover – the surrogate crop used for timothy hay near Ellensburg – is 2.76 feet per acre.

Using Ecology's Guidance Document, GUID-1210, Determining Irrigation Efficiency and Consumptive Use, the farm-wide application efficiency (Ea), and water duty was estimated for the adjudicated water right quantities and 2019 water right quantities (2019 quantities take in consideration previous commitments to instream flow) in Table 4 below.

Table 4. Water Use Calculations

	Qa (ac-ft/yr)	Irrigated acres	Qi (cfs)	Qa Water Duty (feet /acre)	Qi Water Duty (cfs/acre)	CIR (ft/ac)	Ea (%)
Adjudicated Quantities	791	111	2.586 (4/1-6/30) 1.294 (7/1-10/31)	7.13	0.233 0.0117	2.76	39
2019 Quantities (after Cost Share Agreements)	577.5	111	1.496 (4/1-6/30) 0.839 (7/1-10/31)	5.02	0.0135 0.0076	2.76	55

$$\text{Water Duty} = \text{Qa} / \text{irrigated area} \parallel \text{Ea} = \text{CIR} / \text{Water Duty}$$

As seen above in Table 4, the application efficiency increased by 16 percent due to the irrigation upgrades associated with the two cost-share projects. This is consistent with GUID-1210 which lists 10 percent increase in efficiency when changing from wheelline to lateral move and a 25 percent increase in efficiency when changing from rill to wheelline.

Using the 2019 Qi and Qa water duties from Table 4, the relinquishment of 5 acres (which is occurring under Water Right S4-83516-J) equates to approximately 25.10 ac-ft/yr and 0.067 cfs from April 1 to June 30 and 0.038 cfs from July 1 to October 31.

Other

Provide any other pertinent information relative to the investigation of this application.

Instream Flow Provision

In 2012, Ecology processed a change application on the subject water right moving the point of diversion from the historic Anderson Diversion, upstream 2.2 miles to the MWDA consolidated diversion. During the move upstream, the following provision was added to the water right:

"Water shall not be diverted when stream flow is equal to or less than 60 cfs at a point upstream of the new point of diversion"

As part of this water right investigation, Trout Unlimited spoke with Eric Hartwig, the current Walla Walla River Basin Water Master (formerly the Yakima River Basin Water Master), on March 11, 2025, to help inform our understanding and applicability of this provision. Eric Hartwig indicated that this provision was added to the water right during the upstream POD transfer in order to protect both senior and junior water users within the affected reach. Trout Unlimited asked Eric Hartwig if he recalls how the 60 cfs limitation was determined at the time of the ROE issuance. Eric responded saying that the 60 cfs limitation was selected as a conservative number based only on full authorized water right quantities to avoid any potential impairment concerns with the upstream transfer. The parallel water right in this change does not have this provision because it did not undergo the upstream move.

Based on the review of the water right file, review of local watershed planning documents, and conversations with the historic Yakima River Basin Water Master, the Board recommends that this provision remains attached to this water right to protect water users in the affected reach.

The information or conclusions in this section were authored and/or developed by (Name of Person): Dan Haller, CWRE and Silas Sleeper of Aspect Consulting.

CONCLUSIONS [See WAC 173-153-130(6)(d)]

Tentative determination (validity and extent of the right)

Describe whether, and to what extent, a valid water right exists.

Based on the information above, Certificate S4-83504-J represents a valid water right for 50.2 ac-ft/yr and 0.135 cfs from April 1 to June 30 and 0.076 cfs from July 1 to October 31 for the irrigation of 10 acres.

Relinquishment or abandonment concerns

Describe any relinquishment or abandonment of the water right associated with the water right transfer application as discussed in the investigation section of this report.

No relinquishment has occurred under Water Right S4-83504-J.

However, approximately 5.0 acres of irrigation and the associated annual quantity (25.10 ac-ft/yr) and instantaneous quantity (0.0675 cfs from April 1 to June 30 and 0.038 cfs from July 1 to October 31) have been relinquished due to non-use under Water Right S4-83516-J.

Consideration of comments and protests

Discuss the board's conclusions of issues raised by any comments and protests received.

No protests were received during the 30-day public comment period. No comments were made at the public meeting held by the Board on November 18, 2024. In addition, no comments were received following the Board notification to interested parties.

Impairment

Describe how or if the transfer proposal will impair existing rights of others.

Under RCW 90.38.040(5)(a), a trust water right may be exercised only if the Board first determines that the authorization will not impair or injure other water rights.

No water right on Manastash Creek will be negatively affected by increased instream flows during the irrigation season. Therefore, based on these considerations, transferring Certificate S4-83504-J to instream flow is not expected to impair other water rights.

Public Interest

If the proposed transfer is authorized pursuant to RCW 90.44.100, describe whether it is detrimental to the public interest. Public interest shall not be considered if the proposed transfer is authorized pursuant to RCW 90.03.380 exclusively.

Pursuant to RCW 90.42.040(4)(a) exercise of a trust water right may be authorized only if the department first determines that the public interest will not be impaired. The Board and Ecology consider how the change in purpose and acceptance into the TWRP will affect an array of factors such as wildlife habitat, recreation, water quality, and human health. The environmental amenities and values associated with the area were taken into account during the consideration of this change application. Consideration of these factors allows the author to reach the conclusion that this transfer will not impair the public interest.

DECISION [See WAC 173-153-130(6)(e)]

Provide a complete description of the board's decision, fully and comprehensively addressing the entire application proposal.

Based on the above investigation and conclusions, the Board recommends that the request for change to Certificate S4-83504-J be approved in the amount as follows:

Annual Quantity: 50.2 ac-ft/yr

Instantaneous Quantity: 0.135 cfs from April 1 to June 30 and 0.076 cfs from July 1 to October 31

The information or conclusions in this section were authored and/or developed by (Name of Person): Dan Haller, CWRE and Silas Sleeper of Aspect Consulting.

PROVISIONS [See WAC 173-153-130(6)(f)]

Conditions and limitations

Identify any conditions and limitations recommended as part of an approved transfer, and/or any other corrective action necessary to maintain the water use in compliance with state laws and regulations.

The water will be placed in the Trust Water Right Program for the exclusive use of instream flow augmentation in Manastash Creek.

Deed Conveyance and Documentation:

1. Following closing of the water right, Nunnally Holdings LLC will convey the quit claim deed of the water right sale to the Washington Department of Ecology to manage as instream flow.
2. If a water banking agreement, or other appropriate deed conveyance is not executed within one year following completion of the appeal period under RCW 90.80.090, the change will be canceled and the water right will revert to the original purpose of use.

Instream Flow Provision:

Water shall not be diverted when stream flow is equal to or less than 60 cfs at a point upstream of the new point of diversion.

Water shall not be diverted from the new point of diversion unless the following minimum rate of flow are measure at Reed Ditch Diversion: six cubic feet per second (from April 1 through June 30) and 3 cubic feet per second (July 1 through October 31) or, during periods of proration, the prorated rates. The Reed Ditch Diversion location is given above.

The six cubic feet per second (from April 1 through June 30) and 3 cubic feet per second (July 1 through October 31), or such prorated portions thereof to be measured at the Reed Diversion shall be archived through the methods or acquisitions addressed in the Manastash Creek, including slows measured at Reed Diversion, will continue to be regulated by priority date consistent with State vs. Acquavella, Yakima County Superior Court No. 77-2-0148-5, and Washington State Law.

The information or conclusions in this section were authored and/or developed by (Name of Person): Dan Haller, CWRE and Silas Sleeper of Aspect Consulting.

RECEIVED

APR 15 2025

CENTRAL REGIONAL OFFICE

The undersigned board commissioner certifies that he/she understands the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Ellensburg Washington

This 15th day of April 2025
Date (Day) (Month) (Year)

Name of Board Representative: Mark Crowley

Name of Water Conservancy Board: Wittas County Water Conservancy Board

Signature: Mark Crowley