Walla Walla County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

Applicant: Ravi & Chosun Kumar  Application Number: WALL-22-01

This record of decision was made by a majority of the board at an open public meeting of the Walla Walla County Water Conservancy Board held on 5/4/22. 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.

X Approval: The Walla Walla County Water Conservancy Board hereby grants conditional approval for the water right transfer described and conditioned within the report of examination on 5/4/22 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ Denial: The Walla Walla County 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:

Robert Berger, Chair
Walla Walla County Water Conservancy Board

Date: 5/4/2022

Approve
Deny
Abstain
Recuse
Other

Joel Huey, Member
Walla Walla County Water Conservancy Board

Date: 5/4/2022

Approve
Deny
Abstain
Recuse
Other

Nathan Rau, Member
Walla Walla County Water Conservancy Board

Date: 5/4/2022

Approve
Deny
Abstain
Recuse
Other

Alternate
Walla Walla County Water Conservancy Board

Date: 5/4/2022

Approve
Deny
Abstain
Recuse
Other

Alternate
Walla Walla County Water Conservancy Board

Mailed with all related documents to the Dept of Ecology Eastern Regional Office, and other interested parties on

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer

040-105(02/08)
Applicant: Ravi & Chosun Kumar  Application Number: WALL-22-01

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Joel Huesby, Member  Walla Walla County Water Conservancy Board

Nathan Rau, Member  Walla Walla County Water Conservancy Board

Alternate  Walla Walla County Water Conservancy Board

Alternate  Walla Walla County Water Conservancy Board

Date: ____________________  Approve □

Date: May 5, 2022  Deny □

Date: ____________________  Abstain □

Date: ____________________  Recuse □

Date: ____________________  Other □

Date: ____________________  Approve □

Date: ____________________  Deny □

Date: ____________________  Abstain □

Date: ____________________  Recuse □

Date: ____________________  Other □

Date: ____________________  Approve □

Date: ____________________  Deny □

Date: ____________________  Abstain □

Date: ____________________  Recuse □

Date: ____________________  Other □

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040-105(02/08)  Record of Decision No. (WR Change App Number)
Board Name: Walla Walla County Water 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

Date Application Received: February 2, 2022
Water Right Document Number: GW Cert. No. 3145-A

Water Right Priority Date: April 17, 1957
Board-Assigned Change Application Number: WALL-22-01

Name: Ravi & Chosun Kumar
Phone: (808) 351-0637
Email: ravi.k.md@gmail.com
Address (street): 182 Fountain Hills Road
City: Walla Walla
State: Washington
Zip: 99362

Changes Proposed:
- Change purpose
- Add purpose
- Add irrigated acres
- Change point of diversion/withdrawal
- Add point of diversion/withdrawal
- Change place of use
- Other (Temporary, Trust, Interties, etc.)

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: 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)

<table>
<thead>
<tr>
<th>Source</th>
<th>Maximum cub ft/second</th>
<th>Maximum gal/minute</th>
<th>50 gpm</th>
</tr>
</thead>
<tbody>
<tr>
<td>A well (alluvial aquifer)</td>
<td>360733310004</td>
<td>¼ NE</td>
<td>¼ SW</td>
</tr>
<tr>
<td>Township N.</td>
<td>36 EWM</td>
<td>WRIA 32</td>
<td>County Walla Walla</td>
</tr>
</tbody>
</table>

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED

Type detailed legal description of the place of use: Beginning at a point 37.05 chains west of the northeast corner of NW¼SE¼, Sec. 33, T.7 N., R. 36 E.W.M., and running thence West 3.70½ chains; thence at right angles South 13.50 chains; thence at right angles East 3.70½ chains; thence at right angles North 13.50 chains to the point of beginning.

<table>
<thead>
<tr>
<th>Parcel no.</th>
<th>Township N.</th>
<th>Range</th>
<th>WRIA</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>360733310004</td>
<td>7</td>
<td>36 EWM</td>
<td>32</td>
<td>Walla Walla</td>
</tr>
</tbody>
</table>

### Proposed Use

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Maximum cub ft/second</th>
<th>Maximum gal/minute</th>
<th>50 gpm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irrigation of 9 acres (irrigation season)</td>
<td>20 acre-feet/year</td>
<td>Describe Type(s) of use, and period(s) of use</td>
<td></td>
</tr>
</tbody>
</table>

#### Source
- A well (alluvial aquifer)
- Tributary of (if surface water)

#### At a Point Located:
- Parcel No.: 360618120005
- Township N.: 6
- Range: 36 EWM
- WRIA: 32
- Section: 18
- County: Walla Walla

### LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED
Type detailed legal description of the place of use: Lot 4 of Short Plat filed March 10, 2000 in Volume 3 of Short Plats at Page 262 under Auditor's File No. 0002375, records of Walla Walla County, State of Washington.

<table>
<thead>
<tr>
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<tr>
<td>WRIA</td>
<td>32</td>
</tr>
<tr>
<td>Section</td>
<td>18</td>
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<tr>
<td>County</td>
<td>Walla Walla</td>
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</table>

### Board’s Decision on the Application

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Maximum cub ft/second</th>
<th>Maximum gal/minute</th>
<th>50 gpm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irrigation of 9 acres (irrigation season)</td>
<td>12.48 acre-feet per year (ACQ not to exceed 11.66 ac-ft/yr)</td>
<td>Describe Type(s) of use, and period(s) of use</td>
<td></td>
</tr>
</tbody>
</table>

#### Source
- A well (alluvial aquifer)
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- Township N.: 6
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<td>Walla Walla</td>
</tr>
</tbody>
</table>

### Description of Proposed Works
Description of water diversion/withdrawal, conveyance, and distribution system: Well, submersible pump, mainline, irrigation distribution systems (sprinklers, dripline).

### Development Schedule
- **Begin project by this date (At least 75 days after Board's ROD issuance):** August 1, 2023
- **Complete project by this date:** August 1, 2027
- **Complete change & put water to full use by this date:** August 1, 2028
NOTE TO AUTHOR: This form reflects the minimum regulatory requirements as required in WAC 173-153-130(6). In accordance with WAC 173-153-130(5), “It is the responsibility of the water conservancy board 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.” Completion solely of the minimum regulatory requirements may not constitute a fully documented decision.

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

On Month February, day 2, year 2022.
Name of applicant: Ravi & Chosun Kumar of City: Walla Walla State: Washington filed an application
for change (to do what e.g., POU, POD, POW, etc) change the place of use, change the point of withdrawal, and add irrigated acres under (Water right number, e.g., certificate, permit, claim, superseding document #, cert of change #): GW Cert. No. 3145-A. The application was accepted at an open public meeting
on Month: February, day: 2, year: 2022, and the board assigned application number(XXXX-YR-##): WALL-22-01.

Attributes of the water right as currently documented

Name on certificate, claim, permit:

- **Henrietta Kennedy & Dr. Geo. N. Herbert**

Water right document number (e.g., cert #, claim #, permit #, superseding document #):

- **GW Cert. No. 3145-A**

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:

- **April 17, 1957**

Water quantities:

- Qi (Instant qty): 50 gpm  Qa (Annual qty): 20 acre ft./ year

Source (well, river, etc):

- **A well (alluvial aquifer)**

Point of diversion/withdrawal (Distance from ¼¼, Section, Township, Range EWM):

- **NE¼SW¼ of Sec. 33, T. 7 N., R. 36 E.W.M.**

Purpose of use: Irrigation  Number of Acres if Irrigation: 5 acres

Period of use:

- **Seasonal (1/1 - 12/31)**

Place of use:

Beginning at a point 37.05 chains west of the northeast corner of NW¼SE¼, Sec. 33, T. 7 N., R. 36 E.W.M., and running thence west 3.70½ chains; thence at right angles south 13.50 chains; thence at right angles east 3.70½ chains; thence at right angles north 13.50 chains to the point of beginning.

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

- **None**

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:

The owner of the property previous to the current owner, James Herbert, was interviewed regarding the historical use of water under GW Cert. No. 3145-A. Mr. Herbert grew up on this property, and lived on it up to the time it was sold to the current landowner, Steve LaMarr (412 Reser, LLC), in 2019. It was Mr. Herbert’s father, George Herbert, who applied for and obtained the subject water right.

Mr. Herbert stated that water was used continuously on this property from the time the right first issued in 1958 through 2018. Irrigation ceased in 2019 when the property was sold. The subject property is currently being developed for housing, which will be served by the City of Walla Walla municipal supply system.

Mr. Herbert recalled the property being irrigated for horse and cattle pasture from 1958 through 2018. The land was irrigated using 2-inch handlines with RainBird impact sprinklers. They would run two lines of 6 sprinkler pipe each simultaneously, changing one line over the other and working their water down the pastures. They would typically irrigate the front pasture while grazing the pasture at the rear (south end) of the property, and then rotate the grazing /irrigation on an alternating basis.

In 2011, the frontage road on the north end of the property – Reser Road – was being resurfaced. Fill from the project was placed on the north end of the property to level it up. Mr. Herbert indicated that there was a good amount of rock in the fill, with some dispute as to resolution of that issue. In the end, that portion of the property ceased to be irrigated on a regular basis. The remaining property continued to be irrigated for pasture into 2018.

Previous changes
Describe any previous change decisions associated with the water right:

Washington State Department of Ecology (Ecology) records show no previous changes being authorized under Cert. No. 3145-A.

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):

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met:

- It is a surface water right application for more than 1 cubic feet per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gallons per minute;
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions it is categorically exempt from SEPA and a threshold determination is not required.
Statutory Requirements/Authorities for Proposed Change

The following is a list of pertinent Washington State Statute and Case Law requirements that must be considered prior to authorizing the proposed change in place of use and point of withdrawal:

RCW 90.03.380(1) states that a water right which has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

The Washington Supreme Court has held that when processing an application for change to a water right, a tentative determination of extent and validity of the claim or right is required. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

RCW 90.03.380(1) states that a water right which has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in detriment or injury to existing rights. This section also provides that a change in place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right.

RCW 90.44.100 allows amendment of a ground water right to (1) allow the user to construct a replacement or additional well at a new location outside of the location of the original well, or to (2) change the manner or place of use of the water, if:

- The additional or replacement well taps the same body of public ground water as the original well. RCW 90.44.100(2)(a).
- Where a replacement well is approved, the user must discontinue use of the original well and properly decommission the original well. RCW 90.44.100(2)(b).
- Where an additional well is constructed, the user may continue to use the original well, but the combined total withdrawal from all wells shall not enlarge the right conveyed by the original permit or certificate. RCW 90.44.100(2)(c).
- Other existing rights shall not be impaired. RCW 90.44.100(2)(d)

When changing or adding points of withdrawal to groundwater rights, the wells must withdraw from the same body of public groundwater (RCW 90.44.100). Indicators that wells tap the same body of public groundwater include:

- Hydraulic connectivity
- Common recharge (catchment) area
- Common flow regime
- Geologic materials that allow for storage and flow, with recognizable boundaries or effective barriers to flow (same aquifer).

Other

Provide any other pertinent information relative to the background of this water right:

N/A

The information or conclusions in this section were authored and/or developed by (Name of Person): Bill Neve, Water Right Solutions, LLC
COMMENT AND PROTESTS

Public notice of the application was given in the (Name of Publication(s)): Walla Walla Union Bulletin on Dates Published: February 16th and February 23rd, 2022. Protest period ended on (end date of protest period): March 25th, 2022. There were #____ or no ☒ protests received during the 30 day protest period. In addition, no ☒ or #____ oral and written comments were received at an open public meeting of the board or other means as designated by the board.

Other
Provide any other pertinent information relative to the comments and protests receive:

N/A

The information or conclusions in this section were authored and/or developed by (Name of Person): Bill Neve, Water Right Solutions, LLC

INVESTIGATION
The following information was obtained from a site inspection conducted by (person(s)): Bill Neve on (date of field exam): on March 9th, 2022, and Board members Joel Huesby (January 25, 2022) and Bob Berger (February 23, 2022) and including, but not limited to, the following: aerial photos, WAC 173-532 (WW Basin Water Management Program Rule), Ecology policies and guidelines, technical reports, research of department records (list other references, if any) and conversations with the applicant and/or other interested parties.

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 applicant owns a 10-acre parcel (Parcel 360618120005) located approximately 2.5 miles southwest of Walla Walla, Washington, just north of the stateline with Oregon. The parcel currently has a house, driveway and fenced dryland pasture.

Mr. Kumar intends to irrigate a variety of crops, including garden, vineyard and pasture utilizing drip/micro and sprinkler irrigation methods. He has been working with Bryce Krueger, Soil Conservationist with the National Resources Conservation Service (NRCS) Walla Walla Office to implement a low water use/intensively managed cropping plan. The intent is to develop various crops in a phased approach, establishing certain crop areas such as vineyard before moving to the next area for development, in order to keep within the bounds of the water right limitations. Part of the plan includes a high intensity grazing program which involves an intensive level of rotational management but can result in higher production with lower water use and better pasture health than conventional grazing. The stock grazed may also include a variety of animal types.

Mr. Kumar is requesting the authority to develop up to 9 acres of irrigation. The actual quantity of water used in the phased approach will ultimately determine the areal extent of land that can be irrigated, which may well end up being something less that the 9 acres requested.

The subject water right was accepted into the state Trust Water Right Program on September 29, 2021. The Trust agreement is set to expire on September 29, 2026; this agreement would be terminated upon approval of this transfer application.

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.
Ecology records show no existing water rights appurtenant to the proposed place of use. There is an irrigation district – Braden Water District #20 – the boundaries of which overlap the subject property. This District does not currently have any water rights or the physical ability to distribute any water to its patrons; it is not know if or when it eventually will. This right would be considered as separate and additive to any District water right which might eventually be obtained.

Public Interest (groundwater only)
The proposed transfer is subject to RCW 90.44.100 and therefore, cannot be detrimental to the public interest, including impacts on any watershed planning activities. Provide an analysis of the transfer as to whether it is detrimental to the public interest, including impacts on any watershed planning activity. Public interest is not considered if the proposed water right is authorized under RCW 90.03.380 exclusively.

The proposed transfer is subject to RCW 90.44.100 and therefore, cannot be detrimental to the public interest, including impacts on any watershed planning activities. Expressions of public interest for this proposed change potentially include: comments or protests regarding approval of the proposed change; Walla Walla County Municipal Code; the WRIA 32 Watershed Plan.

a. Comments/Protests: No comments or protests were received regarding potential approval of the proposed changes, either in response to a legal notice published in the Walla Walla Union Bulletin, nor through and comments presented at Board meetings.
b. Walla Walla County Municipal Code (Codified as Ordinance 462, February 21, 2017): The proposed place of use for the subject water right is in an area zoned Agricultural Residential 10 (10-acre minimum lot size). The proposed change is consistent with the current zoning.
c. WRIA 32 Watershed Plan: The locally developed and approved basin watershed plan expressed a desire that new water rights or changes to existing water rights not negatively impact streams, springs, or wells hydraulically connected to surface water sources within WRIA 32. This application involves changing the point of withdrawal to an existing alluvial aquifer well to a separate well drilled into, and withdrawing water from, the same alluvial aquifer as the existing well. The proposed change will not increase the quantities of water authorized for use under this right. The proposed change is consistent with the WRIA 32 Watershed Plan, in that it will not negatively impact surface waters in the basin.

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.

Three components of water use were evaluated with respect to historic beneficial use of water under Cert. No. 3145-A: Instantaneous rate, annual volume and irrigated acres. The Board’s tentative determination is based upon the following findings.

Irrigated Area:
Aerial photos of the existing place of use suggest continuous use of water consistent with statements from the previous owner regarding irrigation of these lands for pasture and a small area of lawn/landscaping. The photos show irrigation of approximately 5 acres until 2011, when road fill is shown being spread over the northern portion of the place of use. From 2012 to 2018 it appears that a total of 3.2 acres were irrigated until 2019, when the land was sold to Steve LaMarr.
**Instantaneous Water Use (Qi)**

As noted above the previous landowner, James Herbert, utilized two irrigation handlines of 6 sprinklers each, simultaneously, for irrigation of the subject property. An examination of the irrigation pipe still on the property at the time of the site visit showed a mix of 9/64” and 5/32” nozzles on RainBird 30WH sprinkler heads. At a standard discharge pressure of 50 psi, the published discharge rate would be between 4 and 5 gallons per minute per sprinkler head. With 12 sprinklers running at one time, the 50 gallons per minute discharge rate would be achieved.

**Annual Water Use (Qa)**

Water withdrawn from the well for irrigation purposes was not metered (nor was it required). Data from Washington State University AgWeatherNet was utilized to determine crop irrigation requirements for this location. The AgWeatherNet system provides real-time evapotranspiration data for various crops at a variety of locations throughout the state. The College Place station was selected as that closest in proximity to the project site. This is a “Tier 1” station, which is the highest-level professional weather station in the AgWeatherNet system. This station reports at 15-minute intervals throughout the year.

Irrigation system efficiency was determined through referencing of Table 1 from Ecology Water Resource Program Guidance “Determining Irrigation Efficiency and Consumptive Use”, Publication 20-11-076, October 2005. The average application efficiency for the sprinkler system utilized is 75%.

A summary of the determined annual water requirement for the last 5 years of continuous use (2014-2018) is provided in Table 1, below:

**Table 1: Summary of Total Irrigation Requirement – 2014-2018**

<table>
<thead>
<tr>
<th>Year</th>
<th>Crop/Acres</th>
<th>CIR (ET)</th>
<th>Eff. Precipitation</th>
<th>Application Efficiency</th>
<th>TIR¹</th>
<th>TIR²</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>Pasture – 3.2</td>
<td>37.67</td>
<td>6.22</td>
<td>75%</td>
<td>3.49</td>
<td>11.17</td>
</tr>
<tr>
<td>2015</td>
<td>Pasture – 3.2</td>
<td>44.51</td>
<td>3.43</td>
<td>75%</td>
<td>4.56</td>
<td>14.59</td>
</tr>
<tr>
<td>2016</td>
<td>Pasture – 3.2</td>
<td>40.71</td>
<td>6.42</td>
<td>75%</td>
<td>3.81</td>
<td>12.19</td>
</tr>
<tr>
<td>2017</td>
<td>Pasture – 3.2</td>
<td>39.60</td>
<td>5.07</td>
<td>75%</td>
<td>3.87</td>
<td>12.38</td>
</tr>
<tr>
<td>2018</td>
<td>Pasture – 3.2</td>
<td>41.03</td>
<td>4.92</td>
<td>75%</td>
<td>4.01</td>
<td>12.83</td>
</tr>
</tbody>
</table>

¹ Source: WSU AgWeatherNet, College Place Station.
³ TIR = Total Irrigation Requirement.

The tentative determination of the extent and validity of Cert. No. 3145-A – that portion put to historic beneficial use and available for consideration of the proposed changes – is 50 gallons per minute, 14.59 acre-feet per year, for the seasonal irrigation of 3.2 acres.

**Acreage Expansion – Annual Consumptive Quantity (ACQ) Calculation**

Existing statute authorizes the irrigation of additional acres under a water right under certain circumstances. RCW 90.03.380(1) states, in part:

“A change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right. For purposes of this section, “annual consumptive quantity” means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right.”

It is under this statutory authority that the applicant has applied to spread the available allocations under Cert. No. 3145-A over a total of 9 acres. The first step in evaluating this request is to determine the Annual Consumptive Quantity (ACQ) for the quantities of water proposed to be spread over additional acres.
The ACQ is determined using the highest two years of use within the last 5 years of continuous beneficial use. For Cert. No. 3145-A, the last 5 years of continuous use are represented by the 2014 to 2018 irrigation seasons. Using data provided in Table 1, the two highest years within the last 5 consecutive years of use are represented by 2015 and 2018. Return flows are estimated using Ecology Water Resources Program Guidance Document “Determining Irrigation Efficiency and Consumptive Use”, Table 1. The average return flows based on the irrigation system utilized is 15%. The ACQ calculation of the consumptive volume of water available to spread over additional acres is provided in Table 3, below:

Table 3: Annual Consumptive Quantity (ACQ) Available for Application on Additional Acres

<table>
<thead>
<tr>
<th>Year</th>
<th>TIR (ac-ft)</th>
<th>Return Flows (RF) (15%)</th>
<th>Total Acre-Feet (TIR-RF)</th>
<th>Annual Consumptive Quantity (ACQ) (Average Total Acre-Feet 2015/2018)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>14.59</td>
<td>2.19</td>
<td>12.40</td>
<td></td>
</tr>
<tr>
<td>2018</td>
<td>12.83</td>
<td>1.92</td>
<td>10.91</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td><strong>ACQ = 11.66 acre-feet</strong></td>
</tr>
</tbody>
</table>

Ecology has discretion regarding the disposition of estimated return flows. Ecology Program Procedure PRO-1210, “Calculating and Applying the Annual Consumptive Quantity (ACQ)”, April 2018 states:

“...the quantification of the consumptive portion of the right, does not alter or diminish the total water right, but rather restricts the consumptive nature of the right after the change. The permit writer has discretion to add a reasonable return flow for the new use, provided that the quantity does not exceed the authorized amount of the water right and can be reasonably measured.”

Additionally, as also noted in Ecology Procedure PRO-1210, the averaging of the estimated greatest two years of consumptive use does not necessarily become the diversion limit of the right:

“This averaging, and indeed the quantification of the consumptive portion of the right, does not alter or diminish the total water right, but rather restricts the consumptive nature of the right after the change.”

The applicant intends to use a variety of irrigation systems. The estimated average return flows for these systems, according to Table 1 from the Ecology Guidance Document utilized above, range from 7% for trickle/drip irrigation to 15% for sprinkler irrigation. As it is not known at this time to what extent each irrigation application will be utilized, the most conservative approach would be to allocate a 7% return flow for drip. With the ACQ determination of 11.66 acre-feet, an additional 7% of non-consumptive return flow equates to 0.82 acre-feet. The resulting water available for consideration of the proposed changes is summarized below.

Total Water Available:

- **Maximum Limit:** 12.48 acre-feet per year (11.66 + 0.82)
- **ACQ (Consumptive Use) Limit:** 11.66 acre-feet per year

**Geologic, Hydrogeologic, or other scientific investigations (if applicable)**

Describe the results of any geologic, hydrogeologic, or other scientific investigations that were considered by the board and how this information contributed to the board's conclusions.

The following is an excerpt taken from the Walla Walla Watershed Plan, (2005) which summarizes the groundwater hydrology of the gravel aquifer:

The Walla Walla Basin has two primary aquifers: (1) The gravel aquifer, which consists of unconsolidated sediments lying above a clay unit in the central lowland part of the Basin, and (2) the underlying basalt aquifer, which underlies the entire Walla Walla River basin. The gravel aquifer encompasses approximately 190 square miles, while the basalt aquifer system in the Walla Walla River basin is approximately 2,500 square miles including the portion of the Basin in Oregon (Barker and Mac Nish, 1976).
According to Newcomb (1965), the gravel unit can be as much as 300 feet thick. Barker and Mac Nish (1976) estimate the gravel aquifer, whose thickness can include some portions of imbedded clay, to range in thickness from zero to approximately 500 feet. Whiteman et al. (1994) estimated the total thickness of the gravel and clay can be as much as 800 feet in a limited area in the western portion of the central lowlands of the Walla Walla basin near the City of Walla Walla and north of Milton-Freewater. Basin on the dimensions of the gravel aquifer, Mac Nish e al. (1973) estimated that the gravel aquifer has a total storage capacity of 5 million acre-feet of water with approximately 1 million acre-feet being manageable for use.

The gravel aquifer generally occurs under unconfined or water table conditions, with exceptions in a few places. The gravel aquifer is hydraulically connected with the streams, canals and ditches that overlie the surface. Thus, the gravel aquifer receives recharge from stream and canal leakage and infiltration of irrigation water. Most of the direct recharge from streams occurs in the higher elevation areas to the north and east of the City of Walla Walla, where the aquifer contains more coarse-grained material. Mill Creek loses water to the gravel aquifer as it flows out of the Blue Mountains. January represents the time of year when the aquifer is least stressed. In February and March, the groundwater levels generally rise as a result of recharge from irrigation, canal and stream leakage, and precipitation.

The rise continues into June. Groundwater levels tend to decrease in July and continue through September when water levels reach their lowest because of pumping and evapotranspiration. Water levels have the greatest seasonal fluctuations in the upper part of the Walla Walla River alluvial fan where annual water level changes can fluctuate as much as 30 feet. Other areas experience changes typically between 4 and 10 feet.

Regional groundwater flow in the gravel aquifer is generally from east to west and generally parallels the direction of the Walla Walla River and Mill Creek, although adjacent to the streams groundwater may be discharging to or receiving water from the streams. Based on a water budget estimate for the gravel aquifer, groundwater pumpage from the gravel aquifer is a significant discharge mechanism. Local changes in water levels may have occurred due to pumping from wells and irrigation practices, and it is currently unclear how much impact this has had in regional flow patterns in the gravel aquifer within the last 30 to 40 years. Furthermore, analysis of surface water flows presented in EES (1995) indicated that withdrawal from the gravel aquifer is responsible, in part, for measurable impact on surface flows in the Walla Walla basin.

Both the existing and proposed points of withdrawal for this change application are located within the Walla Walla Basin, a hydrologic sub basin of the Columbia Plateau. This basin developed as a structural trough within the Columbia River Basalt Group that was later overlain by unconsolidated sediments. The lowermost sediment unit is referred to as the “blue clay” which rests directly on the basalt basement rock. Directly overlying the “blue clay” and interfingered with it, is the gravel unit. The various unconsolidated gravels serve as the aquifer material which forms the uppermost, unconfined, water table aquifer. Aquifers are also present within the consolidated, Tertiary-aged, Columbia River Basalt Group. These predominately confined basalt aquifers are separated from the gravel aquifer by the “blue clay” unit.

Information from well drilling logs throughout the basin indicates that the gravel aquifer is generally unconfined. Long-term water level measurements (on the order of half a century) collected by both the USGS and the Oregon Water Resources Program indicate that the gravel aquifer is experiencing a slow, gradual decline in the water table surface. This is occurring on top of the seasonal variation in water level that typically occurs in unconfined aquifers.

The well log for the existing well shows the borehole penetrating layers of gravel and clay to a total depth of 50 feet below ground surface. The log indicates a 8-inch casing was installed to a depth of 20 feet. The well had a static water level of 6 feet below ground surface when completed in September of 1957 and yielded 75 gallons per minute with 43 feet of drawdown after a pump test with duration of 10 hours. The well withdraws water from the alluvial aquifer.

The proposed well is to replace the currently authorized well is located approximately 3.1 miles to the southwest of the existing well. The well was completed in June of 2003. The well log shows the borehole penetrating layers of gravel and clay to a total depth of 224 feet. A 6-inch steel casing extends from ground surface to a depth of 158.5 feet, with a 4.5-inch PVC liner installed from 144 to 224 feet. The liner is perforated from 160 to 224 feet. A static water level of 54 feet was measured on June 30, 2003, and a pump test yielded 65 gallons per minute with 42 feet of drawdown after 4 hours of pumping. No recovery data was provided. This well also withdraws water from the alluvial aquifer.
Well information Summary:

Existing Well:

- Completed in 1957
- 50 feet deep, 8-inch casing
- Gravel and clay – alluvial aquifer
- 75 gpm yield
- Location: NE¼SW¼ of Sec. 33, T. 7 N., R. 36 E.W.M.
  N. 46.041254  W. -118.319644

Proposed Well

- Completed in 2003
- 224 feet deep, 6-inch casing
- Gravel and clay - alluvial aquifer
- 65 gpm yield
- Well Tag: AAM 469
- Location: N½ Sec. 18, T. 6 N., R. 36 E.
  N. 46.0051022   W. -118.3571576

The existing well (construction log attached) is completed into, and withdraws water from, the upper alluvial aquifer. This well is located adjacent to Yellowhawk Creek, approximately 4.5 miles above its confluence with the Walla Walla River. Hydrogeologic studies in the basin have concluded that the alluvial aquifer is hydraulically connected with surface waters of the Walla Walla Basin¹; it should be expected that water withdrawn from this would be in hydraulic connection with Yellowhawk Creek at some point above its confluence with the Walla Walla River.

The proposed well is also completed into and withdrawing water from the alluvial aquifer (construction log attached). This well is located east of the Walla Walla River, near the boundary between the states of Oregon and Washington. Recent developed studies and models²,³ plotting ground water elevations suggest the that generalized groundwater flow in the alluvial aquifer in this area is to the northwest. Given the location of the proposed point of withdrawal and generalized groundwater flow direction, it is reasonable to conclude that the impact to surface water associated with a new withdrawal of water from this well would be in the proximity of the confluence of Yellowhawk Creek with the Walla Walla River. Provided this is the case, no additional impact to surface waters would be created through approval of the proposed seasonal transfer.

Ecology records show approximately 10 other alluvial aquifer wells within ½ mile of the project site. These wells are split between those used for domestic purposes and larger irrigation wells with yields up to 410 gallons per minute. Ecology does not have any records of well interference issues in the vicinity of the project site. Given the relatively small instantaneous allocated of water under this right (50 gpm) and the capacity of the alluvial aquifer in the vicinity of the proposed well, it is not anticipated that the proposed change in well location will create any impairment or interference issues with other wells or surface waters in the vicinity of the project.

² Hydrogeologic Setting and Source Water and Groundwater Monitoring and Reporting Plan for the Hudson Bay District Improvement Company Multi-Site Alluvial Aquifer Limited License Application LL1433, Umatilla County, Oregon. GSI Water Solutions, Inc. January 2013
**CONCLUSIONS**

**Tentative determination (validity and extent of the right)**

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

A tentative determination as to the extent and validity of the subject water right was completed, which resulted in the following quantities determine to be valid and available for consideration of the proposed change to Ground Water Cert. No. 3145-A:

<table>
<thead>
<tr>
<th>Total Water Available:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Limit:</td>
</tr>
<tr>
<td>12.48 acre-feet per year (11.66 + .82)</td>
</tr>
<tr>
<td>ACQ (Consumptive Use) Limit:</td>
</tr>
<tr>
<td>11.66 acre-feet per year</td>
</tr>
</tbody>
</table>

**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.

RCW 90.14.180 provides that:

“Any person hereafter entitled to divert or withdraw waters of the state through an appropriation authorized under RCW 90.03.330, 90.44.080, or 90.44.090 who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said right to withdraw for any period of five successive years shall relinquish such right or portion thereof, and such right or portion thereof shall revert to the state, and the waters affected by said right shall become available for appropriation in accordance with RCW 90.03.250. All certificates hereafter issued by the department of ecology pursuant to RCW 90.03.330 shall expressly incorporate this section by reference.”

A comparison between those quantities allocated under Cert. No. 3145-A and those determined to be valid through this tentative determination of the extent and validity of this right is provided in Table 2. The difference between the certificated quantities and those derived through the tentative determination are subject to relinquishment:

<table>
<thead>
<tr>
<th>Source</th>
<th>Acres</th>
<th>Annual Quantity (ac-ft)</th>
<th>Instantaneous Quantity (gpm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate</td>
<td>5.0</td>
<td>20</td>
<td>50</td>
</tr>
<tr>
<td>Actual Use</td>
<td>3.2</td>
<td>12.48</td>
<td>50</td>
</tr>
<tr>
<td>Subject to Relinquishment</td>
<td>1.8 acres</td>
<td>7.52 acre-feet</td>
<td>0 gallons per minute</td>
</tr>
</tbody>
</table>

**Hydraulic analysis**

Describe the result, as adopted by the board, of any hydraulic analysis done related to the proposed water right transfer.

A hydraulic analysis of the proposed change has been provided within this report, which determined that both the existing and proposed wells withdraw water from the upper alluvial aquifer.
Consideration of comments and protests
Discuss the board's conclusions of issues raised by any comments and protests received.

Public notice of the application was provided in the Walla Walla Union Bulletin, published in Walla Walla County, on February 16th and 23rd, 2022. There were no protests received during the 30-day protest period following the last date of publication. Likewise, no comments or objections regarding this application were received at open public meetings of the Board.

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

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200), and/or 4) degrade the quality of the source to the point that the water is unsuitable for use by existing water right holders (Chapter 173-530 WAC). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

There has been no evidence provided during the course of this investigation and evaluation of the application that would suggest that the propose change would, if approved, result in the impairment of any existing water rights – ground or surface. The proposed change would not increase the quantities of water historically put to beneficial use under this right. A hydrogeologic analysis determined that there would be no negative impact to streamflows created through this change; in fact it could actually increase instream flow quantities in lower Yellowhawk Creek. There are no records with Ecology indicating any issues with well interference in the vicinity of this project, and the capacity of the aquifer in this area is sufficient to provide the quantities of water allocated.

Consistent with the findings above, approval of the proposed changes would not increase the Annual Consumptive Quantity (ACQ) of water withdrawn and beneficially used under this right and would not impair existing ground or surface water rights, including instream flows.

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.

No detriment to the public welfare was identified during the processing of this application. The proposed changes are consistent with WAC 173-532 (Water Resources Program for the Walla Walla River Basin, WRIA 32) and RCW 90.54 (Water Resources Act of 1971).

Other
The board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision. Provide any other pertinent information relative to the board's conclusions.

Given the phased approach to development of this authorization, an extended development schedule is warranted. It is recommended that a 6-year timeframe be allocated within which to put water to full beneficial use.

DECISION
Provide a complete description of the board's decision, fully and comprehensively addressing the entire application proposal.
Applications for change of ground water rights permits and certificates are governed by RCW 90.03.380 and RCW 90.44.100, which state in part that: the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued only on the conditions that:

- The change must not cause detriment or injury to existing rights;
- A valid right/claim exists that is eligible to be changed;
- The change shall not allow for the enhancement of the right perfected under the original certificate
- An additional or new well shall withdraw water from the same source as the original
- The proposed change would not be detrimental to the public welfare.
- There will be no increase in the Annual Consumptive Quantity (ACQ) of water used under the water right.

It is the conclusion of the Walla Walla County Water Conservancy Board that in accordance with RCW 90.44.100:

1. The proposed change in point of withdrawal to GW Cert. 3145-A will not impair existing rights, including instream flows established through WAC 173-532;
2. A valid right exists and is eligible to be changed to the extent the right has been put to historic beneficial use, as summarized above;
3. That the changes will not expand or enhance the right which was perfected under the original certificate;
4. That the proposed well will withdrawal water from the same alluvial aquifer as the existing well;
5. The proposed change will not be detrimental to the public welfare.
6. Approval of the proposed changes will not increase the Annual Consumptive Quantity (ACQ) historically put to beneficial use under this right.

It is the conclusion of the Board that the requested change to the point of withdrawal, place of use, and add irrigated acres under Ground Water Certificate No. 3145-A has passed the statutory tests and is approved to the extent of 50 gallons per minute, 12.48 acre-feet per year, for the seasonal irrigation of 9 acres, subject to the provisions and conditions listed below. The Annual Consumptive Quantity (ACQ) allocated to this right is not to exceed 11.66 acre-feet per year.

Provide any other pertinent information relative to the board's decision.

1. In conditionally approving the subject application, the Board must by statute advise the applicant that they are not permitted to proceed to effect the proposed changes until a final decision is made by the director of the Department of Ecology.

2. Ecology Procedure document PRO-1210 states the following:

   "The calculated ACQ of the water right should be identified on the face of any superseding documents issued for the water right. The ACQ should also be identified as a condition of approval in the report of examination and the permit."

Consistent with this procedure, the ACQ quantity is listed as a conditional limit on annual quantity on the face of this Report of Examination and is also listed as a specific limitation in the provision section of this approval.

The information or conclusions in this section were authored and/or developed by (Name of Person):    Bill Neve, Water Right Solutions, LLC and members of the Walla Walla County Water Conservancy Board.
PROVISIONS

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.

Wells, Well Logs and Well Construction Standards

1. All wells constructed in the State shall meet the construction requirements of Chapter 173-160 WAC entitled Minimum Standards for the Construction and Maintenance of Wells and Chapter 18.104 RCW titled Water Well Construction.

2. The water user is required to maintain an access port to measure water levels within the authorized wells, as described in Ground Water Bulletin No. 1. An airline and gage may be installed in addition to the access port.

3. If/when any of the authorized wells are modified or replaced, a completed well report of the well(s) shall be submitted by the driller to the Department of Ecology within 30 days of completing the construction or modifications authorized herein. All pump test data for the (s) shall be submitted to the Department as it is obtained.

4. All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

Measurements, Monitoring, Metering and Reporting

5. 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", WAC 173-173. WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled “Water Measurement Device Installation and Operation Requirements” http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html

6. Water use data shall be recorded monthly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.

7. Reported water use data shall be submitted via the Internet or by using the enclosed forms. To set up an Internet reporting account, access https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/. If you have questions or need additional forms, contact the Eastern Regional Office.

8. Future Superseding Certificates for Ground Water Certificate No. 3145-A will not be issued until evidence of meter installation has been submitted to the Department of Ecology.

Schedule and Inspections

9. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

10. The water right holder shall file the notice of project completion when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The superseding certificate will reflect the extent of beneficial use within the limitations of the change authorization. Elements of the project completion inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and compliance with provisions.

11. A final water superseding certificate will not issue until a final examination is conducted by a Certified Water Right Examiner.
General Conditions

12. Issuance of a water right change authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

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

14. 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 Native Americans under Treaty or otherwise.

15. 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(s) grown on the number of acres and the place of use specified.

16. The total withdrawal of water under this authorization shall not exceed 50 gallons per minute, 12.48 acre-feet per year, for the seasonal irrigation of 9 acres. The associated Annual Consumptive Quantity (ACQ) shall not exceed 11.66 acre-feet in any one year.

Mitigation (if applicable)
Describe any requirement to mitigate adverse effects of the project. Mitigation may be proposed by the applicant or the board and be required in the board's decision.

N/A

Construction Schedule
Provide a schedule for development and completion of the water right transfer, if approved in part or in whole that includes a definite date for completion of the transfer and application of the water to an authorized beneficial use.

An extended development schedule is warranted given the phased development approach for this project. An appropriate construction schedule for full development of the authorized changes is:

- Beginning of Construction – August 1, 2023
- Completion of Construction – August 1, 2027
- Water put to Full Beneficial Use – August 1, 2028

Other
Provide any other pertinent information relative to provisions
None.

The information or conclusions in this section were authored and/or developed by (Name of Person): Bill Neve, Water Right Solutions, LLC and members of the Walla Walla County Water Conservancy Board.
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 Walla Walla, Washington

This 04 day of 05, 2022

Name of Board Representative: Robert M. Berger
Name of Water Conservancy Board: Walla Walla County Water Conservancy Board
Signature: Robert M. Berger