

ENVIRONMENTAL RECORD and EXHIBITS supporting Horse Heaven SEPA Addendum and Staff Memo

The environmental review conducted by EFSEC consisted of analysis based on the following documents. They can be found compiled in order within this PDF document unless otherwise noted.

Document	Source	Date	Page
Final Environmental Impact Statement	EFSEC	10/31/2023	Please see EFSEC website for full document.
SEPA Environmental Checklist	Dave Kobus on behalf of Horse Heaven Wind Farm, LLC	Prepared 1/14/2025 Submitted 1/31/2025	2
Application for Change/Transfer of Water Rights	Ecology	11/6/2023	80
Report of Examination	Benton County Water Conservancy Board	7/12/2024	119
Temporary Donation to the Trust Water Rights Program	WA Department of Natural Resources (DNR)	03/23/2023	131
Scout Clean Energy Responses to EFSEC Questions	Linnea Fossum on behalf of Horse Heaven Wind Farm, LLC	02/28/2025	139

The environmental review also consisted of input or recommendations from State agencies via several forms of communication, as listed below.

Commenter and Acronym	Date of Comment	Form of Comment	Resource Subject	Page
Washington Department of Ecology (Ecology)	09/05/2024	Letter from Mike Herbert to Breean Zimmerman	Technical Review for Benton Co. Conservancy Board Decision BENT-24-01	143
Washington Department of Natural Resources (DNR)	04/12/2023	Land Use License No. 60-104618 Valid 03/01/2023 – 02/29/2024	Gould Well Premises Permitted Uses & Activities	147
Washington DNR	10/18/2023	Letter from Michael Kearney to Dave Kobus	DNR Uplands Leasing Program	162

SEPA Environmental Checklist

SEPA¹ Environmental Checklist

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in “Part B: Environmental Elements” that do not contribute meaningfully to the analysis of the proposal.

¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/Checklist-guidance>

A. Background

[Find help answering background questions²](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background)

1. Name of proposed project, if applicable:

Horse Heaven Wind Farm

2. Name of applicant:

Horse Heaven Wind Farm, LLC

3. Address and phone number of applicant and contact person:

Dave Kobus

4. Date checklist prepared:

January 14, 2025

5. Agency requesting checklist:

Energy Facility Site Evaluation Council (EFSEC)

6. Proposed timing of schedule (including phasing, if applicable):

As described in EFSEC's Final Environmental Impact Statement (FEIS)

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Final Environmental Impact Statement for the Horse Heaven Wind Farm (EFSEC, 2023)

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

No

10. List any government approvals or permits that will be needed for your proposal, if known.

Site Certification Agreement from EFSEC (already issued)

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

An existing groundwater well, owned by the Washington Department of Natural Resources (DNR) and known as the Gould Well, will be used to provide water during construction and operation of the Horse Heaven Wind Farm. Leasing of this water represents a change to

² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

water rights that DNR had previously placed in the Temporary Trust Water Right Program in 2022. The well itself is an existing well, owned by DNR, and water rights will continue to be owned and maintained by DNR. Horse Heaven Wind Farm will purchase water from DNR under contract. As described in the FEIS, up to approximately 220,000 gallons per day on average would be used during construction. At 50 weeks per year, 6 days per week, this would total up to approximately 66 million gallons per year that would be purchased by the Certificate Holder from DNR and transported to the Project site to mix concrete, treat roads to manage fugitive dust, and store water for fire prevention

Figure 1, attached to this SEPA checklist, shows the location of the Gould Well relative to the Horse Heaven Wind Farm (facilities as depicted in the Final ASC for Turbine Option 1; Figure 2.3-1, Scout, September 2023). The following components will be installed to allow use of the well for construction and operation of the Horse Heaven Wind Farm or for other future unrelated purposes to be determined and governed by DNR:

- Existing intact well to be cleaned out and new pump machinery installed
- Gravel access road leading from Sellards Road to the well location will be installed
- Graveled yard will be installed to allow truck turnaround and placement of temporary water storage tanks; temporary storage tanks will be removed at the end of construction, unless otherwise determined by DNR
- A new overhead distribution line will be installed, to be owned and operated by Benton Rural Electric Cooperative. The new line will run along the western property line, generally following the new gravel access road to provide power to the well pump.

Well upgrades will also serve other users, such as the farmer who leases the DNR land on which the well is located, as he will be able to purchase water from DNR to irrigate nearby crops.

Although use of water sourced from wells fed by regional aquifers was identified in the Final EIS (see e.g. Final EIS, p. 4-69), the EIS analysis did not specifically address use of the Gould Well. As a result, supplemental information is provided to demonstrate that use of this well would not substantially change the analysis of significant impacts and alternatives in the Final EIS, as allowed under WAC 197-11-706.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Benton County, DNR Gould Well, located on Parcel 1368510000000000. Township 8N, Range 25EWM, Section 36, NW1/4NE1/4. See Figure 1.

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED

All within: NW1/4 of NE1/4, Section 36, T.8N, R.25 EWM; and within sections or portions thereof within T.9N, R.26 EWM and T.9N, R.27 EWM and T.8N, R.25 EWM and T.8N, R.26 EWM and T.8N, R.27 EWM and T.7N, R.26 EWM and T.7N, R.27 EWM and T.8N, R.28 EWM and T.7N, R.28 EWM and T.7N, R.29 EWM and T.7N, R.30 EWM and T.6N, R.30 EWM and T.6N, R.31 EWM; and described in detailed site tables and maps (application attachments).

B.Environmental Elements

1. Earth

[Find help answering earth questions³](https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth)

a. General description of the site:

Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:

Fully described in FEIS chapter 3.2, no change resulting from use of the Gould Well. The well location and route for the new access road are generally flat.

b. What is the steepest slope on the site (approximate percent slope)?

Fully described in FEIS chapter 3.2, no change resulting from use of the Gould Well. The well location and route for the new access road are generally flat (see attached Figure 1 along with FEIS Figure 3.2-6).

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Fully described in FEIS chapter 3.2, no change resulting from use of the Gould Well. Soils in the vicinity of the well site and road are consistent with soils elsewhere on the project site.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Fully described in FEIS chapter 3.2, no change resulting from use of the Gould Well. No unstable soils at this location.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Described in FEIS chapter 4.2.

f. Could erosion occur because of clearing, construction, or use? If so, generally describe.

Fully described in FEIS chapter 4.2, no change resulting from use of the Gould Well.

³ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth>

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**

Generally consistent and as described in FEIS chapter 4.2. Use of the Gould Well will entail placement of gravel along one-half mile of new road and in the graveled yard at the well site. Construction of the road and graveled yard will result in new permanent disturbance on DNR land, owned and operated by DNR, and that will be used by others including the farmer who leases this DNR parcel. Because it is not within the project's site boundary and the land will not be leased by, or owned or operated by, the Horse Heaven Wind Farm, this disturbance is not part of the project. However, to the extent that associated disturbance may be quantified as partially to benefit Project construction and operation, a total of approximately 2.25 acre (graveled yard and gravel road) of new impervious surface will be installed at this location. This is de minimis in comparison to the 6,869 acres of permanent disturbance analyzed in the FEIS and further would be more than offset by changes to the Project layout that will occur due to other unrelated modifications to location and number of wind turbines and solar arrays during the final design process.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.**

Fully described in FEIS chapter 4.2, no change resulting from use of the Gould Well.

2. Air

[Find help answering air questions⁴](#)

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

Use of the Gould Well would not alter the analysis presented in the FEIS, Chapter 4.3.2, except that use of this well in proximity to the project site could reduce vehicle emissions from water trucks over selection of a site located farther from the project. Dust may be generated by trucks using the new graveled access road, but dust would be managed as described in the FEIS and as required by Site Certification Agreement (SCA) conditions. Once water trucks leave the new graveled access road, they will travel on Sellards Road, which is a paved road, and from there onto other roads that have been analyzed and described in the FEIS.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

Fully described in FEIS chapter 3.3, no change resulting from use of the Gould Well.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:**

⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-Air>

Fully described in FEIS chapter 3.3, no change resulting from use of the Gould Well. The Applicant would comply with SCA Conditions including speed limits set in place to reduce air emissions.

3. Water

[Find help answering water questions](#)⁵

a. Surface:

[Find help answering surface water questions](#)⁶

1. **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

Fully described in FEIS chapter 3.4, no change resulting from use of the Gould Well. No wetlands or waters would be disturbed by construction of the road or use of the existing well.

2. **Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

Fully described in FEIS chapter 4.4, no change resulting from use of the Gould Well. No wetlands or streams have been delineated within 200 feet of the proposed activity.

3. **Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

Fully described in FEIS chapter 4.4, no change resulting from use of the Gould Well. No fill or dredge material would be placed in or removed from surface water or wetlands as a result of the proposed activity.

4. **Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**

Fully described in FEIS chapter 4.4, no change resulting from use of the Gould Well. No surface water withdrawals or diversions would be required.

5. **Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Fully described in FEIS chapter 4.4, no change resulting from use of the Gould Well. The Gould Well and proposed access road do not lie in a floodplain.

⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water>

⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Surface-water>

6. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Fully described in FEIS chapter 4.4, no change resulting from use of the Gould Well.
No waste materials would be discharged to surface waters.

b. Ground:

[Find help answering ground water questions](#)⁷

1. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.

As described in Chapter 4.4.2 of the FEIS, an average of approximately 220,000 gallons of water per day will be required during construction. This results in an estimated total of up to approximately 66 million gallons per year based on 50 weeks of construction and conservatively assuming 6 days per week. As described in the FEIS, this water will be used to mix concrete, treat roads to manage fugitive dust, and store water for fire prevention. Once construction is complete, groundwater may be used to wash solar panels at a rate of up to approximately 2,025,000 gallons per year.

The FEIS described use of water from “a local off-site public utility with water sources being the Columbia or Snake River, local private irrigators with collector wells on the banks of the Columbia River, or wells that are fed from regional aquifers” (FEIS Section 4.4.2, p. 4-69). Use of the Gould Well falls within this use characterization because it is a ‘well that is fed from regional aquifers’.

Although the FEIS acknowledged use of wells fed by regional aquifers as a potential water source, it did not specifically address potential impacts to aquifers from groundwater withdrawal. Further, the FEIS specifically excludes potential use of the DNR Gould Well for water supply, stating that supplemental analysis would be required. This SEPA checklist provides the supplemental analysis to address potential impacts to groundwater. Specifically, see Attachment A, which provides documentation of the Benton County Water Conservancy Board (BCWCB) review of this proposed change in point of diversion, period of use, purpose of use, and place of use of the existing water right.

Attachment B provides clarification of the maximum annual quantity of water that should be available from the existing right. Specifically, the current maximum quantity available for irrigation from the existing water right should be 318 acre-feet per year (approximately 104 million gallons per year) for the first three years, and thereafter the quantity should be 490 acre-feet per year (160 million gallons per year). Attachment C provides an analysis conducted by the Washington Department of Ecology concluding that drawdown impacts will not lead to impairment of

⁷ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater>

neighboring water right users based on a much higher assumption of 1,043 acre-feet per year. Therefore, withdrawal of the smaller amount requested by DNR, and the even smaller amount that would be used by the Project during construction and operations, would not adversely impact neighboring water right users.

A Report of Examination was prepared by BCWCB and is included in Attachment A. This analysis addressed relevant water right data including information regarding the existing water right, previous use, water availability, potential for impairment of other existing water rights, beneficial use, and efficiency of use. DNR's requested change/transfer relies on withdrawing water in the same or lower quantities than the existing right, and from the same body of groundwater (management area) as the existing points of withdrawal for this portion of the Horse Heaven Hills area (see Benton County Water Control Board findings, p. 10). All of these issues were addressed to the satisfaction of the Water Board.

Based on the evidence provided in Attachments A, B, and C, use of up to approximately 66 million gallons per year (203 acre-feet per year) during Project construction, and 2 million gallons per year (6 acre-feet per year) during operations, would not cause significant drawdown or impair neighboring water rights.

- 2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

Fully described in FEIS Section 4.4.2, p. 4-76. Use of the Gould Well would not alter this analysis. No septic tanks will be installed, and no waste material will be discharged into the ground in association with use of this well.

c. Water Runoff (including stormwater):

- 1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

Fully described in FEIS Section 4.4.2. Use of the Gould Well would not alter this analysis. As described in FEIS Section 4.4.2.1, impervious surfaces can increase the potential for surface water runoff to the receiving environment. Mitigation measures identified by the Certificate Holder along with measures required by EFSEC through the SCA would minimize the potential for adverse impacts from surface water runoff.

- 2. Could waste materials enter ground or surface waters? If so, generally describe.**

Fully described in FEIS Section 4.4.2. Use of the Gould Well would not alter this analysis. No waste materials would be discharged to ground or surface waters as a result of rehabilitation or use of this well.

- 3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

Fully described in FEIS Section 4.4.2. Use of the Gould Well would not alter this analysis. Use of the well and construction of access road and storage yard would not alter drainage patterns because they would all be located on flat areas with minimal drainage of the very limited rainfall in this area.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Fully described in FEIS Section 4.4.2. Use of the Gould Well would not alter this analysis.

4. Plants

[Find help answering plants questions](#)

a. Check the types of vegetation found on the site:

The site is located in a cultivated field which alternately contains grain crops or lies fallow.

- ☐ **deciduous tree: alder, maple, aspen, other**
- ☐ **evergreen tree: fir, cedar, pine, other**
- ☐ **shrubs**
- ☐ **grass**
- ☐ **pasture**
- ☒ **crop or grain**
- ☐ **orchards, vineyards, or other permanent crops.**
- ☐ **wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other**
- ☐ **water plants: water lily, eelgrass, milfoil, other**
- ☐ **other types of vegetation**

b. What kind and amount of vegetation will be removed or altered?

Because the site contains grain that is regularly harvested, no vegetation would need to be removed for construction of the road and yard or use of the well. Crop plowing patterns may need to be altered to adjust to the presence of a road through a portion of the field. The farmer was consulted regarding placement of the road and he will be able to accommodate any changes to plowing patterns resulting from its construction.

c. List threatened and endangered species known to be on or near the site.

No threatened or endangered species are known to be on or near the location of the Gould Well and because the area is in cultivation, there is no suitable habitat known to be present for threatened or endangered plant species.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

No landscaping or other measures are proposed for this use as there would be no temporary disturbance and permanently disturbed areas will be graveled.

e. List all noxious weeds and invasive species known to be on or near the site.

No noxious weeds or invasive species are known to be on or near the site.

5. Animals

[Find help answering animal questions](#)⁸

a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site.

Examples include:

- **Birds:** hawk, heron, eagle, songbirds, other:
- **Mammals:** deer, bear, elk, beaver, other:
- **Fish:** bass, salmon, trout, herring, shellfish, other:

Wildlife species in the vicinity of the Horse Heaven Wind Farm are fully described in FEIS Section 3.6. Similar to the majority of the Project site, the Gould Well is located on agricultural land. Although a variety of animals and birds are known or suspected to be present in the vicinity (see Section 3.6.2.2 of the FEIS), the crops grown on the site generally do not provide high-quality habitat for the majority of these species.

b. List any threatened and endangered species known to be on or near the site.

Fully described in FEIS Section 3.6. Use of the Gould Well would not alter this analysis.

c. Is the site part of a migration route? If so, explain.

The site is not part of a known migration route or movement corridor (see Section 3.6.2.2 and Figure 3.6-2 of the FEIS). The general vicinity may be near the southern end of identified migration corridor for pronghorn but use of this well and the short access road are unlikely to alter migration patterns given the similar level of development across this landscape.

d. Proposed measures to preserve or enhance wildlife, if any.

All measures identified in the SCA would be implemented for the Project. No additional measures are warranted for protection, preservation, or enhancement of wildlife at the Gould Well site.

e. List any invasive animal species known to be on or near the site.

None known.

⁸ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-5-Animals>

6. Energy and natural resources

[Find help answering energy and natural resource questions](#)⁹

- a. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

Electric distribution service would be installed to provide power to the well.

- b. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

There would be no impact on potential use of solar energy by adjacent properties.

- c. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.**

Use of this well would reduce fuel consumption by water trucks for Project construction and operation because the well is closer to the point of use than other alternative water sources, thereby reducing driving distance for water trucks.

7. Environmental health

[Health Find help with answering environmental health questions](#)¹⁰

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.**

No toxic chemicals would be used for well cleanout or for construction of ancillary facilities. Use of the well would not alter the risk of fire, explosion, spill, or hazardous waste that was analyzed in the FEIS.

1. **Describe any known or possible contamination at the site from present or past uses.**

No known or suspected contamination is present at this site.

2. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

No existing hazardous chemicals/conditions are known or suspected.

3. **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-6-Energy-natural-resou>

¹⁰ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health>

Use of the Gould Well will not create any new toxic or hazardous waste chemical storage, use, or production. No toxic or hazardous waste chemicals will be used or stored on the well site.

4. Describe special emergency services that might be required.

No special emergency services will be required for use of the Gould Well.

5. Proposed measures to reduce or control environmental health hazards, if any.

Use of the Gould Well will comply with all SCA conditions and certificate holder commitments.

b. Noise

1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Noise in the area is consistent with agricultural activity and would not affect use of the Gould Well.

2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?

Water trucks driving to and from the well location would create typical engine noise in the close vicinity. Water trucks would generally operate during daylight hours while construction is underway.

3. Proposed measures to reduce or control noise impacts, if any:

Activities associated with the Gould Well would comply with noise mitigation measures specified in the SCA.

8. Land and shoreline use

[Find help answering land and shoreline use questions](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use)¹¹

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

The site is owned by DNR and leased by a farmer who plants and harvests dryland wheat. Adjacent properties are used for similar purposes. Construction of the access road may require minor alterations to the plow pattern in the vicinity of the road but will not significantly alter land use either on this property or on adjacent properties.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

¹¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use>

Yes, the site has been used as working farmlands. Approximately 2.25 acres of crop land would be converted to gravel road and storage/working yard.

1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?

Surrounding farm operations will not affect or be affected by use of the Gould Well except to the extent that plow patterns may need to shift to accommodate the new access road. Rehabilitation of the well will allow its use by other users and for other purposes, including planned use for irrigated agriculture.

c. Describe any structures on the site.

No existing structures are on the site other than the well itself.

d. Will any structures be demolished? If so, what?

No structures will be demolished.

e. What is the current zoning classification of the site?

This site is zoned GMA Agricultural District.

f. What is the current comprehensive plan designation of the site?

The comprehensive plan designation is GMA AG.

g. If applicable, what is the current shoreline master program designation of the site?

There is no shoreline master program designation for the site. The nearest Shoreline of the State is the Yakima River.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

The site is not located in a critical area as defined in Benton County's Critical Areas Ordinance (see mapping on pp. 81-86 [here](#)).

i. Approximately how many people would reside or work in the completed project?

None.

j. Approximately how many people would the completed project displace?

None.

k. Proposed measures to avoid or reduce displacement impacts, if any.

None.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.

Groundwater wells and groundwater withdrawal are inherently compatible with agricultural use.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

None needed. Improvements to the well infrastructure will be a benefit to agricultural activity.

9. Housing

[Find help answering housing questions](#)¹²

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

None.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

None.

- c. Proposed measures to reduce or control housing impacts, if any:**

None needed.

10. Aesthetics

[Find help answering aesthetics questions](#)¹³

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

Well infrastructure and temporary water storage tanks would not exceed 15 to 20 feet in height. Water storage tanks would be made of heavy duty polyethylene, aluminum, or other suitable material. Well infrastructure would generally be made of steel or concrete as appropriate.

- b. What views in the immediate vicinity would be altered or obstructed?**

Well infrastructure will be compatible with and similar to other agricultural infrastructure in the vicinity. Passersby on Sellards Road could see the well infrastructure at a distance of approximately 0.5 mile.

- c. Proposed measures to reduce or control aesthetic impacts, if any:**

No measures to reduce or control aesthetic impacts are needed because the infrastructure would be consistent with other agricultural infrastructure in the area.

¹² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-9-Housing>

¹³ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-10-Aesthetics>

11. Light and glare

[Find help answering light and glare questions](#)¹⁴

- a. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

No light or glare would be produced by the well.

- b. **Could light or glare from the finished project be a safety hazard or interfere with views?**

No.

- c. **What existing off-site sources of light or glare may affect your proposal?**

Off-site sources of light or glare, if any, would not impair the well operation.

- d. **Proposed measures to reduce or control light and glare impacts, if any:**

None needed.

12. Recreation

[Find help answering recreation questions](#)

- a. **What designated and informal recreational opportunities are in the immediate vicinity?**

None. Recreational activities are fully described in FEIS Section 4.12 and ASC Figure 4.2.4-1. No recreation locations were identified in the vicinity of the Gould Well.

- b. **Would the proposed project displace any existing recreational uses? If so, describe.**

No. The site is used for agriculture.

- c. **Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**

None needed.

13. Historic and cultural preservation

[Find help answering historic and cultural preservation questions](#)¹⁵

- a. **Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.**

No.

- b. **Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material**

¹⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-11-Light-glare>

¹⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p>

evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

None identified. No intrusive work will occur as part of well rehabilitation. Grading for yard and road construction will be at similar or shallower depth to existing plow depth.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

None.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

None needed.

14. Transportation

[Find help with answering transportation questions](#)¹⁶

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

Sellards Road is an existing county road that passes approximately one-half mile to the south of the Gould Well. See Figure 1 and Figure 2.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

No. Nearest transit stop is at least 15 miles away.

- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

No.

- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

No.

- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

¹⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation>

Truck trips included in the Traffic Impact Analysis provided to EFSEC in May 2023 and approved by WSDOT included an estimated daily average of 200 to 250 trucks per day (Traffic Impact Analysis, Appendix X to the ASC, Table 7). Water trucks for dust control were included in the analysis (ASC Table 4.3-6 and Section 4.3.2.1; FEIS Table 2-4). Use of the Gould Well would mean shorter trips for water trucks than were previously anticipated but otherwise would not alter the analysis conducted for the ASC and the FEIS, Section 4.14.

- f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

Fully described in FEIS Section 4.14. Use of the Gould Well would not alter this analysis.

- g. Proposed measures to reduce or control transportation impacts, if any:**

Fully described in FEIS Section 4.14. Use of the Gould Well would not alter this analysis and the Certificate Holder would continue to comply with SCA conditions regarding traffic safety.

15. Public services

[Find help answering public service questions¹⁷](#)

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

No.

- b. Proposed measures to reduce or control direct impacts on public services, if any.**

None needed.

16. Utilities

[Find help answering utilities questions¹⁸](#)

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:**

An electrical distribution line runs along Sellards Road. This line would be upgraded as desired by the local utility and tapped and a short overhead line would be strung along the new access road to provide power to the well pump.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

¹⁷ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-15-public-services>

¹⁸ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-16-utilities>

Benton Rural Electric Cooperative (BREA) would install, own, and maintain a new electrical distribution line. Support structures would be installed along the proposed access road.

C. Signature

[Find help about who should sign](#)¹⁹

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

 Recoverable Signature

X DR Kobus

Signed by: S-1-1-243656716-1280683967-4039784376-38348072/9ed9184d-5a82-4ef2-a94a-44c8ae404295/1

Type name of signee:

Position and agency/organization:

Date submitted:

D. Supplemental sheet for nonproject actions

[Find help for the nonproject actions worksheet](#)²⁰

Do not use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

- 1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

- Proposed measures to avoid or reduce such increases are:**

- 2. How would the proposal be likely to affect plants, animals, fish, or marine life?**

¹⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-C-Signature>

²⁰ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-d-non-project-actions>

- Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

- Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

- Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

- Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

- Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Figures

Horse Heaven Wind Project



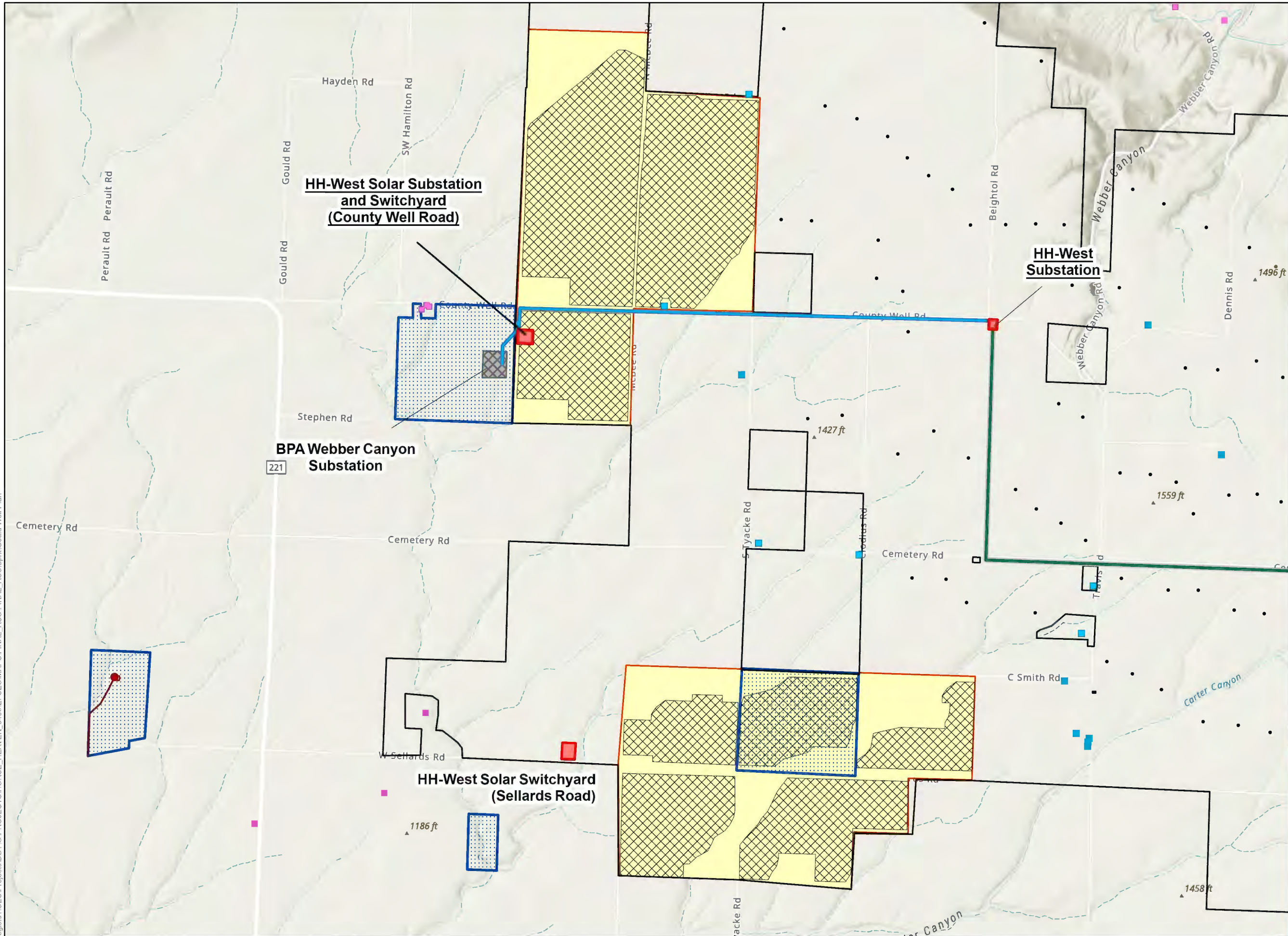
Gould Well Plan

BENTON COUNTY, WA

- Gould Well
- ▭ Access Road and Storage Yard
- Residence - Participating
- Residence - Non-participating
- ▭ Project Lease Boundary
- Option 1 Turbine Layout
- 230-kV Intertie Transmission Line
- County Well Road 500-kV Transmission Line
- ▨ DNR Parcel
- Project Substation
- ▨ Solar Array
- ▭ Solar Siting Area



Reference Map





Horse Heaven
Wind Project



Gould Well Plan
BENTON COUNTY, WA

- Gould Well
- ▭ Access Road and Storage Yard
- ▭ DNR Parcel



Reference Map



1:12,000 SDCSR1984 DTM ZONE 14N025

0 0.05 0.1 0.2 0.3 0.4 Miles

NOT FOR CONSTRUCTION

\\nas2700\gis1\1\CE\1\Projects\BOT\G\PROJECTS\HORSE HEAVEN_8430\EFSEC\MAPS\FINAL_ASC\FINAL_ASC.aprx\Gould Well Plan

Attachment A
Benton County Water Conservancy Board
Record of Decision

Received:

Date Stamp

Benton County
WATER CONSERVANCY BOARD

Record of Decision

Applicant: HHH Wind Farm (with DNR)

Application Number: G3-+22306CWRIS BENT-24-01

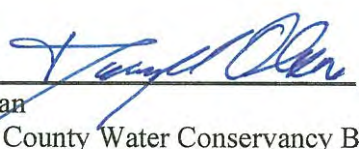
The attached Report of Examination has been reviewed by the BCWCB members; and this Record of Decision was made at an open public meeting of the Benton County Water Conservancy Board held on July 12, 2024, with any changes to ROE/ROD based on information received from the applicant and WADOE staff.

(X) Approval:


The Benton County Water Conservancy Board hereby grants conditional approval for the water right transfer described and conditioned within the report of examination and submits this record of decision and report of examination to the Department of Ecology for final review or consideration.

() Denial:

The Benton County Water Conservancy Board hereby denies conditional approval for the water right transfer as described within the report of examination and submits this record of decision to the Department of Ecology for final review or consideration.

Signed  Date: 7/12/2024
Chairman
Benton County Water Conservancy Board

Approves
Denies
Recused
Abstains
Excused Absence

Signed  Date: 7/12/2024
Board Member
Benton County Water Conservancy Board

Approves
Denies
Recused
Abstains
Excused Absence

Signed _____ Date: 7/12/2024
Board Member
Benton County Water Conservancy Board

Approves
Denies
Recused
Abstains
Excused Absence

Final ROE/ROD Mailed to the Department of Ecology, Central Region Office, via tracked mail, and to other interested parties on or before 7/29/2024.



BENTON COUNTY WATER CONSERVANCY BOARD

Application/Review for Change/Transfer

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

Report of Examination

Prepared by Members of the Benton County Water Conservancy Board

Per ECY-040-106 (08/2015) Form Format

Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology completes its review of the Water Boards decision. If Ecology takes no action within forty-five days of receipt of this ROE/ROD, then the Water Board's decision, as written, is final.

Surface Water <input type="checkbox"/>		Ground Water <input checked="" type="checkbox"/>	
DATE APPLICATION RECEIVED February 2024 Additional Information March-May 2024	WATER RIGHT DOCUMENT NUMBER G3-+22306CWRIS	WATER RIGHT PRIORITY DATE December 26, 1973	BOARD-ASSIGNED CHANGE APPLICATION BENT-24-01

NAME Attention: Dave Kobus				E-Mail: dave@scoutenergy.com			
ADDRESS (STREET) HHH Wind Farm, LLC, 5775 Flatiron Parkway, Ste 120		(CITY) Boulder		(STATE) CO		(ZIP CODE) 80301	

Changes Proposed: ☒ Change purpose ☒ Add purpose ☐ Add irrigated acres ☒ Add point of diversion/withdrawal
☐ Change under RCW 90.03.380. ☒ Change Place of Use

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 (water right) ☒ Not exempt (proposed project)

: ☐ Determination of Non-Significance

The direct (net) water right change/transfer described herein is subject to SEPA review, per a state environmental impact statement (EIS) issued by the Energy Facility Site Evaluation Council (EFSEC); and determined that under the Final EIS, SEPA compliance had been met (full disclosure of the water source and associated impacts). See below section for more discussion.

BACKGROUND AND DECISION SUMMARY

Prepared by Members of the Benton County Water Conservancy Board

Existing Rights

DNR G3-+22306CWRIS Trust Program Donation 2022	MAXIMUM GAL/MINUTE gpm 1,955 1,955	MAXIMUM ACRE-FT/YR Acre-ft. 1,043 409	TYPE OF USE, PERIOD OF USE Acres Irrigation 260.7 acres, irrigation season. Irrigation of 260.7 acres (Equivalent).				
SOURCE Groundwater			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: Wells (Parcel Nos.)	$\frac{1}{4}$	$\frac{1}{4}$	SECTION	TOWNSHIP N.	RANGE EWM	WRIA	COUNTY
1 136750000000000	SW	SW	36	7N	25EWM		Benton
2	SE	NW					
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
All within: Section 36, T.7N, R.25 EWM; and application site maps.							

Proposed Use

DNR-Scout G3-+22306CWRIS After Project Development	MAXIMUM GAL/MINUTE gpm 1,955 150 150 1,955 150	MAXIMUM ACRE-FT/YR Acre-ft. 243.3 184 12 405.3 12	TYPE OF USE, PERIOD OF USE Acres 70.2 Irrigation season (Phased Development). Industrial, Construction, Dust Control (Year Round 3 Years). Industrial (Year Round). 122 Irrigation season (After Development). Industrial (Year Round).				
SOURCE Groundwater			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: Wells (Parcel Nos.)	$\frac{1}{4}$	$\frac{1}{4}$	SECTION	TOWNSHIP N.	RANGE EWM	WRIA	COUNTY
1 (Gould Well) 136851000000000	NW	NE	36	8N	25EWM		Benton
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
All within: NW1/4 of NE1/4, Section 36, T.8N, R.25 EWM; and within sections or portions thereof within T.9N, R.26 EWM and T.9N, R.27 EWM and T.8N, R.25 EWM and T.8N, R.26 EWM and T.8N, R.27 EWM and T.7N, R.26 EWM and T.7N, R.27 EWM and T.8N, R.28 EWM and T.7N, R.28 EWM and T.7N, R.29 EWM and T.7N, R.30 EWM and T.6N, R.30 EWM and T.6N, R.31 EWM; and described in detailed site tables and maps (application attachments).							

Water Board Decision

DNR-Scout	MAXIMUM GAL/MINUTE gpm	MAXIMUM ACRE-FT/YR Acre-ft.	TYPE OF USE, PERIOD OF USE Acres				
G3-+22306CWRIS	526.5	280.8	70.2 Irrigation season (Phased Development). Industrial, Construction, Dust Control (Year Round 3 Years). Industrial (Year Round).				
	150	184					
	150	12					
After Project Development	918.8	490	122.5 Irrigation season (After Development). Industrial (Year Round).				
	150	12					
SOURCE Groundwater			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: <u>Wells (Parcel Nos.)</u>	$\frac{1}{4}$	$\frac{1}{4}$	<u>SECTION</u>	<u>TOWNSHIP N.</u>	<u>RANGE EWM</u>	<u>WRJA</u>	<u>COUNTY</u>
1 (Gould Well) 136851000000000	NW	NE	36	8N	25EWM		Benton
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
All within: NW1/4 of NE1/4, Section 36, T.8N, R.25 EWM; and within sections or portions thereof within T.9N, R.26 EWM and T.9N, R.27 EWM and T.8N, R.25 EWM and T.8N, R.26 EWM and T.8N, R.27 EWM and T.7N, R.26 EWM and T.7N, R.27 EWM and T.8N, R.28 EWM and T.7N, R.28 EWM and T.7N, R.29 EWM and T.7N, R.30 EWM and T.6N, R.30 EWM and T.6N, R.31 EWM; and described in detailed site tables and maps (application attachments).							

DESCRIPTION OF PROPOSED WORKS

The overall project involves a new wind-solar farm, with some irrigation land provided. The project traverses several thousands of acres across the Northern Horse Heaven Hills ridge.

A groundwater well located near the proposed development area will provide water pumping and service. There will be new mainline and distribution systems for water service delivery.

This change/transfer represents a change to the subject water rights, previously placed in the Temporary Trust Water Right Program, in 2022, by DNR, as reviewed by the Ecology.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: Initiate Immediately	COMPLETE PROJECT BY THIS DATE: By January 1, 2028	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: By January 1, 2030
---	--	---

NOTE: The Water Board establishes the development schedule, as required under RCW 90.80.070, 90.80.080, and WAC 173-153-130. The schedule may be extended by WADOE if diligence is demonstrated in the completion of this project.

REPORT OF EXAMINATION

Prepared by Members of the Benton County Water Conservancy Board

BACKGROUND

The applicant is: HHH Wind Farm, LLC (with DNR water right ownership), 5775 Flatiron Parkway, Suite 120, Boulder, Colorado, 80301.

This project is being proposed to provide additional green power resources for the region.

As noted above, an existing groundwater well will be used to service the project site, for multiple industrial and agricultural purposes. New primary and secondary mainlines will be built to provide site water delivery.

Attributes of the water right as currently documented:

Name on Certificate: WA State Dept of Natural Resources, SE Region, 713 Bowler Rd., Ellensburg, WA 98926.

West Richland G3-+22306CWRIS	MAXIMUM GAL/MINUTE gpm 1,955	MAXIMUM ACRE-FT/YR Acre-ft. 1,043	TYPE OF USE, PERIOD OF USE Acres Irrigation 260.7 acres, irrigation season.				
SOURCE Groundwater			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: <u>Wells (Parcel Nos.)</u> 1 1367500000000000 2	$\frac{1}{4}$ SW SE	$\frac{1}{4}$ SW NW	<u>SECTION</u> 36	<u>TOWNSHIP N.</u> 7N	<u>RANGE EWM</u> 25EWM	<u>WRIA</u>	<u>COUNTY</u> Benton
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
All within: Section 36, T.7N, R.25 EWM; and application site maps.							

Tentative determination of the water right:

See Water Board's Decision above; the water right certificate is in good standing.

Previous changes:

Water right Trust Program submittal in 2022.

History of water use:

Per the applicant information, portions of the water right certificate have been continuously used for irrigation. Some de factor relinquishment has occurred for non-use, not subject to RCW 90.14.140 exemptions. About 125.5 acres are not subject to relinquishment, per DNR and consultant, and Water Board review.

SEPA:

The Water Board has a narrow public interest, or SEPA, jurisdiction, tied to water resources management and water law, and specific provision per the groundwater code RCW 90.44.

The direct water right change/transfer described herein is subject to SEPA review, and an environmental impact statement has been prepared by the lead agency, the Washington State Energy Facility Site Evaluation Council (EFSEC). The Water Board has specifically reviewed the key water resources issues/questions pertinent to SEPA and water law in general: 1) is water available (extent and validity); 2) does potential impairment exist; 3) will the water be beneficially used; and 4) will the water be used efficiently? The Water Board determines the above can be answered in the affirmative, and no impairment issues exist. The water right extent and validity has been reviewed/modified for this C/T per RCW 90.03.380, where changes in purpose and place of use are subject to an annual consumptive quantity (ACQ) review.

The Water Board has requested directly from EFSEC staff to confirm whether their EIS adequately covers water source impacts associated with this project. The EFSEC staff have determined that the Final EIS did acknowledge (private) water rights from groundwater sources in the project area, to service the project.

The Water Board did consult with other governmental and Tribal parties affected by the proposed project.

The Benton and Yakima County Commissioners raised the question of comprehensive land use planning. Based on statutory/rule review, the Water Board (with legal counsel) concludes that EFSEC authority overrides local land use restrictions, in this particular case.

The Water Board directly consulted with Yakima Nation Tribal staff and their legal counsel. The Yakima Nation conveyed two major points: 1) the EIS coverage was not specific enough; and 2) the DNR lacked statutory authority to lease water rights for portions of the project's water demand purposes. Regarding the first point, the Water Board determined that the four key water right use questions above were met (including hydraulic continuity). The new C/T point of withdrawal was determined to be in the same body of groundwater for management purposes, per detailed discussion with Ecology staff.

The second point was reviewed with legal counsel, and determined that leasing a water right certificate (real property) was no different than leasing a tract of land (real property). Water right change/transfers also are subject to Real Estate Excise Tax (taxable water right actions) per WA State Dept. of Revenue review. The legality question regarding DNR lease of water rights on DNR and non-DNR adjacent lands does not appear to be a limiting issue in this C/T decision.

So, relative to the water supply/right issue governed by SEPA coverage, the Water Board defers to the decisions by the lead SEPA agency, the EFSEC. They have stated that appropriate SEPA compliance exists.

Family Farm Act Compliance:

The FFA affects the holding of (irrigation) water rights acquired after December 8, 1977. The Act does not affect the use of prior water rights held by a single party (RCW 90.66.020, 90.66.040; also see PCHB No.13-146, Reichman, February 14, 2014). The applicant's certificate has a pre-FFA date.

The Water Board concludes that the applicant's change/transfer request is consistent with the FFA.

COMMENT AND PROTESTS

Public notification/hearings for the applicant's request were filed in the Tri-City Herald; with public hearings offered (no requests for public hearings or participants). Copies are provided in the Public Notice attachments. The WADOE/Water Board did receive dissenting comments from the Benton-Yakima County Commissioners and the Yakama Nation and has responded to such (as noted above).

The County Commissions cited concerns over land use restrictions/zoning affecting irrigated agriculture. These concerns appear to be superseded by statutory/rule authority granted to EFSEC (discussed with Commission staffs). The Tribal concerns regarding water supply focus on source location and DNR water right leasing authority. The basic water right change/transfer (permitting tests) have been met, and the new POW is in direct hydraulic continuity with the existing POW, per review of the applicant's information and discussed with Ecology technical staff. The DNR's ability to lease certificated water use on partial DNR land does not deviate from a real estate lease, a practice already conducted by DNR.

The application materials have been distributed to several other state resources agencies (WDFW) and interested parties. No additional comments have been received from these parties concerning the application or proposed actions.

The application materials were made available to the public including public hearing notice; no hearing was requested—no comments or BCWCB meeting participants addressed the proposed action.

Issues Raised by WADOE:

The Water Board has provided the CRO-WRP-WADOE with the initial change/transfer application and public notice of the ROE/ROD. The BCWCB has previously discussed/reviewed this water right with CRO staff. No specific action comments were received during the application review process.

Protests:

Date: Comments and protests noted above from Benton-Yakima County Commissions and Yakama Nation.

This was recognized by the board as a ☒ Protest ☒ Comment

Name/address of protestor/commenter: See attachments.

Issue: Discussed above.

Board's analysis: Discussed above.

Other Items/Issues: None. *Pertinent Comments:* None.

INVESTIGATION

Prepared by Members of the Benton County Water Conservancy Board

The following information was obtained from site inspections (BCWCB representatives); and from general knowledge of this project by the Water Board, technical reports and documents, research of WADOE records, and discussions/information with the water right C/T applicant's technical representatives. Several discussions have been made with other agency/Tribal staff/consultants.

The applicant has provided technical information, personal communications, and technical references requested by the Water Board, including data to verify the existing and proposed use areas; and the applicant's technical representative has communicated extensively with individual Water Board members to answer specific questions about the change/transfer request. The Water Board has received supplemental information from the applicant, as needed.

The Water Board has reviewed the standing of the water right documentation provided by the water right holder concerning water management, and recent air-photography for the general water right place of use and purpose, and new POW site. The Water Board is familiar with the added POW site (Horse Heaven Hills area).

The Water Board has forwarded copies (regular ground mail) of the application change/transfer request and public notice to the state Dept. of Fish & Wildlife, the Tribes, and to all parties requesting such copies. No comments were received by these parties during the formal, and informal, public comment period for the change/transfer application.

Verification of Existing Water Right:

The existing water use retains an active water right certificate on file, granted by the Washington State Dept. of Ecology. The use is available for existing change/transfer actions. It is concluded that the water right is in good standing, subject to the conditions contained within this ROE/ROD.

The DNR did place into the Temporary Trust Program portions of the right that it apparently assumed reflected allowed consumptive use for change/transfer, about 409 acre-ft. DNR assumed the remaining portion of the right was subject to relinquishment review.

Proposed project plans and specifications:

The proposed change/transfer action supports the development of a new wind/solar farm along the Horse Heaven Hills (HHH) area. The project description is included in the EFSEC docket summary (application attachments), with perhaps as many as 244 to 150 wind turbines depending on size (see application location maps). The wind turbine range would generally follow the northern HHH ridge area, and perhaps cross about 72,428 acres (with transmission lines); the solar arrays and batteries would cover no more than 6,570 acres. The project at full development would generate about 1,150 MWs (nameplate). Peaking power capability would vary.

The project would be as close as 4 miles south/southwest from the Kennewick City limits.

The water use would be used for general industrial development at the site, dust control, solar array cleaning, and some irrigated agriculture.

Other Water Rights Appurtenant to the Property and Associated Rights:

There are surface water rights affecting the existing project area; no other water rights specifically attached to land or directly affected by the project (see applicant/consultant report attachment). This action would remove the existing water right placed into the Trust Program.

The existing groundwater pumps/infrastructure had been intended to serve the original water right certificate, and perhaps other rights (see application attachments), but the allocated gpm for this C/T decision is based on the actual pumping use for irrigated acres and not “pumps and pipes” status for other rights or relinquished portions of the certificate.

Effect or Benefit to Public Interest:

A Washington State Supreme Court ruling has stated that “...a ‘public interest’ test is not a proper consideration when Ecology acts on a change application under RCW 90.03.380.” PUD No. 1 of Pend Oreille County v. Dep’t of Ecology, 70372-8 (2002). By extension, neither does the Water Board have authority to apply a public interest test when evaluating a change in water right request under RCW 90.03.380. This Court decision involved a surface water right.

To the extent review of public interest is applicable, the Water Board finds that the application for change is consistent with groundwater code provisions (RCW 90.44), and public policy objectives of the state to: identify existing water supplies, provide for beneficial water use, avoid impairment issues, and provide for efficient use of water resources. The existing/future water use also is consistent with land use provisions as determined by EFSEC.

The Benton/Yakima County Commissions raised concerns regarding negative impacts to existing farmland.

Tentative Determination:

In order to make a water right change decision, the Water Board must make a tentative determination on the extent and validity of the right. The Water Board has made the tentative determination as displayed in the first section 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. Some water rights may additionally be lost through abandonment; or some rights may be subject to special management area provisions. The Board’s tentative determination was based upon the following findings.

Water Right Review and History:

First, the water right applicant/owner holds a valid water right certificate, in good standing, as regulated by Ecology, and is on file with the WADOE. The Water Board/Ecology have approved previous change/transfer decisions in this general HHH area.

Water right use/need has been varied per the applicant’s demand estimates

Second, under the change request, the total amount of water withdrawal from the existing right and proposed change cannot exceed the amount previously used; more specifically, the portion of the right that has been put to actual beneficial use or is statutorily protected from relinquishment. The change/transfer request must not

exceed the existing water right limits; no enlargement of the right is allowed. The Water Board's determination conforms with this requirement.

Extent and Validity Analysis, ACQ Analysis and Beneficial Use Review:

The Water Board concurs with the DNR and their consultant that existing groundwater source irrigation activity on the site has diminished in past years, and about 125.5 acres would not be subject to nonuse (de facto relinquishment) per RCW 90.14.140 provisions (and Trusting Program donation). The 125.5 acres are the subject of the water right change request for a new point of withdrawal, change in location, and purposes of use, requiring an annual consumptive quantity (ACQ) analyses per RCW 90.03.380.

Data, Information, and Methodology:

1. The Water Board has reviewed the relevant water right data surrounding this change/transfer, including previous water use estimates, the applicant's land use data and leasing information, mapping, the consultant's ACQ analysis report, and arial photo information from Google Earth Pro.
2. The Water Board has multi-decadal experience in reviewing ACQ and extent and validity factors for water rights in Benton County and elsewhere.
3. The Water Board has reviewed the annual water use estimates provided by DNR for irrigated agriculture crops, consistent with RCW 90.03.380 requirements; and the water use application and efficiency estimates provided by AgWeatherNet at <https://weather.wsu.edu/?p=97750>, Horrigan weather station site (near existing project), and the Benton-Franklin Water Conservancy Boards' ACQ Methodology for calculating water use efficiencies and total consumptive use, including 90% applied efficiencies for low pressure center pivot applications (CSRIA.org). The total allowed water right use estimate for C/T is 502 acre-ft.
4. The Water Board has reviewed relinquishment (or de facto relinquishment factors) for this change/transfer action.
5. The Water Board has taken into account future water use estimates provided by the applicant and associated with similar types of construction-energy projects in the region.

ACQ Analysis/Determination:

6. The estimated allowed water use is based on 125.5 existing irrigated acres (Trust-pre-Trust period), per DNR and consultant estimates, and available arial imagery review (Gogle Earth Pro), for the most recent period of continuous use, 2017-2021 (see application attachments and supplemental information).
7. The 2017-2021 water use data confirm a two-year, peak-year average over five years, 2019-2020, of about 4 acre-ft./acre, for irrigating alfalfa. The AgWeatherNet data for the Horrigan Site and Water Conservancy Board efficiencies (CSRIA.org) are equal to or exceed the allowed use of the existing certificate (4 acre-ft./acre). The total allowed use for C/T is about 502 acre-ft.
8. This consumptive use estimate is consistent with the requirements of RCW 90.08.380, where only consumptive use estimates (not return flows) are available for change/transfer (ET and applied efficiencies) for water spreading type actions. The Water Board methodology has been applied to numerous C/Ts.
9. Under the first phase, 3-year period, 280.8 acre-ft. could be allocated to 70.2 irrigated acres. Additional allocations can be made for industrial construction use (184 acre-ft.) and industrial use with the project fully developed (12 acre-ft.). With the project fully developed, the total allowed irrigation use would be 490 acre-ft., for 122.5 acres; and industrial use of about 12 acre-ft.

10. The allowed gpm quantity (1,955 gpm) under the existing certificate for irrigation is about 7.5 gpm per acre (260.7 acres). If applied to 122.5 acres, the gpm estimate would be reduced to about 918.8 gpm, for continued irrigation. The applicant has further requested another 300 gpm for use during the construction phase (all industrial use) and 150 gpm after the construction phase.
11. As noted above, future use will be staged between the construction and completion periods, varying use given the size/timing of the project, but the final allowed use cannot exceed 502 acre-ft., for: 122.5 irrigated acres, 490 acre-ft., 918.8 gpm; and 12 acre-ft., 150 gpm, industrial use.
12. The Water Board notes that a small portion of the existing right (12 acre-ft.) will change from seasonal irrigation to year-round use. This level of change is viewed as imperceptible to the status/conditions of the groundwater source and will have no impairment complications.
13. Since 2022, the DNR has available surface water for their HHH irrigation projects. This water, under permit, could be used to irrigate the property previously served by the groundwater right—a form of serial perfection.

Tentative Determination Finding:

Based on the above information and analyses (and application attachments/references), the Water Board has determined that the full amount of the said water right for change/transfer is presented within the above “Board Decision” summary, and should be the amount not exceeded by the applicant for final certification, as issued by WADOE. This amount is in full consideration of and compliance with RCW 90.03.380 and 90.14.140(2)(d), and other portions of the water code, and takes into account the new point of withdrawal.

Hydrologic, and Other Technical Investigations:

The change/transfer relies on withdrawing water from the same body of groundwater (management area) as the existing points of withdrawal for this portion of the HHH area. Review of the pertinent well logs and analysis by the applicant’s technical consultant communications/report confirms this conclusion (see attached application report). The added POW also has been discussed with CRO-Ecology staff.

The Water Board has reviewed the hydraulic continuity/impairment features for the new well (see attached report); and concludes that active well use will not create any impairment observations.

Review of Potential Impairment:

Given the limited changes to the water rights, and existing POW, the Water Board determines that this change/transfer request will not create impairment (see attached reports). The Water Board makes this determination, with certainty, given the proposed operations at the new withdrawal site, and a detailed review of other factors affecting the change/transfer request. These factors have been discussed with the applicant’s technical consultant (see attached report).

Further, the Water Board notes:

- 1) For this immediate area, no record/affirmation of impairment has been noted by the Water Board or Ecology.
- 2) The Water Board has reviewed with the applicant, in detail, potential impairment issues for the applicant’s change request. This review indicates that the change action will not impair other water rights.

3) Based on the public notice of this change request, the Water Board has received no impairment issue comments from other existing water right holders, including those who withdraw/divert water from nearby sites.

4) The change will not increase water use relative to the existing allowed use, create impairment, or detrimental environmental impacts.

Given the above review, the Water Board concludes that the proposed action will not create impairment to other water rights and the conditions provided within this ROE/ROD.

Because the proposed action will not increase the existing allowed water use (with change modifications) or increase the water amount put to allowed beneficial use, or likely affect other existing water rights (or applications for new water rights), no impairment is perceptible. The applicant's technical information has been reviewed regarding water use within the same body of water for management purposes and potential impairment.

The proposed change/transfer will be beneficial in the conservation and management of water resources from existing practices for the following reasons: 1) there will be no increase in withdrawal/diversion on an annual basis after the change/transfer, compared to existing allowed operations; and 2) controls and monitoring on the quantity of water pumped will help ensure that the authorized quantity is not exceeded, as required under water use estimates and metering provisions.

The Water Board has published public notice of the proposed action and reviewed any potential technical issues concerning impairment.

Existing water rights located within the nearby area--within the same sections/T-R and adjacent sections--were noted according to information contained within the WADOE E-data base system and visual inspection, and ongoing Water Board review within this area (also see attached technical report).

Water Right Adjudication Process:

Water right adjudication does not affect the application.

DECISION CONCLUSIONS:

Tentative Determination-Extent and Validity:

1. The allowed right use is verified; the extent and validity, and ACQ, analysis has been reviewed by the Water Board. The right is being used consistently with Ecology authorization.
2. The proposed change/transfer will result in no increase in the annual quantity of water authorized and is consistent with the requirements of RCW 90.03.380 and 90.14.140 (relinquishment), and other provisions of the groundwater water code. The change/transfer request will not increase the allowed water right; the change/transfer will not increase allowed consumptive use from the designated source.
3. There will be no increase in water withdrawal on an annual basis. In addition, continued monitoring of the quantity of water pumped will help ensure that allowed water withdrawals are not exceeded, for the changes requested.

Relinquishment or Abandonment Concerns:

4. The Water Board's review per this ROE/ROD indicates relinquishment of about 138 acres due to non-use, per RCW 90.14.140.

Hydraulic Analysis:

5. Per the above cited information and attachments (technical reports), the Water Board concludes that the change/transfer will be implemented in the same body of water for management purposes.

Impairment:

6. The Water Board determines that impairment is not an issue affecting this change request; the change is within the same body of water for management purposes; the proposed action creates no impairments to other water right holders or permit applicants; adequate data and information exists to make this determination with confidence.

Consideration of Comments/Protests:

7. Public notice has been provided for the proposed action, and any public concerns have been reviewed by the Water Board. Public notice and application submittal have been forwarded to several state resource agencies/tribes/interested parties for comment; the agencies have provided direct comments to the application. The comments discussed above, indicate opposition to the project. These comments have been discussed with the parties and Ecology staff; nevertheless the Water Board concludes that the C/T is consistent with state water law and the SEPA practices adhered to by EFSEC.

SEPA and FFA Review:

8. The Water Board has reviewed the proposed project for SEPA (noted above) and FFA (non-FFA water right) compliance.

Public Interest:

9. Per EFSEC qualifications, the proposed action supports the public interest concerned with the direct use of water rights, is consistent with allowed beneficial uses, and is consistent with local area/regional economic development needs (farm support and construction features) and the land use practices reviewed by EFSEC. The Water Board also took into consideration any potential conflicts with environmental justice principles, strictly relative to water use and water law. Even so, the Water Board has noted that the County Commissions and the Yakama Nation may assert that the project conflicts with some aspects of the local public interest and environmental justice principles directly affecting Tribal values.
10. The proposed action is consistent with the intent of RCW 90.03.380, 90.14.140, 90.80, and recent case reviews by the Washington State Supreme Court.
11. The Water Board has provided for specific conditions and provisions affecting the use of the water rights, as identified below. The Water Board's decision is contained in the Water Board Decision table above.

PROVISIONS

Conditions and Limitations:

1. The point of diversion/withdrawal, place(s) of use, purpose of use, and period of use for the water right are designated in the summary table above (under Water Board Decision table).

2. Per issued superseding certificate, for the subject water right, water withdrawals shall not exceed the total instantaneous and volume use, periods of use, and site area designated above under Water Board Decision table.
3. Use of water under this authorization shall be contingent upon the water right holder's utilization of up-to-date water conservation practices.
4. An approved measuring device(s) must be installed and maintained for the sources (all points of withdrawal/diversion) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use," WAC 173-173, describing the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements."
5. Water use will be measured and recorded for water supply use. Water use data shall be recorded weekly and shall be submitted annually to Ecology by January 31st of each calendar year (along with WA State Dept. of Health metering requirements). At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, weekly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting. Recorded water use data shall be submitted via internet. To set up an internet reporting account, contact the Central Regional Office. If you do not have internet access, you can still submit hard copies by contacting the Central Region Office for forms to submit your water use data.
6. All water wells constructed within the state shall meet the "minimum Standards for Construction and maintenance of wells, as provided under RCW 18.104 (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC Minimum Standards for Construction and Maintenance of Water Wells. Installation and maintenance of an access port as described in Groundwater Bulletin No.1 is required, per WAC 173-160-291(3). In general wells shall be located at least 100 feet from source contamination and at least 1,000 feet of the boundary of a solid waste landfill. Any well that is unusable, abandoned, or is an environmental, safety, or public hazard shall be decommissioned. In addition to the required access port, the applicant shall install and maintain, in operating condition, an airline And pressure gauge. The pressure gage shall be equipped with a standard tire valve and placed in a location accessible to Dept. of Ecology personnel. The airline shall extend from the land surface to the top of the pump bowls and the total airline length shall be reported to the Dept. of Ecology upon completion of the pumping system.
7. Ecology staff may require specific drilling parameters for the well; and will perform a site inspection for the new well when construction phase is completed.
8. Department of Ecology personnel, upon presentation of proper credentials and prior notification, shall have access at reasonable times, to project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with the law.

Mitigation:

9. None is required for the C/T water use.

Construction Schedule:

10. By January 1, 2028, the applicant will notify the Water Resources Program, Eastern Region Office, WADOE, that project construction is completed, unless further extended for good cause.
11. By January 1, 2030, proof of appropriation (for actual beneficial use of water) will be provided to the Water Resources Program, Eastern Region Office, WADOE, unless further extended for good cause.

DECISION APPROVALS

Approvals:

The conclusions in this Report of Examination were authored/developed by Water Board members and staff, with the applicant or applicant's representative providing support information as requested.

The undersigned Water 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. The Report of Examination documents all factors reviewed and considered by the Water Board. The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this Report of Examination and concurs with the ROE's conclusions.

The Benton County Water Conservancy Board hereby APPROVES the water right change/transfer described within this record of examination and record of decision, and submits this certificate for conditional approval to the Director of the Washington State Department of Ecology. If the Director takes no action within forty-five days of receipt of this ROE/ROD, then the Water Board's decision, as written, is final.

Approved Unanimously by the BCWCB
Kennewick, Washington

This 12th day of July 2024

Approved and Signed on Behalf of the Water Board by:

Signed:

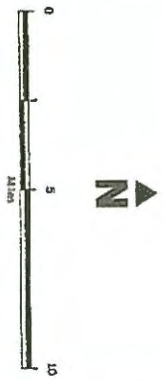
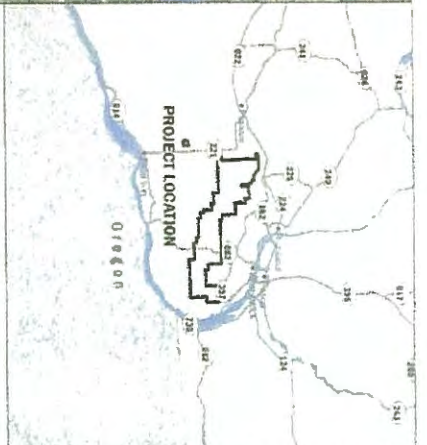
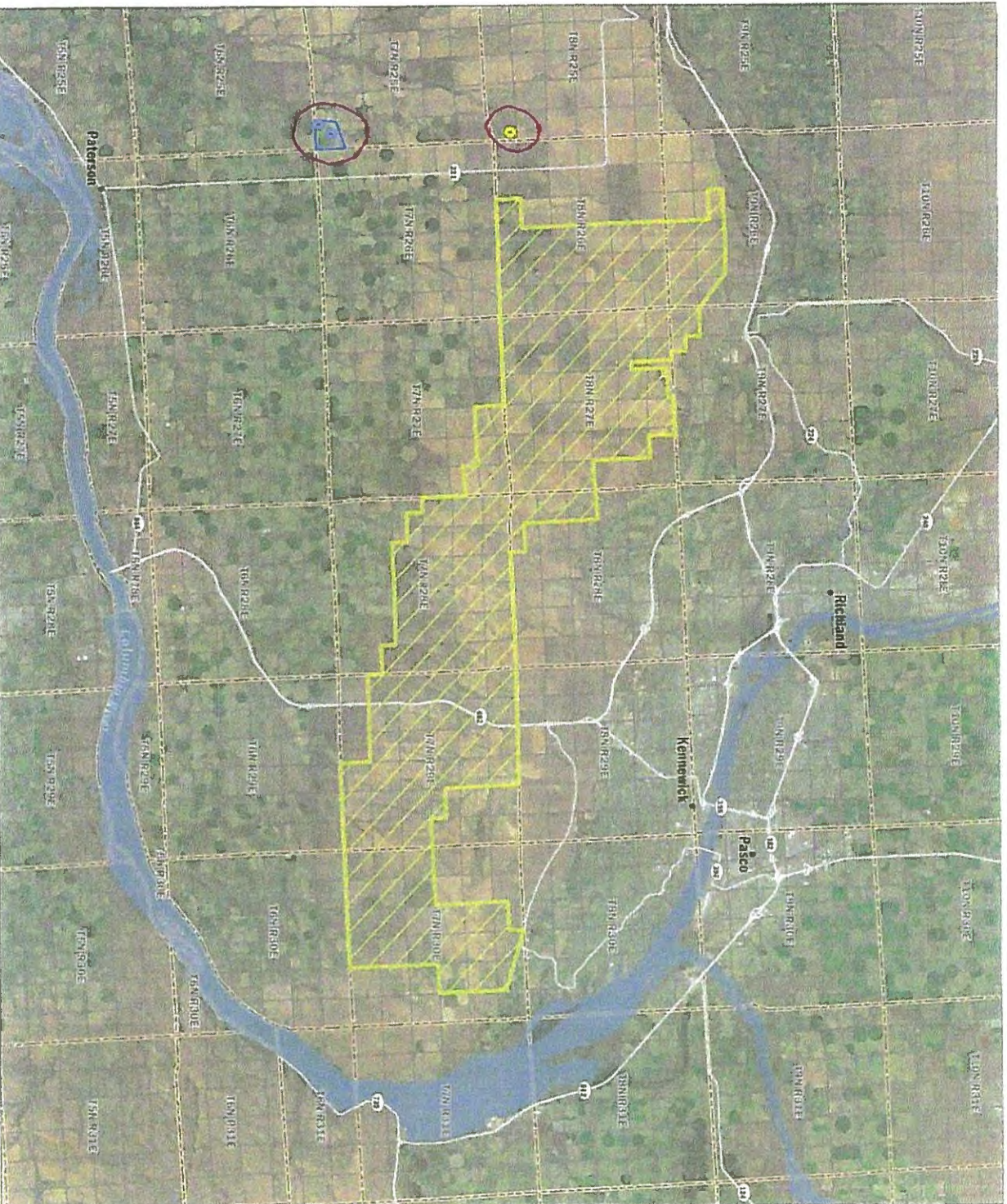








Darryll Olsen, Ph.D., Chairman
Benton County Water Conservancy Board
Date Mailed to WADOE Director/Representative: on or before July 29, 2024

Supplemental Attachments and Selected Application Materials*

- 1) General Site Map/Certificate
- 2) Legal Notices
- 3) Trust Water Right and ACQ Information
- 4) General Project Description

*Complete Application Materials Already Submitted to Ecology.



-  Authorized Point of Withdrawal
-  Proposed Point of Withdrawal
-  Authorized Place of Use
-  Proposed Place of Use
-  Township/Range
-  Section

Notes:
 - Features are approximate
 - Aerial image sourced from Google Earth Pro

Water Right Application Horse Heaven Wind Farm Richland, WA	
Aspect 1	Date MAY-2023 23/05/2023
Project No. 1	Date MAY-2023 23/05/2023

file

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CERTIFICATE OF WATER RIGHT

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

PRIORITY DATE	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
December 26, 1973	G3-22306	G3-22306P	G3-22306C

NAME

STATE OF WASHINGTON - DEPARTMENT OF NATURAL RESOURCES

ADDRESS (STREET)	(CITY)	(STATE)	(ZIP CODE)
201 John A. Cherberg Bldg. OW-21	Olympia	Washington	98504

This is to certify that the herein named applicant has made proof to the satisfaction of the Department of Ecology of a right to the use of the public waters of the State of Washington as herein defined, and under and specifically subject to the provisions contained in the Permit issued by the Department of Ecology, and that said right to the use of said waters has been perfected in accordance with the laws of the State of Washington, and is hereby confirmed by the Department of Ecology and entered of record as shown, but is limited to an amount actually beneficially used.

PUBLIC WATER TO BE APPROPRIATED

SOURCE

2 wells

TRIBUTARY OF (IF SURFACE WATERS)

MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR
	1955	1043

QUANTITY, TYPE OF USE, PERIOD OF USE

1043 acre-feet per year for the irrigation of 260.7 acres during irrigation season.

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION-WITHDRAWAL

No. 1 600 feet east and 150 feet north from the southwest corner of Section 36.

No. 2 500 feet west and 990 feet north from the center of Section 36.

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP N.	RANGE (E. OR W.) W.M.	W.R.T.A.	COUNTY
#1: S1-S2-S3; #2: E3-E4-E5	36	7	25 E.	31	Benton

RECORDED PLATTED PROPERTY

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)
-----	-------	------------------------------------

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

All of Section 36, T. 7 N., R. 25 E.W.M.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in RCW 90.03.380, 90.03.390, and 90.44.020.

This certificate of water right is specifically subject to relinquishment for nonuse of water as provided in RCW 90.14.180.

Given under my hand and the seal of this office at Yakima Washington, this 29th day
of December, 1988.

Department of Ecology

ENGINEERING DATA

OK *[Signature]*

HP:vaw

by *[Signature]*
DOUG CLAUSING, SECTION SUPERVISOR

FOR COUNTY USE ONLY

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
32793	518753	Print Legal Ad-IPL01589520 - IPL0158952	Public Hearing	\$567.65	2	56 L

Attention: Darrel Olsen

BENTON COUNTY WATER CONSERVANCY BOARD
3030 W CLEARWATER AVE
SUITE 205-A
KENNEWICK, WA 99336
dolsenecon@aol.com

BENTON COUNTY WATER CONSERVANCY BOARD WATER RIGHT CHANGE/TRANSFER

Public Notice is hereby given that the BCWCB is reviewing (accepted) applications for water right change/transfers, for water rights listed below. The application(s) have been reviewed by the Board for acceptance, per additional technical information received from the applicant. The next BCWCB business meeting is on March 7, 2024, at 4:00 p.m., at the office of Pacific NW Project, 3030 W. Clearwater, Ste 205-A, Kennewick, WA (509-783-1623). A public hearing is offered upon request, for the application below; and interested parties may request to join the BCWCB meetings by requesting a telephonic call-in number, meeting code.

Application Amended by: Horse Heaven Hills Wind Farm, LLC, 5775 Flatiron Parkway, Suite 120, Boulder, Colorado, 80301 (%Dave Kobus, dave@scoutenergy.com). Water Right held by WA State Dept. of Natural Resources, MS 47000, Olympia, WA 98504. Change to G3-22306CWRIS, BENT-24-01, priority date of December 26, 1973; authorizing 1,955 gpm, 1,043 acre-ft., for irrigation of 260.7 acres, irrigation season; the existing points of withdrawal all within No.1 SW1/4 of SW1/4, No.2 SE1/4 of NW1/4, all within Section 36, T.7N, R.25 EWM; and the existing place of use is all within Section 36, T.7N, R.25 EWM. Proposed change is for up to 1,955 gpm, 1,031 acre-ft., 260.7 irrigated acres (seasonal irrigation); temporary (3-years) industrial-construction-dust control use, non-additive 450 gpm, 184 acre-ft., year-round use; non-additive industrial use, 450 gpm, 12 acre-ft., year-round use. All uses will not exceed authorized or ACO estimates, with phased development schedule for temporary vs long-term use.

Proposed point of withdrawal all within NW1/4 of NE1/4, Section 36, T.8N, R.25 EWM. Proposed place of use covers multiple sections all or portions within T.9N, R.26 EWM and T.9N, R.27 EWM and T.8N, R.25 EWM and T.8N, R. 26 EWM and T.8N, R.27 EWM and T.7N, R.26 EWM and T.7N, R.27 EWM and T.8N, R.28 EWM and T.7N, R.28 EWM and T.7N, R.29 EWM and T.7N, R.30 EWM and T.6N, R.30 EWM and T.6N, R.31 EWM. NOTE: the detailed site location map/table for all sections and parcels is available upon request from the BCWCB, 509-783-1623.

Additional water right information also is available upon request. Per WAC 173-153-080 administrative rule for public notice information, interested parties are hereby directed to request the actual application documentation, and the detailed legal descriptions therein, from the BCWCB, 509-783-1623.

Under WADOE Rule WAC 173-153 and other agency regulations, any protests or objections to the approval of this application may be filed with the Department of Ecology and must include a detailed statement of the basis for objections; protests must be accompanied by a fifty dollar (\$50) recording fee and filed with the Cashiering Section, State of Washington, Department of Ecology, P.O. Box 47611, Olympia, WA 98504-7611 within thirty (30) days from the date of publication. Any interested party may submit comments, objections, and other information to the BCWCB regarding this application, per the above address. The comments and information may be submitted in writing, or verbally at any public meeting of the BCWCB; BCWCB, 3030 W. Clearwater, Ste. 205-A, Kennewick, WA 99336, 509-783-1623. Comments should include: name, address, and phone number of commenting party; identification of the change/transfer receiving comments; and detailed information or documentation to substantiate facts presented within the comments.
IPL0158952
Feb 11, 18 2024

COUNTY OF BENTON)

SS

STATE OF WASHINGTON)

Stefani Beard, being duly sworn, deposes and says, I am the Legals Clerk of The Tri-City Herald, a daily newspaper. That said newspaper is a local newspaper and has been approved as a legal newspaper by order of the superior court in the county in which it is published and it is now and has been for more than six months prior to the date of the publications hereinafter referred to, published continually as a daily newspaper in Benton County, Washington. That the attached is a true copy as it was printed in the regular and entire issue of the Tri-City Herald and not in a supplement thereof, ran 2 time (s) commencing on 02/11/2024, and ending on 02/18/2024 and that said newspaper was regularly distributed to its subscribers during all of this period.

2 insertion(s) published on:

02/11/24, 02/18/24

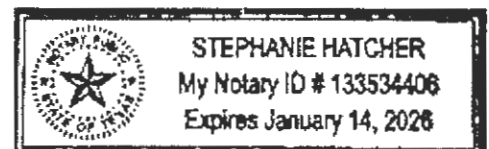
Stefani Beard

(Signature of Legals Clerk)

Sworn to and subscribed before me this 21th day of February in the year of 2024

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!



The Beaufort Gazette
The Belleville News-Democrat
Bellingham Herald
Centre Daily Times
Sun Herald
Idaho Statesman
Bradenton Herald
The Charlotte Observer
The State
Ledger-Enquirer

Durham | The Herald-Sun
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The Fresno Bee
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The Kansas City Star
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Tacoma | The News Tribune
Tri-City Herald
The Wichita Eagle
The Olympian

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Attention: Darrel Olsen

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KENNEWICK, WA 99336
dolsenecon@aol.com

BENTON COUNTY WATER CONSERVANCY BOARD WATER RIGHT CHANGE/TRANSFER

Public Notice is hereby given that the BCWCB is reviewing (accepted) applications for water right change/transfers, for water rights listed below. The application(s) have been reviewed by the Board for acceptance, per additional technical information received from the applicant. The next BCWCB business meeting is on January 31, 2024, at 4:00 p.m., at the office of Pacific NW Project, 3030 W. Clearwater, Ste 205-A, Kennewick, WA (509-783-1623). A public hearing is offered upon request, for the application below; and interested parties may request to join the BCWCB meetings by requesting a telephonic call-in number, meeting code.

Application submitted by: Horse Heaven Hills Wind Farm, LLC, 5775 Flatiron Parkway, Suite 120, Boulder, Colorado, 80301 (%Dave Kobus, dave@scoutenergy.com). Water Right held by WA State Dept. of Natural Resources, MS 47000, Olympia, WA 98504. Change to G3-+22306CWRIS, BENT-24-01, priority

date of December 26, 1973; authorizing 1,955 gpm, 1,043 acre-ft., for irrigation of 260.7 acres, irrigation season; the existing points of withdrawal all within No.1 SW1/4 of SW1/4, No.2 SE1/4 of NW1/4, all within Section 36, T.7N, R.25 EWM; and the existing place of use is all within Section 36, T.7N, R.25 EWM. Proposed change is for up to 1,805 gpm, 1,031 acre-ft., 260.7 irrigated acres (seasonal irrigation); temporary (3-years) industrial-construction-dust control use, 150 gpm, 184 acre-ft., year-round use; Industrial use, 150 gpm, 12 acre-ft., year-round use. All uses will not exceed authorized or ACQ estimates, with phased development schedule for temporary vs long-term use.

Proposed point of withdrawal all within NW1/4 of NE1/4, Section 36, T.8N, R.25 EWM. Proposed place of use covers multiple sections all or portions within T.8N, R. 26 EWM and T.8N, R.27 EWM and T.7N, R.27 EWM and T.8N, R.28 EWM and T.7N, R.28 EWM and T.7N, R.29 EWM and T.7N, R.30 EWM. NOTE: the detailed site location map/table for all sections and parcels is available upon request from the BCWCB, 509-783-1623.

Additional water right information also is available upon request. Per WAC 173-153-080 administrative rule for public notice information, interested parties are hereby directed to request the actual application documentation, and the detailed legal descriptions therein, from the BCWCB, 509-783-1623.

Under WADOE Rule WAC 173-153 and other agency regulations, any protests or objections to the approval of this application may be filed with the Department of Ecology and must include a detailed statement of the basis for objections; protests must be accompanied by a fifty dollar (\$50) recording fee and filed with the Cashiering Section, State of Washington, Department of Ecology, P.O. Box 47611, Olympia, WA 98504-7611 within thirty (30) days from the date of publication. Any interested party may submit comments, objections, and other information to the BCWCB regarding this application, per the above address. The comments and information may be submitted in writing, or verbally at any public meeting of the BCWCB: BCWCB, 3030 W. Clearwater, Ste. 205-A, Kennewick, WA 99336, 509-783-1623. Comments should include: name, address, and phone number of commenting party; identification of the change/transfer receiving comments; and detailed information or documentation to substantiate facts presented within the comments.

IPL0156148
Jan 21, 28 2024

COUNTY OF BENTON)

SS

STATE OF WASHINGTON)

Stefani Beard, being duly sworn, deposes and says, I am the Legals Clerk of The Tri-City Herald, a daily newspaper. That said newspaper is a local newspaper and has been approved as a legal newspaper by order of the superior court in the county in which it is published and it is now and has been for more than six months prior to the date of the publications hereinafter referred to, published continually as a daily newspaper in Benton County, Washington. That the attached is a true copy as it was printed in the regular and entire issue of the Tri-City Herald and not in a supplement thereof, ran 2 time (s) commencing on 01/21/2024, and ending on 01/28/2024 and that said newspaper was regularly distributed to its subscribers during all of this period.

2 insertion(s) published on:

01/21/24, 01/28/24

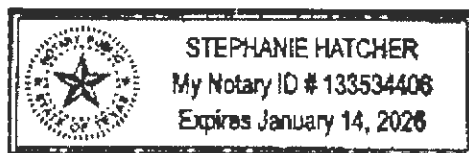
Stefani Beard

(Signature of Legals Clerk)

Sworn to and subscribed before me this 31st day of January in the year of 2024

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

THANK YOU for your legal submission!

Your legal has been submitted for publication. Below is a confirmation of your legal placement. You will also receive an email confirmation.

ORDER DETAILS**Order Number:**

IPL0158952

Order Status:

Submitted

Classification:

Legals & Public Notices

Package:

TRI - Legal Ads

Final Cost:

\$567.65

Payment Type:

Account Billed

User ID:

IPL0023488

ACCOUNT INFORMATION

BENTON COUNTY WATER CONSERVANCY BOARD
IP

3030 W CLEARWATER AVE SUITE 205-A

KENNEWICK, WA 99336

509-783-1623

dolsenecon@aol.com

BENTON COUNTY WATER CONSERVANCY BOARD

TRANSACTION REPORT**Date**

February 7, 2024 12:57:49 PM EST

Amount:

\$567.65

SCHEDULE FOR AD NUMBER IPL01589520

February 11, 2024

Tri-City Herald Print

February 18, 2024

Tri-City Herald Print

PREVIEW FOR AD NUMBER IPL01589520**BENTON COUNTY WATER CONSERVANCY BOARD
WATER RIGHT CHANGE/TRANSFER**

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Proposed point of withdrawal all within NW1/4 of NE1/4, Section 36, T.8N, R.25 EWM. Proposed place of use covers multiple sections all or portions within T.9N, R.26 EWM and T.9N, R.27 EWM and T.8N, R.25 EWM and T.8N, R. 26 EWM and T.8N, R.27 EWM and T.7N, R.26 EWM and T.7N, R.27 EWM and T.8N, R.28 EWM and T.7N, R.28 EWM and T.7N, R.29 EWM and T.7N, R.30 EWM and T.6N, R.30 EWM and T.6N, R.31 EWM. NOTE: the detailed site location map/table for all sections and parcels is available upon request from the BCWCB, 509-783-1623.

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W00000000

Publication Dates

[<< Click here to print a printer friendly version >>](#)

2/5/2024

For Publication and Distribution

**BENTON COUNTY WATER CONSERVANCY BOARD
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Note to publisher: Publish 2 times, once each week, for two weeks.

7/12/24, 10:54 AM

Subject: **RE: Benton Board changes**
Date: 7/12/2024 10:54:33 AM Pacific Daylight Time
From: Dan.Haller@aspectconsulting.com
To: dolsenecon@aol.com

Record/Document Number	CG3-22306C	Phase	Trust Water Temporary Donation	Priorit
Application Number		Stage	Donation Accepted	WRIA
Permit Number		Status	Active	Count
Certificate Number	G3+ 22306 C	WR Class	Groundwater	Regioi
Consrv Bd Number				
WR Doc ID	6805136			

Persons or Organizations

[Click to Show Contacts](#)

Last or Organization Name	First Name	MI	Role	Address
WA DNR			Primary	713 E Bowers Rd, Ellensburg WA

Phase Quantities

Phase	Qi	Units	Qa	Irr Acres
Trust Water Temporary Donation	1955	GPM	409	260.7

Assignment Groups

Assignment Group
TW Acquisition - Temporary Don

Provisions

No provis

Purposes of Use

Basic Information Additional Information

Purpose	From	To	Qi	Units	Use Type	Qa	
Groundwater Preservation			1955	GPM	Primary	409	Prim

Sources

Basic Information Additional Information Latitude/Longitude Information

Device Type	Source Name	Common Name	Tributary To	WRIA	County
Well	Groundwater	WELL		31	Benton
Well	Groundwater	WELL		31	Benton

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com , geosyntec.com

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From: Dan Haller
Sent: Friday, July 12, 2024 10:53 AM
To: 'dolsenecon@aol.com' <dolsenecon@aol.com>
Subject: RE: Benton Board changes



**DEPARTMENT OF
NATURAL RESOURCES**

SOUTHEAST REGION
713 BOWERS ROAD
ELLENSBURG, WA 98926

509-925-8510
TRS 711
SOUTHEAST.REGION@DNR.WA.GOV
WWW.DNR.WA.GOV

Department of Ecology
Central Region
1250 W Alder St
Union Gap, WA 98903-0009

Subject: Trust Water Right Donation for G3-+22306CWRIS

Dear Department of Ecology:

The Washington State Department of Natural Resources (DNR) would like to temporarily donate the full amount of water right G3-+22306CWRIS for instream flow purposes. The place of use starting in 2022 is now irrigated with surface water right S4-25639(A). We request the temporary donation for 10 years while strategies are developed to move this water right to other DNR lands. Please find the donation form attached.

For any additional information or questions, please contact Christina Frantz at 509-899-7932 or christina.frantz@dnr.wa.gov.

Thank you for your consideration.

Sincerely,

Christina Frantz

Christina Frantz
Product Sales and Leasing Division
Washington State Department of Natural Resources

Enclosures (2)

C: Kari Fagermess, Assistant Division Manager
File: 78-000628

WATER RESOURCES PROGRAM

Temporary Donation to the Trust Water Rights Program

Water Right Information

WATER RIGHT CERTIFICATE OR CLAIM NUMBER G3-+22306CWRIS	NAME(S) ON WATER RIGHT OR CLAIM State of Washington Department of Natural Resources	
WATER RIGHT OWNER OR LEGAL REPRESENTATIVE Washington Department of Natural Resources	PHONE NO. 509-899-7932	ALT PHONE NO.
ADDRESS 713 Bowers Rd		
CITY Ellensburg	STATE WA	ZIP CODE 98926
EMAIL ADDRESS christina.frantz@dnr.wa.gov		
CONTACT (if different than owner)		
PHONE NO.	EMAIL ADDRESS	

Temporary Donation Agreement

The water right owner or legal representative ("Donor") agrees to temporarily donate water quantities ("donated quantities") associated with the water right identified above, to the Washington Department of Ecology (Ecology) to be held in the Trust Water Rights Program.

Donated Quantities

All ☒ or a portion ☐ of the Water Right Certificate or Claim to be temporarily donated

Instantaneous Quantity: cfs OR **1955** gpm

Annual Volume: **409** acre-feet per year

Description of how water will be made available for temporary donation (e.g., non-use, change in use practices): **non-use**

The Donor attests that the donated quantities have been diverted or withdrawn and put to beneficial use. The Donor attests that the donated quantities, in addition to any portion of the water right retained for use, do not exceed the Donor's highest use within the last five years, unless:

- A qualifying [exemption to relinquishment](#) applies in the last five years, and the Donor attests that the donated quantities and any retained use do not exceed the highest use in the five years preceding the qualifying exemption (RCW 90.14.140(1)); OR
- The right or claim is for municipal or hydropower purposes, and the Donor attests that the donated quantities and any retained use do not exceed historical beneficial use ([RCW 90.14.140\(2\)\(a\) or \(d\)](#)).

Location

The Donor owns or represents the following parcels that are associated with the donated quantities:

QTR QTR	QTR	SEC	TWP	RGE	COUNTY	PARCEL No(s).
		36	7N	25E	Benton	13675000000000
LEGAL DESCRIPTION: All of Section 36, T07N, R25E						

Duration of Temporary Donation

The Donor agrees not to divert or withdraw the donated quantities until the term expires. The temporary donation term will begin on the day Ecology's acceptance email is sent to the Donor, and expires on the date provided below. When the temporary donation expires, the donated quantities revert back to the Donor.

End Date

3/1/2033

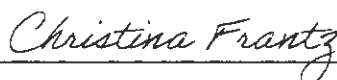
Terms and Conditions

- The donated quantities are not subject to relinquishment while accepted in the Trust Water Rights Program.
- Ecology's acceptance of the temporarily donated quantities is not a validation or quantification of the water right. Any relinquishment or non-use of the water right that may have occurred prior to this temporary donation cannot be reversed, or addressed in any way through this Agreement.
- During the term of this temporary donation, the donated quantities will be used to support instream flows and groundwater preservation only; they cannot be used to mitigate other water uses.
- The Donor agrees to provide proof of beneficial use prior to the donation if requested by Ecology (RCW 90.42.080).
- If the Donor sells or leases the water right or portion of the right that has been temporarily donated, the donor must notify the buyer or leasor of the temporary donation.
- This Agreement will be considered fully executed, and the temporary donation considered accepted into the Trust Water Rights Program, only if the Donor receives confirmation of Ecology's acceptance by email or letter.

Signatures

I, the Donor, agree to the terms and conditions herein and certify that the information above is true and accurate to the best of my knowledge. I understand that all responsibility for the accuracy of the information rests with me.

Christina Frantz Water Resource Program Manager



03/23/2023

Donor Printed Name – Title

Donor Signature

Date (MM/DD/YYYY)

Send your completed form to Ecology

Attach a scanned copy of the completed and signed agreement form in an email and send it to the regional office where your water right is located (see email addresses below). We strongly encourage paperless processing, but if you do not have access to email, mail the form to the appropriate regional office below.

Office Locations and Contact Information

Region/ Office	Counties served	Mailing Address	Phone
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	wrCRO@ecy.wa.gov 1250 W Alder St Union Gap, WA 98903-0009	509-575-2490
Office of Columbia River	OCR has jurisdiction for designated OCR projects, and new projects located within one mile of the Columbia River.	wrCRO@ecy.wa.gov 1250 W Alder St Union Gap, WA 98903-0009	509-457-7141
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	wrERO@ecy.wa.gov 4601 N Monroe Spokane, WA 99205-1265	509-329-3400
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	wrNWRO@ecy.wa.gov PO Box 330316 Shoreline, WA 98133-9716	206-594-0000
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Thurston, Skamania, Wahkiakum	wrSWRO@ecy.wa.gov PO Box 47775 Olympia, WA 98504-7775	360-407-6300



Sawyer, Nisa (ECY)

From: DeJesus, Anthony (ECY)
Sent: Monday, March 27, 2023 8:08 AM
To: Tyler, RYanne (DNR); ECY RE WR CRO
Cc: Frantz, Christina (DNR); Sawyer, Nisa (ECY); Monter, Nikole (ECY)
Subject: RE: Temporary Donation to the Trust Water Rights Program G3-+22306CWRIS
Attachments: G3-+22306CWRIS cover letter_Signed.pdf; G3-+22306CWRIS Trust Donation_Signed.pdf

Good Morning RYanne,

Thank you for submitting your Trust Water Rights application. Once our intake process is complete, and your application is entered into the Water Rights Tracking System, I will be able to process your donation.

Respectfully,

Anthony DeJesus (he/him)

Trust Water Coordinator
Central Regional Office
Water Resource Program
Washington Department of Ecology
(509) 406-4873

From: Tyler, RYanne (DNR) <RYanne.Tyler@dnr.wa.gov>
Sent: Friday, March 24, 2023 9:41 AM
To: ECY RE WR CRO <wrcro@ECY.WA.GOV>
Cc: Frantz, Christina (DNR) <Christina.Frantz@dnr.wa.gov>
Subject: Temporary Donation to the Trust Water Rights Program G3-+22306CWRIS

Good morning,

Please see attached cover letter and trust donation.

Thank you,

RYanne

RYanne Tyler
Water Rights Specialist
Division of Product Sales and Leasing
Washington State Department of Natural Resources
Cell: (509) 899-6688
RYanne.Tyler@dnr.wa.gov

Sawyer, Nisa (ECY)

From: DeJesus, Anthony (ECY)
Sent: Monday, March 27, 2023 8:08 AM
To: Tyler, Ryanne (DNR); ECY RE WR CRO
Cc: Frantz, Christina (DNR); Sawyer, Nisa (ECY); Monter, Nikole (ECY)
Subject: RE: Temporary Donation to the Trust Water Rights Program G3-+22306CWRIS
Attachments: G3-+22306CWRIS cover letter_Signed.pdf; G3-+22306CWRIS Trust Donation_Signed.pdf

Good Morning Ryanne,

Thank you for submitting your Trust Water Rights application. Once our intake process is complete, and your application is entered into the Water Rights Tracking System, I will be able to process your donation.

Respectfully,

Anthony DeJesus (he/him)

Trust Water Coordinator
Central Regional Office
Water Resource Program
Washington Department of Ecology
(509) 406-4873

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com , geosyntec.com

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From: Dan Haller
Sent: Friday, July 12, 2024 10:43 AM
To: dolsenecon@aol.com
Subject: RE: Benton Board changes

See section 6.3

Hi Dan,

Per your request, please see attached documentation of water usage. I cannot seem to find the 2021 Crop Report, however it was irrigated in 2021 with the ground water right G3-22306

year	Crop (Ex: corn, cherries, alfalfa)	Cover
2020	HAY ALFALFA	No
2019	HAY ALFALFA	No
2018	I GRASS SEED	No
2017	I CORN SWEET	No
2016	I CORN SWEET	No
2016	Hay Timothy	No
2015	Hay Timothy	No
2014	Corn Sweet	No
2013	Corn Sweet	No

If you need anything else please let me know.

Christina Frantz

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com , geosyntec.com

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From: dolsenecon@aol.com <dolsenecon@aol.com>
Sent: Tuesday, June 11, 2024 11:31 AM
To: Dan Haller <Dan.Haller@aspectconsulting.com>
Subject: Re: Benton Board changes

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. If you have any suspicion, please confirm with the sender verbally that this email is authentic. If you suspect fraud, click "Phish Alert Report."

7/12/24, 10:54 AM

Dan,

Left you a voice mail...

D.O.
BCWCB
509-783-1623

In a message dated 6/10/2024 6:57:01 AM Pacific Daylight Time, Dan.Haller@aspectconsulting.com writes:

Good morning Darryll,

Scout wanted me to check in on the status of their ROE. Please let me know if anything has come up during the ROE drafting. Otherwise, is their a likely Board meeting when this will be decided?

And on Port of Kennewick, I assume the next step there is the site visit. There are 3 properties / sites involved, so once the Board decides on its availability, the Port folks can advise the others to make sure you have access. Thanks, Dan

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607

Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com , geosyntec.com

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Date: 7/12/2024 10:53:31 AM Pacific Daylight Time
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To: dolsenecon@aol.com

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Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com , geosyntec.com

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From: Dan Haller
Sent: Friday, July 12, 2024 10:43 AM
To: dolsenecon@aol.com
Subject: RE: Benton Board changes

See section 6.3

Hi Dan,

Per your request, please see attached documentation of water usage. I cannot seem to find the 2021 Crop Report, however it was irrigated in 2021 with the ground water right G3-22306

year	Crop (Ex: corn, cherries, alfalfa)	Cover
2020	HAY ALFALFA	No
2019	HAY ALFALFA	No
2018	I GRASS SEED	No
2017	I CORN SWEET	No
2016	I CORN SWEET	No
2016	Hay Timothy	No
2015	Hay Timothy	No
2014	Corn Sweet	No
2013	Corn Sweet	No

If you need anything else please let me know.

Christina Frantz

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com , geosyntec.com

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7/12/24, 10:47 AM

Subject: RE: Benton Board changes
Date: 7/12/2024 10:42:37 AM Pacific Daylight Time
From: Dan.Haller@aspectconsulting.com
To: dolsenecon@aol.com

See section 6.3

ACQ Information

Hi Dan,

Per your request, please see attached documentation of water usage. I cannot seem to find the 2021 Crop Report, however it was irrigated in 2021 with the ground water right G3-2230E

year	Crop (Ex: corn, cherries, alfalfa)	Cover
2020	HAY ALFALFA	No
2019	HAY ALFALFA	No
2018	I GRASS SEED	No
2017	I CORN SWEET	No
2016	I CORN SWEET	No
2016	Hay Timothy	No
2015	Hay Timothy	No
2014	Corn Sweet	No
2013	Corn Sweet	No

If you need anything else please let me know.

Christina Frantz

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com, geosyntec.com

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From: dolsenecon@aol.com <dolsenecon@aol.com>
Sent: Tuesday, June 11, 2024 11:31 AM
To: Dan Haller <Dan.Haller@aspectconsulting.com>
Subject: Re: Benton Board changes

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. If you have any suspicion, please confirm with the sender verbally that this email is authentic. If you suspect fraud, click "Phish Alert Report."

Dan,

Left you a voice mail...

D.O.
BCWCB
509-783-1623

In a message dated 6/10/2024 6:57:01 AM Pacific Daylight Time, Dan.Haller@aspectconsulting.com writes:

Good morning Darryll,

Scout wanted me to check in on the status of their ROE. Please let me know if anything has come up during the ROE drafting. Otherwise, is their a likely Board meeting when this will be decided?

And on Port of Kennewick, I assume the next step there is the site visit. There are 3 properties / sites involved, so once the Board decides on its availability, the Port folks can advise the others to make sure you have access. Thanks, Dan

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com, geosyntec.com

This email is intended solely for the addressee(s) and may contain confidential or legally privileged information. If you are not the intended recipient, please immediately alert the sender by reply email and delete this message and any attachments without storing, copying, distributing, or using the contents.

Ecology routinely relies on the Washington Irrigation Guide (WIG) to provide estimates of evapotranspiration (ET) by different crops. ET can be translated to total water use per acre (water duty), by dividing ET by irrigation efficiency. Irrigation efficiency differs according to the type of irrigation system (e.g., wheel line, solid-set, center-pivot), and Ecology has adopted a guidance document (GUID 1210) with efficiency estimates.

Based on the WIG, GUID 1210, and reported crop types (see Appendix H for DNR crop reports from lessee), Table 8.9.2 below summarizes crop water duty information for the crops recently reported irrigated by DNR's lessee. Irrigated Agricultural Lease Reports provided by DNR indicate the crops type historically irrigated are alfalfa, corn, and grass seed. The Prosser, Washington WIG station was selected to represent the crop irrigation requirement in the vicinity of the water right place of use.

Table 8.9.2 Water Use Crop Irrigation Requirement

Crop	Crop Irrigation Requirement (ET) (inches)	Efficiency Range ¹	Total Irrigation Requirement (Water Duty) (ac-ft/acre)
Alfalfa	35.31	70% - 90%	4.20 – 3.27 ✓
Corn	28.14	70% - 90%	3.35 – 2.61
Pasture/Turf	37.29	70% - 90%	4.44 – 3.45

¹ Based on Ecology GUID 1210, center pivot irrigation systems have an application efficiency range of 70 – 90%.

For comparison, the authorized water duty from the Certificate is 4.0 ac-ft/acre (1,043 ac-ft/yr / 260.7 acres). We understand the lessee typically irrigated with spray heads and an end-gun. We selected an overall efficiency of 85% and a %Evap of 10%, for an overall %CU of 95%. This suggests that DNR historically fully utilized the authorized water duty of 4.0 ac-ft/acre when alfalfa and pasture/turf crops were grown under the subject water right, but under more modern center-pivot delivery the water duty is approximately 3.5 ac-ft/acre. Water use in the years when corn was grown may result in slightly less water consumption than the authorized water duty. However, corn is a routine crop rotation and temporarily reduced use from crop rotation is exempt from relinquishment.

Based on the irrigation of 125.5 acres and a water duty of 3.5 ac-ft/acre, annual total water use is calculated to be 439.3 ac-ft/yr.

8.10 Provide aerial photos, remotely sensed images, or other information and explain how they support the historic use.

Based on review of historical imagery, irrigation has remained consistent within the authorized place of use since 1996. The dated aerial photos are contained within Attachment E.

Water Used for Irrigation

8.11 If changing the purpose of use, refer to the Provisions section of your water right document to determine whether the right is subject to the Family Farm Water Act. If so, contact the appropriate Ecology regional office prior to completing this form (refer to map on page 1).

N/A.

8.12	Describe your irrigation scheduling practices (e.g., frequency and duration of irrigation sets). Describe how data from soil moisture probes, weather forecasts, crop inspection, or other irrigation scheduling techniques were used to determine irrigation practices.
------	---

Water is applied to the crops via center-pivot irrigation system. Additional information on the irrigation scheduling practices will be documented in the ROE.

8.13	If adding the irrigation of additional acres or a new purpose of use, provide metering data for the most recent five-year period of continuous use. If metering data are unavailable, provide an estimate of water use for the most recent five-year period of continuous use and describe the methodology for this estimate.
------	--

Ecology interprets the "addition of new uses" under RCW 90.03.380(1) to mean the addition of a previously unauthorized purpose(s) of use, while retaining an existing purpose of use. In accordance with the added use requested in the application, it is required to determine that the annual consumptive quantity (ACQ) under the water right for change will be no greater after the change. The ACQ is defined in statute as the average consumptive use of the highest 2 years over the most recent 5 years of continuous beneficial use.

The appropriate time period of analysis is the 5-year period from 2018 to 2022 (since water was donated to trust in 2023), with the highest two years believed to be consistent with the certificate water duty (2019 and 2020).

Table 8.13.1 Water Use for Two Highest Years

Year	Crops Grown	Acres	Water Duty (ac-ft/acre)	Annual Volume by Year (ac-ft/yr)
2019	Alfalfa	125.5	3.5	439.3
2020	Alfalfa	125.5	3.5	439.3

The ACQ was estimated based on the following assumptions:

- Irrigation of 125.5 acres of alfalfa;
- Certificated water duty of 3.5 ac-ft/acre; and
- Average consumptive percentage of 95% (from GUID 1210 for center-pivots)

Calculations for the consumptive water use are summarized below:

$$\%CU \text{ (per Guidance 1210)} = 95\%$$

$$CU = TIR \times \%CU ; 439.3 \text{ ac-ft/yr} \times 95\% = 417.3 \text{ ac-ft/yr}$$

$$CU/acre = \frac{417.3 \text{ ac-ft}}{125.5 \text{ acres}} = 3.325 \text{ ft/acre}$$

$$Non - Consumptive Use = TIR - CU ; 439.3 - 417.3 = 22 \text{ ac-ft}$$

During the 3-year construction period when the energy project needs 184 ac-ft (consumptive), the new lessee will be only allowed to develop a total of 70.2 acres assuming the same efficiency.

417.3 ac-ft CU – 184 ac-ft CU = 233.3 ac-ft CU
 233.3 ac-ft CU / 3.325 ac-ft/acre CU = 70.2 acres

After the 3-year period when the energy project only needs 12 ac-ft of consumptive use, the lessee may develop Y acres.

417.3 ac-ft CU – 12 ac-ft CU = 405.3 ac-ft CU
 405.3 ac-ft CU / 3.325 ac-ft/acre CU = 122 acres

8.14 If water has been used from a state or federal water project (contract water) on the historic place of use, explain when and how that contract water was used.

N/A.

9. Hydrogeologic Analysis

9.1 Provide a description of existing authorized points of withdrawal and proposed wells, their locations, well depths, static water levels, pumping rates and schedules, etc.

The Barber Wells are constructed in the SW¼ SW¼ and the SE¼ NW¼ of Section 36, Township 7 North, Range 25 East, Benton County Tax Parcel ID 1-3675-000-0000-000 (see Figure 1; Attachment B). The proposed point of withdrawal (Gould Well) is in the NW¼ NE¼ of Section 36, Township 8 North, Range 25 East, Benton County Tax parcel ID 1-3685-100-0000-000. Tables 9.1.1 and 9.1.2 contain information on the existing and proposed points of withdrawal utilized under this water right.

Table 9.1.1 Point of Withdrawal Construction Information

Well	Well Casing Diameter (inches)	Surface Elevation (feet)	Well Depth (feet)	Bottom of Well Elevation (feet)	Screened / Open Interval (feet)
Barber Well No. 1	8 to 24	732.36	845	-112.64	Uncased from: 268-597; 832-860 Perforated from: 727-737; 802-832
Barber Well No. 2	10 to 18	770	990	-220	Uncased from: 640-990
Proposed (Gould Well)	16	1078	1,340	-262	Uncased from: 787-1340

Notes: Elevations are presented relative to the NAVD88.

Water well reports and construction schematics for each well are included in Attachment C.

January 16, 2024

Benton County Water Conservancy Board
Attention: Dr. Darryll Olsen
3030 W. Clearwater, Suite 205-A
Kennewick, WA 99336

Re: Water Right Change Application CG3-22306@1

Dear Benton County Water Conservancy Board:

This letter requests modification of water right Change Application CG3-22306@1 and provides supplemental information to be considered for the water right record. Change Application CG3-22306@1 was filed by Horse Heaven Wind Farm, LLC on November 6, 2023, and transferred to the Benton County Water Conservancy Board (Board). The submitted application requested to change the point of diversion, period of use, add a purpose of use, and transfer the place of use of a Department of Natural Resources (DNR) water right. The current proposed purpose and period of use in the change application is shown below in Table 1.

Table 1. Proposed Purpose and Period of Use in CG3-22306@1

Purpose of Use	GPM	Ac-Ft/Yr	Period of Use
Irrigation of up to 260.7 acres	1,805 gpm	1,031	Irrigation Season
Industrial, Construction, Dust Abatement	150 gpm	184	Year-Round (For Three Years)
Industrial	150 gpm	12	Year-Round
Not to Exceed	1,955 gpm	1,043	

Notes: gpm = gallons per minute; Ac-Ft/yr = acre-feet per year

Requested Modification of Change Application CG3-22306@1

DNR is requesting that the Board modify Change Application CG3-22306@1 to increase the temporary and perpetual instantaneous rate to 450 gallons per minute (gpm) for industrial, construction, and dust abatement uses. The originally requested instantaneous rate (150 gpm) was calculated over a 12-hour pumping period. This modification is requested to reflect the projected instantaneous water demand during an 8-hour pumping period. Full authorization of the instantaneous rate (1,955 gpm) will not be exceeded, and actual coordination of irrigation and non-irrigation uses will occur between the applicant and the farm when filling events occur. Any surplus water will be used for irrigation purposes.

Modification of the proposed purpose and period of use of the change application is shown in Table 2 below.

Table 2. Modification of Proposed Purpose and Period of Use in CG3-22306@1

Purpose of Use	GPM	Ac-Ft/Yr	Period of Use
Irrigation of up to 260.7 acres	1955 gpm	1,043	Irrigation Season
Industrial, Construction, Dust Abatement (non-additive)	450 gpm	184	Year-Round (For Three Years)
Industrial (non-additive)	450 gpm	12	Year-Round
Not to Exceed	1,955 gpm	1,043	

Notes: gpm = gallons per minute; Ac-Ft/yr = acre-feet per year

Additionally, DNR requests a modification to the proposed place of use. This request is being made to ensure that all land water is to be used on is described on the change application. The proposed place of use is located within the following township and range: T9N, R26E., T9N, R27E., T8N, R25E., T8N, R26E., T8N, R27E., T8N, R28E., T7N, R26E., T7N, R27E., T7N, R28E., T7N, R29E., T7N, R30E., T6N, R30E., and T6N, R31E.

Supplemental Material for Change Application CG3-22306@1

DNR is providing the following supplemental material for the water right file to be considered by the Board:

- ✓ Relinquishment of Annual Quantity. Consistent with the findings of Section 8.1 in the submitted *Change Application Supporting Documentation*, DNR agrees that the extent of irrigation under the water right authorization has been reduced to 125.5 acres. Aerial imagery of the irrigated place of use and agricultural lease reports reveals a reduction in irrigated acreage since the year 1996. The reduction in irrigation creates a relinquishment risk of 134.5 acres, when compared to the full water right authorization.
- ✓ Preservation of Instantaneous Rate. The water right's full authorization of instantaneous rate has been preserved. There has been no modification to the installed pumps despite the reduction in the irrigated acreage. The water right file indicates that the two wells authorized under the water right are equipped with a 500-horsepower, and 350-horsepower vertical turbine pump (see Attachment A). From total head pressure, horsepower, and pump efficiency, the calculated the instantaneous flow rate of each well is 2,246 gpm and 1,572 gpm, respectively. Based on these findings, the full instantaneous rate of the water right should be preserved for peaking under the new proposed uses. This quantity of peaking is also needed for the new purposes.

Coordination for Change Application CG3-22306@1

DNR understands that the permitting process of the change application involves several mandatory steps including conducting a site visit and publishing a legal notice of the application. DNR is available to offer coordination of a site visit to aid in the technical investigation of the existing water right and the proposed changes. The Board may contact DNR with any proposed dates for a site visit if coordination is requested.

Company Name
Month 1, 2013

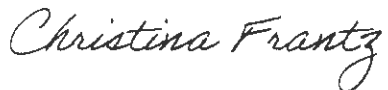
Project No. 123456-78

Additionally, DNR will work with the application to prepare and submit a public notice for the Board's review in accordance with RCW 90.03.280. The public notice will include information as described in WAC 173-153-080.

Please let us know if the Board has any questions or concerns about the proposed amendment request or would like DNR to facilitate coordination of a site visit.

Sincerely,

Department of Natural Resources



Christina Frantz
Water Resources Program Manager
Christina.frantz@dnr.wa.gov

Attachments: Attachment A – Barber Well Pump Information

cc: Dave Kobus, Scout Clean Energy
Dan Haller, Aspect Consulting

S:\Horse Heaven Wind Farm\2023 DNR Water Right Change\Change Application\Transmittal to Board\Modification to Change App\litr_Modification_2024.01.08.docx

ECOLOGY APPLICATION SECTIONS 6-11

Application for Change/Transfer of a Water Right - Form No. ECY 040-1-97 (Rev 01-2020)

6. Project Description

6.1	Provide a brief narrative explaining the general nature and intent of the proposed change(s) to the water right.
<p>The applicant (Horse Heaven Wind Farm) is requesting to change the point of diversion, period of use, add a purpose of use, and transfer the place of use of a Department of Natural Resources (DNR) water right (Certificate G3-+22306CWRIS) located in the Horse Heaven Hills area of Benton County, Washington.</p> <p>This change is requested to supply temporary and perpetual water usage for the construction and operation of the Horse Heaven Clean Energy Center (Energy Center), which will combine wind, solar, and battery storage to produce renewable energy for the region and the State of Washington.</p> <p>DNR holds Groundwater Certificate G3-+22306CWRIS which authorizes 1,955 gallons per minute (gpm) and 1,043 acre-feet/year (ac-ft/yr) for the irrigation of 260.7 acres from two groundwater wells in Section 36, Township 7 North, Range 25 East. This application requests to change the existing authorized points of withdrawal to a different DNR-owned well, "the Gould Well", located approximately 5.5 miles to the north.</p> <p>This change requests to add industrial use to the purpose of use to support the temporary water usage for the Energy Center (concrete mixing, dust suppression, soil compaction, and fire prevention) as well as perpetual water usage for the Energy Center operation (O&M facilities and solar panel washing). Additionally, DNR plans to retain a portion of the irrigation use to utilize this water right to hydrate land surrounding the Gould Well.</p>	
6.2	Are you aware of any compliance/enforcement actions that concern this water right? If so, describe.
<p>No.</p>	
6.3	If this water right has previously been changed, summarize whether the previously authorized changes have been completed.
<p>DNR filed a Temporary Donation to the Trust Water Rights Program on March 23, 2023 for the full amount of water right G3-+22306CWRIS. The donation was recorded under Document Number CG3-22306C.</p>	
6.4	If the water right includes a diversion from a permitted reservoir, list all the associated water rights, the maximum volume of water stored in the reservoir, and the means of withdrawal.
<p>N/A.</p>	

6.5	Attach a copy of any SEPA checklists or environmental analyses related to this project with this application.
------------	--

See Attachment D for SEPA checklist for the project. Additional environmental documents relating to this project are provided in Attachment D and includes: a letter indicating withdrawal of expedited Environmental Impact Statement ("EIS") review, the Energy Facility Site Evaluation Council (EFSEC) SEPA Determination of Significance in a Scoping Notice which included a public comment period through June 10, 2021, and the Draft EIS issued on December 19, 2022 with a public comment period ending on February 1, 2023.

6.6	<u>For period of use change proposals</u>, indicate the time of the year that the change would be in effect.
------------	---

This application requests to change a portion of the existing seasonal irrigation water right to a year-round industrial water right for temporary use (three years) and permanent use. The current period of use is during the irrigation season, typically between April 1st through October 31st, while the proposed industrial period of use will be January 1st through December 31st.

As described in Section 6.1 above, DNR plans to retain a portion of this water right to irrigate the property that surrounds the Gould Well, currently by a dryland lessee that will be converted to an irrigated lessee with irrigation phased around the completion of the energy project development. The period of use for irrigation will remain as is, through the irrigation season.

6.7	<u>For temporary change proposals</u>, indicate the timeframe that the proposed change would be in effect.
------------	---

A portion of the water right proposed for change will supply temporary water use for the construction of the Energy Center for a three-year period. During construction, water would be used to mix concrete for structural foundations and to suppress fugitive dust during grubbing, clearing, grading, trenching, and soil compaction. Fire prevention also represents minor water use; this involves staging water trucks at the job site to keep the ground and vegetation moist during extreme fire conditions.

The project will be built using a "phased approach", with construction estimated to take place over a three-year period. Once construction is complete, perpetual water use will consist of industrial use for O&M facilities and solar panel washing and irrigation use for seasonal irrigation. The development schedule for the irrigation portion of the change will be phased to allow for higher construction water use in the first three years without exceeding the water right quantities.

6.13	Provide an explanation of how the proposed use will not increase the authorized maximum flow rate (Qi) or annual volume (Qa).
<p>The water right instantaneous rate limit is 1,995 gallons per minute (gpm). The existing points of withdrawal were able to produce the full instantaneous rate when the water system was in operation. The proposed point of withdrawal (Gould Well) will have a pump installed right sized to meet the designed pumping rate in order to stay compliant with its water right authorization. The applicant will ensure no increase in the total quantity of water use by installing a measuring device maintained in accordance with RCW 90.03.360 and Washington Administrative Code (WAC) 173-173.</p>	

6.14	<u>For surface water diversions</u>, describe how your plans comply with WDFW fish screening requirements.
N/A.	

Development Schedule

6.15	Provide a general timeline that includes the steps needed to begin the project, complete the project, and put the water to full beneficial use.
<p>The applicant proposes a three-year development schedule for the temporary construction water use. Phased irrigation after the end of temporary use is expected to take another three years.</p>	

6.16	<u>For changes to water rights currently under a development schedule</u>, provide a description of the current status of your project.
N/A.	

6.17	Identify and discuss other land-use or environmental permits required and the timeline to obtain those permits.
<p>The applicant will obtain the required federal and state permits outlined in the Application for Site Certification including but not limited to, Construction Stormwater General Permit, Water Quality Permits, Authorization to Use State-owned Lands, Access Permits, Utility Permits, Oversize and Overweight Permits, Sand and Gravel General Permits, and Building Permits.</p>	

7. Related Water Rights

7.1	List any other water rights (applications, permits, certificates, or claims) related to this change application. Include any rights that overlap the place of use.						
<p>✓ Water rights that overlap the place of use or are related to the subject water right include two water right permits (G4-24435 and S4-25639(A)), and one Change-ROE (CS4-25369(A)@2). The attributes of these water right are described in Table 7.1.1 below.</p>							
Table 7.1.1. Related Water Rights							
Water Right Identifier	Owner	Priority Date	Qi	Qa (ac-ft/yr)	Irrigated Acreage	Purpose of Use	Source
G4-24435	WA DNR	1976	4300 gpm	1638	430	IR	Three Wells

S4-25639(A)P	WA DNR	1977	56.99 cfs	13713.95	3453.5	IR	Surface Water Pumps
CS4-25639(A)@2	WA DNR	2011	72.15 cfs	17375.15	4392.1	IR	Surface Water Pumps

Water right Certificates S4-28608GWRIS and G4-25953(A2) and Change-ROE CG4-24758(A)@1 were initially identified as overlapping the subject water right place of use. After further review, it was determined that these water rights have overly broad places of use that are adjacent to, but unrelated to, the subject water right in this change application.

7.2 Explain how the water rights listed above have been exercised.

Permit G4-24435 authorizes 430 acres of irrigation with a place of use northwest of the subject water right. The water right permit utilizes three groundwater wells, two of which are the John Barber wells under the subject water right. This water right permit will continue to use the Barber Wells after this change application is complete.

Permit S4-25639(A) was assigned to the DNR in 1994, superseding the original 1978 permit under the Paterson Power & Water District. The permit was superseded again in 2005 and issued for 72.15 cfs, 17,3175.15 ac-ft/yr for the irrigation of 4,392.1 acres. It was subsequently split into several "children" certificates following Ecology's agreement to a partial perfection strategy. DNR has perfected portions of the permit on some lands, while surrendering an equivalent number of acres that would otherwise be developed and transferring quantities to other DNR lands. The place of use of the subject water right starting in 2022 is now irrigated with this surface water right.

Change-ROE CS4-25639(A)@2 requested an additional point of diversion from the Columbia River pump station, that would allow for a more cost-effective means to development the irrigation system and acreage. On January 31, 2013, Ecology approved the Benton County Conservancy Board's decision to authorize the additional diversion point.

The water rights described above are being developed separately from the subject water right.

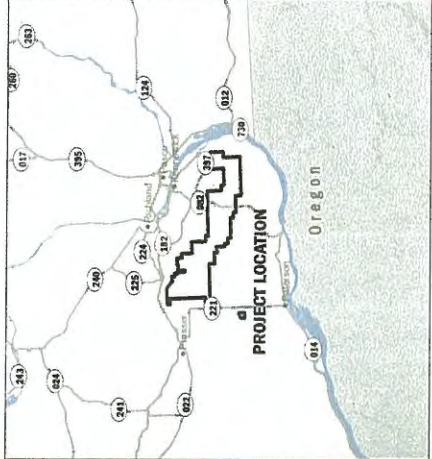
7.3 List all wells that have been added through a Showing of Compliance form.





N/A.

8. Historic Use

8.1 Describe how the water proposed for change has been beneficially used since the water right was established.

Based on a review of historical aerial imagery, irrigation has remained generally consistent within the authorized place of use for the extent of the available imagery (approximately 35 years). Attachment E includes historical imagery from 1985 through 2021. The extent of irrigation visible in the imagery dated 1985 and 1991 is estimated to be 260 acres. From the year 1996 to present, the extent of the irrigation appears to have been reduced to about 125 to 125.5 acres.



-  Authorized Point of Withdrawal
-  Proposed Point of Withdrawal
-  Authorized Place of Use
-  Proposed Place of Use
-  Township/Range
-  Section

Notes:
 - Features are approximate
 - Aerial Image sourced from Google Earth Pro

Water Right Application

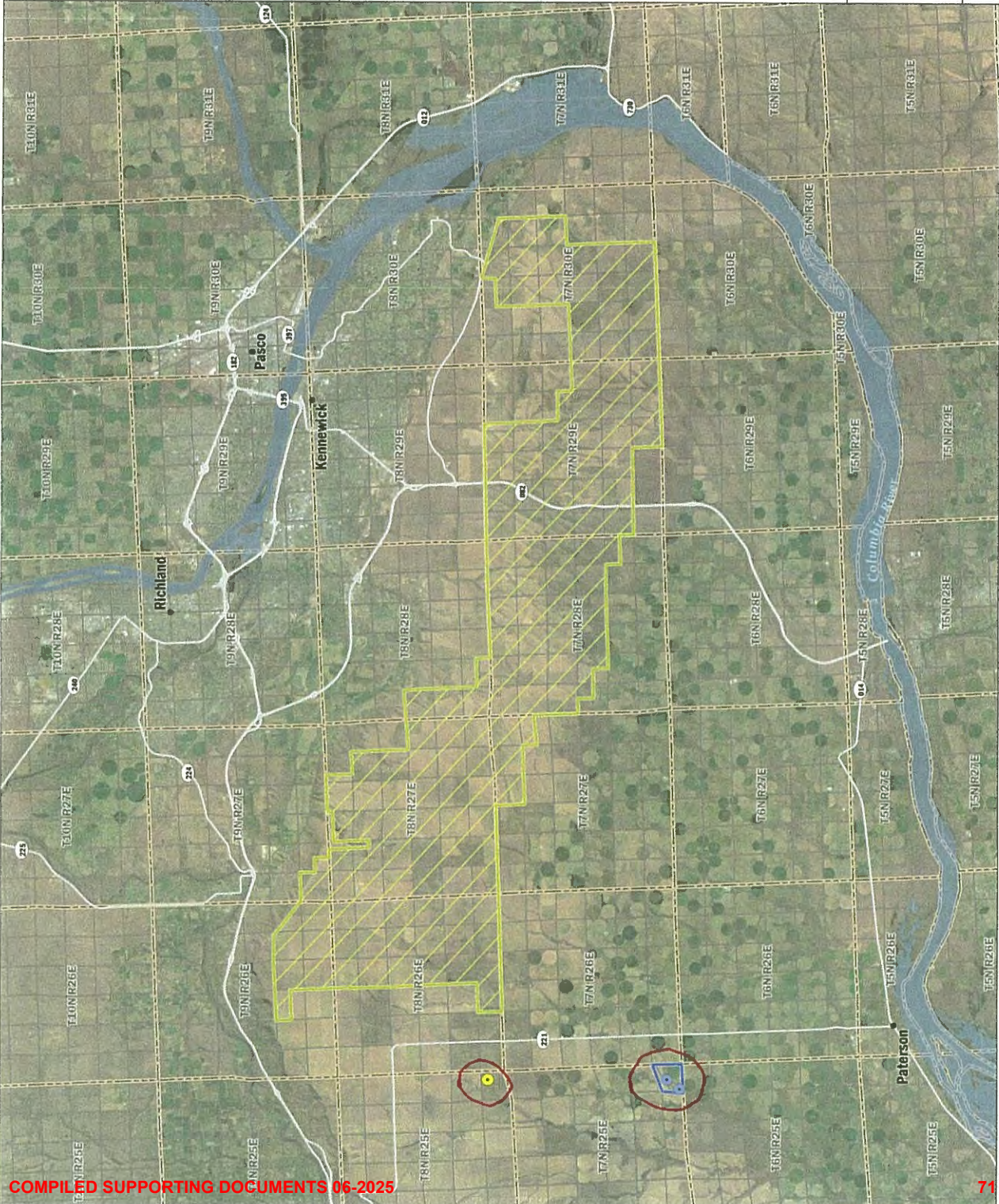
Horse Heaven Wind Farm
 Richland, WA



MAY-2023
 PROJECT: 210256

REV: R2M
 REVISED: R2M / R2P

FIGURE NO. **1**



Attachment B

Aspect Consulting Comment Letter
Clarifying Maximum Allowable Quantities



August 20, 2024

Ben Carr, Department of Ecology
Central Regional Office
1250 W. Alder Street
Union Gap, WA 98903

Re: Response to Benton County Conservancy Board (Board) Record of Decision to Scout Clean Energy Change Application CG3-22306@1 (BENT-24-01)

Project No. AS210258B-006

Dear Mr. Carr:

Thank you for providing Horse Heaven Wind Farm, LLC and the Washington State Department of Natural Resources with the opportunity to comment on the Draft Record of Decision Report of Examination (ROD/ROE) for Change Application CG3-22306@1. Because of the short timeframe to comment, Aspect Consulting is providing these comments on both parties' behalf after coordinating their collective comments. The comments are related to three issues. The first comment pertains to the Board-authorized annual quantity for irrigation and irrigated acreage, which the parties believe is inaccurate. The second comment pertains to the Board-authorized maximum instantaneous quantities which differs from the historical authorization. The third topic is a response to address concerns stated in the Yakama Nation's letter to Director Laura Watson dated August 13, 2024. Details are provided below.

1. Calculation of maximum annual quantity for irrigation and irrigated acreage

The ROD/ROE's maximum quantity available for irrigation use (280.8 acre-feet/year) is calculated as the product of irrigated acreage (70.2 acres) and water duty (4 acre-feet/acre). This methodology assumes that the irrigated acreage is a set, independent value. Instead, we feel the total maximum annual quantity should be established first and then partitioned between the proposed uses. The resulting annual quantity available for irrigation can then be used to determine the irrigated acreage, based on the water duty, as follows:

- Under the *Extent and Validity Analysis, ACQ Analysis and Beneficial Use Reivew* section of the ROD/ROE, the Board has determined that "*the total allowed water right use estimate for Change/Transfer is 502 acre-ft*". We agree with this determination and it represents fully consumptive use.
- Using the total water right (502 acre-feet/year), the maximum quantity available for irrigation should be 318 acre-feet/year during the initial three-year period, after subtracting the quantities for temporary Industrial, Construction, Dust Control (184 acre-feet/year). Then, the quantity should be 490 acre-feet/year after subtracting the permanent Industrial (12 acre-feet/year; year-round) uses. We request Ecology correct these irrigation authorizations.



- The DNR lessee will grow a variety of crops each year, some with higher water duties and some with lower. Because the quantities the Board approved under their ACQ methodology are entirely consumptive, there can be no injury from planting a variable amount of acres to match the appropriate water duty of the crop. We request that the full 260.7 acres be retained for this flexibility, which will make the property more attractive for DNR lessees, which in turn leads to higher public interest value to support the DNR Trust obligations. For example, based on the acre-feet/year volumes above, the DNR lessee could irrigate a low duty crop over 260.7 acres at 1.2 acre-feet/acre in the first 3 years. Thereafter, that duty could increase to 1.9 acre-feet/acre. If a higher duty crop is temporarily desired, they can decrease the 260.7 acres to accommodate in those years. The metering provision will ensure that the 502 acre-feet/year is not exceeded. At the very least, the 260.7 acres should be authorized, and the extent that is developed under this new setting should be considered at the certification stage after the development schedule. We request Ecology reinstate the 260.7 acres requested.

2. Maximum instantaneous rate of withdrawal

The maximum instantaneous rate of withdrawal provided in the ROD/ROE is based on the certificated maximum instantaneous duty of 7.5 gpm/acre. The Board applied this proportionally to the acreage available for change (125.5 acres), which resulted in a total allowed quantity of 918.8 gpm. In the calculation, an irrigated acreage of 70.2 acres (discussed above) is used to calculate 526.5 gpm as the maximum gpm allowed for irrigation use.

However, different crops require different peaking rates, and we believe the Board should have also considered the actual withdrawal rates applied by the former DNR lessee. We evaluated this using several different approaches. A 2013 report authored by GeoEngineers investigated the water right's point of withdrawal (Barber Well No. 1) through a constant rate and step-rate pumping test. During testing, the maximum pumping rate recorded was 1,100 gpm, as measured at the start of the pumping test. The report indicates that the Barber Well No. 1 pumping tests utilized "the existing installed pump and associated discharge piping," which according to the water right holder's (DNR's) lease agreements, is a 200-horsepower line-shaft turbine pump. However, this test does not account for intermittent peaks which may occur at the instantaneous (or minute level scale), which is the standard for the maximum instantaneous rate of a groundwater right measured in gpm.

The maximum pumping rate at the point of withdrawal can also be calculated using the brake horsepower equation:

$$BHP = \frac{Q \times P}{1717 \times E_{pump}}$$

Where: BHP = Brake horsepower – the power output of the pump

Q = Flow rate (gpm)

P = pressure (psi) – the total dynamic head

E_{pump} = water pump efficiency (typically around 80%)

Using estimates of pressure for the center-pivot and typical efficiencies results in approximately 1,200 gpm, which confirms the relative magnitude of the GeoEngineers test, but we think more faithfully includes some conservatism for infrequent peak rates.

In the Modification to Change Application submitted to the Board on January 16, 2024, the applicants requested the instantaneous rate for non-irrigation use be increased to 450 gpm. This rate reflects the projected non-irrigation water demand during an 8-hour pumping period. The applicant's request Ecology increase the Board finding as to the permissible instantaneous rate to a combined Qi for irrigation and non-irrigation uses not to exceed 1,200 gpm, and the non-irrigation limit not to exceed 450 gpm. This is still a reduction over the 1,955 gpm originally authorized.

3. Legal authority to transfer groundwater right G3-+22306CWRIS

One of the issues raised by the Yakama Nation is whether DNR has the appropriate authority for this change. They characterize this change as a water right lease only. It is not. Water right application G3-+22306CWRIS was submitted by Horse Heaven Wind Farm, LLC. Washington DNR is the water right holder of the groundwater right. As proposed in the water right application, DNR will lease both the land and water to their new tenant for the purpose of irrigation, and access to land and water to Horse Heaven Wind Farm, LLC for the purposes described in the application. DNR is the best arbiter of its lease authority for many of the reasons outlined in the Yakama Nation letter.

The Yakama Nation also took issue with the SEPA determination by the Board. In addition to the Board's response, we note that under WAC 197-11-600, an agency with jurisdiction is required to use an existing EIS (in this case approved by the Energy Facility Site Evaluation Council (EFSEC) unless there are "substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts." Agencies are not required to redo or supplement an EIS when insignificant or minor changes to a project occur over its life cycle, which is the norm. In this case, there is no material issue of impairment by using DNR's well to supply this project. No new land will be disturbed over what EFSEC considered, and no water right holder will be deprived of water. While both applicants respect the Yakama Nation's Traditional Cultural Properties, the use of DNR's well will not alter the project footprint or impacts on them beyond what EFSEC already considered.

We request that Ecology confirm that the EFSEC and Board findings on SEPA are appropriate.

Sincerely,

Aspect consulting



Dan Haller, PE, CWRE
Senior Principal Engineer
dan.haller@aspectconsulting.com



Ryan Mullen, LG
Project Geologist
ryan.mullen@aspectconsulting.com

Attachment C
Memorandum from Mike
Herbert/Washington Department of
Ecology

Date: September 5th, 2024

To: Breean Zimmerman (Permitting Unit), and the file

From: Mike Herbert (Technical Unit), reviewed by John Kirk, L.HG

RE: Technical Review for Benton County Conservancy Board Decision BENT-24-01

I reviewed the Benton County Water Conservancy Board change decision BENT-24-01. This change application requests a change of point of withdrawal (POW), change of place of use (POU), change of purpose of use, and change of period of use to ground water right CG3-+22306CWRIS. CG3-+22306CWRIS authorizes a total annual quantity (Qa) of 1043 acre-feet per year (afy) and instantaneous quantity (Qi) of 1,955 gallons per minute (gpm) for the irrigation of 260.7 acres for the irrigation season. The two authorized POWs are Wells 1 and 2 located in the SW ¼, SW ¼ and SE ¼, NW ¼, of Section 36, Township 7N, Range 25E W.M. The existing POU is all within Section 36, Township 07N, Range 25E W.M.

The proposed POW is a Department of Natural Resources (DNR) well located approximately six and a half miles to the north in NW ¼, NE ¼, of Section 36, Township 8N, Range 25E W.M. The change of POU expands to cover area within Township 9N, Range 26E. W.M., Township 9N, Range 27E. W.M., Township 8N, Range 25E. W.M., Township 8N, Range 26E. W.M., Township 8N, Range 27E. W.M., Township 7N, Range 26E. W.M., Township 7N, Range 27E. W.M., Township 8N, Range 28E. W.M., Township 7N, Range 28E. W.M., Township 7N, Range 29E. W.M., Township 7N, Range 30E. W.M., Township 6N, Range 30E. W.M., and Township 6N, Range 31E. W.M. The proposed change of use is to facilitate operations of the Horse Heaven Clean Energy Center which would combine wind, solar and battery storage to produce renewable energy for the State of Washington. The change is for 1,031 afy at 1805 gpm for seasonal irrigation, a three-year temporary use of 184 afy at 150 gpm for industrial, construction and dust abatement, and 12 afy at 150 gpm for year-round industrial use.

Authorized POW Well 1 was drilled in 1976 by Spokane Drilling Co for the DNR to a depth of 860 feet below ground surface (bgs). The well is open to and withdraws from a zone of water bearing strata from 814-860 feet bgs. Well 2 was drilled in 1978 by Moore drilling, Inc for the DNR to a depth of 990 feet bgs. The drillers log appears to indicate that it is withdrawing from a zone of water bearing strata at a similar depth as Well 1. Both Wells 1 and 2 are completed into the Frenchman Springs Member of the Wanapum Formation of the Columbia River Basalt Group (CRBG).

The proposed DNR POW, referred to as the Gould well was drilled in 1980 by Larry Burd's Well Drilling to a depth of 1340 feet bgs. The Gould well is open to a productive water bearing zone located at the top of the Frenchman Springs Member of the Wanapum Formation. There is an inferred fault between the two wells that has not yet been confirmed

by any geologic mapping. There appears to be no offset of strata in cross section to suggest there is any barrier to groundwater flow between the existing authorized wells and the proposed well. All three of the wells had similar static water level elevations within them at the time of drilling. Both Wells 1 and 2 as well as the proposed Gould well are drawing groundwater from the Wanapum Formation and are completed in the same body of public groundwater for appropriation.

An impairment analysis is required to determine that drawdown impacts experienced within a neighboring well will not lead to impairment due to the authorization of this application. This evaluation assumes conservative aquifer parameters and a maximum impact pumping schedule to determine the maximum amount of drawdown expected to be experienced within a closest neighboring well. After a search of the Department of Ecology Well Log Viewer and aerial photography it is determined that in this location of the Horse Heaven Hills, there are no neighboring water right users within the Wanapum Formation within two miles of the proposed well.

To withdraw the full annual quantity of 1043 acre-feet by pumping the well at the maximum instantaneous rate of 1955 gpm, the well would be pumped continuously for 120.7 days. Using the most conservative hydraulic aquifer properties reported by the United States Geological Survey (USGS) for the Wanapum aquifer, the maximum drawdown interference to occur if there were a neighboring well within a distance of two miles would be less than 6 feet. Assuming moderate aquifer values and there being no identified neighboring wells within two miles, exercising this water right under this change would not result in interference that would injure the exercise of a neighboring water right.

Mike Herbert

Hydrogeologist | Water Resources Program
Department of Ecology | Central Regional Office
1250 W Alder St
Union Gap, WA, 98903
(509) 490-1934



References:

Ely, D.M., Bachmann, M.P., and Vaccaro, J.J., 2011. Numerical simulation of groundwater flow for the Yakima River Basin aquifer system, Washington: U.S. Geological Survey Scientific Investigation Report 2011-205155, 90 pgs.

Fetter, C.W. 2001. Applied Hydrogeology Fourth Edition. Prentice Hall, New Jersey.

Vaccaro, J.J., Jones, M., Ely, D., Keys, M., Olsen, T., Welch, W., and Cox, S., 2009, Hydrogeologic Framework of the Yakima River Basin Aquifer System, Washington.

Washington Department of Ecology Well Database, available at:

<http://apps.ecy.wa.gov/wellog/>

Application for Change/Transfer of Water Rights

Application for Change/Transfer of a Water Right

Form No. ECY 040-1-97 (Rev 01-2020)



- Refer to accompanying guidance to complete this form.
- We strongly encourage applicants to seek pre-application consultation **prior** to applying.
- Incomplete applications will be returned.
- All fees are non-refundable (RCW 90.03.470(13)).

Choose a processing option:

<input checked="" type="checkbox"/> Standard Processing (Department of Ecology)	<input type="checkbox"/> Cost Reimbursement Processing (Ecology Contractor)	<input type="checkbox"/> County Water Conservancy Board Processing (not available in all counties)
A minimum \$50 fee is required to apply. Additional fees may apply. Drought applications are exempt.	Contact Department of Ecology to obtain information on fees for this option.	Fees charged by boards vary. Consult with the appropriate board to determine the fee.

Note: Submit all applications for Department of Ecology and Cost Reimbursement processing to the Cashiering Section. County Water Conservancy Board applications should be submitted directly to the appropriate board, if one exists.

Submit all applications and fees to:

DEPARTMENT OF ECOLOGY
CASHIERING SECTION
PO BOX 47611
OLYMPIA, WA 98504-7611

Check the box for the region where your project is located.

- ☒ Central Region
☐ Eastern Region
☐ Northwest Region
☐ Southwest Region



ADA Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.



For Ecology Use
(Date Stamp)

WATER RESOURCES PROGRAM

Application for Change/Transfer of a Water Right

A minimum filing fee of \$50.00 is required for most applications. Additional fees may be required.

I am applying to (check all that apply):

- ☐ Change purpose(s) of use
☒ Add purpose(s) of use or acres
☒ Change/transfer place of use
☒ Change point(s) of diversion/withdrawal
☐ Add point(s) of diversion/withdrawal
☒ Add or modify period of use
☐ Other (i.e., consolidation, intertie, trust water)
Describe:

No filing fee is required for applications for:

- ☐ Drought
☐ Cost Reimbursement Processing
☐ Water Conservancy Board Processing

FOR OFFICIAL USE ONLY

DATE APPLICATION RECEIVED

CHECK NO.

FEE \$

DATE ACCEPTED

BY

CHANGE NO.

COUNTY

WRIA

SPECIAL AREA

SEPA: ☐ EXEMPT ☐ NOT EXEMPT

ECY CODING: 001-002-WR10285-000011

DOC ID NO: _____

APP NO.

PERMIT NO.

CERT NO.

CERT OF CHG NO.

Date of pre-application consultation with Ecology: 08-01-2023

1. Water Right Information

WATER RIGHT OR CLAIM NUMBER G3-+22306CWRIS		RECORDED NAME(S) Washington State Department of Natural Resources
HAS THE WATER BEEN USED AS DESCRIBED ON YOUR WATER RIGHT DOCUMENT IN THE LAST FIVE (5) YEARS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
WATER RIGHT OWNER Washington State Department of Natural Resources	PHONE NO. (509) 925-8510	ALT PHONE NO. (360) 902-1000
ADDRESS MS 47000		
CITY Olympia	STATE WA	ZIP CODE 98504
EMAIL ADDRESS (IF AVAILABLE) Southeast.region@dnr.gov		

2. Applicant Information (Complete all applicable boxes)

APPLICANT/BUSINESS NAME Horse Heaven Wind Farm, LLC	PHONE NO. (303) 284-7566	ALT PHONE NO.
ADDRESS 5775 Flatiron Parkway, Suite 120		
CITY Boulder	STATE CO	ZIP CODE 80301
EMAIL ADDRESS (IF AVAILABLE)		

CONTACT (IF DIFFERENT FROM ABOVE) Dave Kobus (Scout Clean Energy)		PHONE NO. (509) 947-3258	ALT PHONE NO.
ADDRESS 1385 Cortland Ave			
CITY Richland		STATE WA	ZIP CODE 99352
EMAIL ADDRESS (IF AVAILABLE) Dave@scoutcleanenergy.com			

3. Purpose(s) and Period of Use

A. Existing

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
Irrigation of 260.7 acres	1955 gpm	1043	Irrigation Season

B. Proposed (if different from 3.A.)

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
Irrigation of up to 260.7 acres	1805 gpm	1031	Irrigation Season
Industrial, Construction, Dust Abatement	150 gpm	184	Year-Round (For Three Years)
Industrial	150 gpm	12	Year-Round
All uses will not exceed total authorization or the ACQ, development schedule will be used to phase irrigation expansion with temporary 3-year industrial watering needs until final contrition of the energy project is done.			
Not To Exceed	150 gpm	1043	

4. Point(s) of Diversion/Withdrawal

A. Existing

SOURCE	WELL NO.	WELL TAG NO.	QTR QTR	QTR	SEC	TWP	RGE	PARCEL NO.	GPS/ LAT-LONG
2 Wells	No. 1 No. 2	N/A	SW ¼ SE ¼	SW ¼ NW ¼	36	07N	25E	1-3675-000-0000-000	46.04494, -119.64138 46.05105, -119.63442

DO YOU OWN THE EXISTING POINT OF DIVERSION OR WITHDRAWAL? ☒ YES ☐ NO

B. Proposed

SOURCE	WELL NO.	WELL TAG NO.	QTR QTR	QTR	SEC	TWP	RGE	PARCEL NO.	GPS/ LAT-LONG
1 Well (Gould Well)	No. 1	N/A	NW	NE	36	08N	25E	1-3685-100-0000-000	46.13952, -119.62843

DO YOU OWN THE PROPOSED POINT OF DIVERSION OR WITHDRAWAL? ☒ YES ☐ NO

5. Place of Use

A. Existing

QTR QTR	QTR	SEC	TWP	RGE	COUNTY	PARCEL #	# OF IRRIGATED ACRES
		36	07N	25E	Benton	1-3675-000-0000-000	260.7
LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED:							
Section 36, Township 07 North, Range 25 East. See Figure 1 for a map of the existing place of use.							

LEGAL LAND OWNER OF EXISTING PLACE OF USE (IF DIFFERENT THAN APPLICANT) State of Washington	PHONE NO.	ALT PHONE NO.
ADDRESS Dept. of Natural Resources State Lands Divisions PO Box 47016		
CITY Olympia	STATE WA	ZIP CODE 98504-7016
EMAIL ADDRESS (IF AVAILABLE)		

B. Proposed (if different than 5.A.)

QTR QTR	QTR	SEC	TWP	RGE	COUNTY	PARCEL #	# OF IRRIGATED ACRES
					Benton	Multiple (See Attachment)	Up to 260.7
LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED:							
See Attachment F for a legal description of the place of use and Figure 1.							
The place of use of the irrigation portion of this water right will be used on Benton County Parcel ID 1-3685-100-0000-000 located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 08 North, Range 25 East.							

LEGAL LAND OWNER OF PROPOSED PLACE OF USE (IF DIFFERENT THAN APPLICANT)	PHONE NO.	ALT PHONE NO.
ADDRESS		
CITY	STATE	ZIP CODE
EMAIL ADDRESS (IF AVAILABLE)		

All applicants must also complete Sections 6 through 11, **except** drought and Quincy Basin Artificially Stored Groundwater applications (see below).

If you do not have the required information, make an appointment with your Ecology regional office to discuss your application. Applications submitted without the required information will be returned as incomplete.

- If your water right change would impair an existing right, complete Section 6 through 11, and Attachment A, **mitigation plan**. Changes to water rights that will impair an existing right will be denied unless a mitigation plan is approved.
- If you are applying to **consolidate permit-exempt wells**, complete Sections 6 through 11, and Attachment B.
- If you are applying for a change related to the **Quincy Basin Artificially Stored Groundwater**, stop here. Complete only Sections 7 & 11, and continue with Attachment C.
- If you are applying for a change related to **drought**, stop here. Complete only Section 11, and continue with Attachment D.

6. Project Description

(Provide your answers in a separate report, and reference the section number in your responses)

Section	Required information	Reference(s)
6.1	Provide a brief narrative explaining the general nature and intent of the proposed change(s) to the water right.	
6.2	Are you aware of any compliance/enforcement actions that concern this water right? If so, describe.	
6.3	If this water right has previously been changed, summarize whether the previously authorized changes have been completed.	
6.4	If the water right includes a diversion from a permitted reservoir, list all the associated water rights, the maximum volume of water stored in the reservoir, and the means of withdrawal.	
6.5	Attach a copy of any SEPA checklists or environmental analyses related to this project with this application.	
6.6	<u>For period of use change proposals</u> , indicate the time of the year that the change would be in effect.	POL 1200
6.7	<u>For temporary change proposals</u> , indicate the timeframe that the proposed change would be in effect.	POL 1035
6.8	<u>For municipal change proposals</u> , provide the most recent water right self-assessment, if one exists, as submitted to the Department of Health (DOH).	

SYSTEM DESIGN AND OPERATION

Section	Required information	Reference(s)
6.9	Provide a description of the existing water supply system from the point of diversion or withdrawal to the place of use.	
6.10	Provide preliminary design plans and specifications for the proposed change, including diversion or withdrawal and conveyance facilities, if applicable, and the proposed flow rate and volume design capacity.	
6.11	Describe how the change proposal would affect return flow.	
6.12	Provide the current and projected system efficiency covered by the water right proposed for change.	
6.13	Provide an explanation of how the proposed use will not increase the authorized maximum flow rate (Qi) or annual volume (Qa).	PRO 1210 GUID 1210
6.14	<u>For surface water diversions</u> , describe how your plans comply with WDFW fish screening requirements.	RCW 77.57

DEVELOPMENT SCHEDULE

Section	Required information	
6.15	Provide a general timeline that includes the steps needed to begin the project, complete the project, and put the water to full beneficial use.	
6.16	<u>For changes to water rights currently under a development schedule</u> , provide a description of the current status of your project.	
6.17	Identify and discuss other land-use or environmental permits required and the timeline to obtain those permits.	

7. Related Water Rights

Section	Required information	Reference(s)
7.1	List any other water rights (applications, permits, certificates, or claims) related to this change application. Include any rights that overlap the place of use.	
7.2	Explain how the water rights listed above have been exercised.	
7.3	List all wells that have been added through a Showing of Compliance form.	POL 1260 ECY 040-74

8. Historic Use

Section	Required information	
8.1	Describe how the water proposed for change has been beneficially used since the water right was established.	
8.2	For the water right proposed for change and the portfolio of any related rights, provide the historic flow rate from each point of diversion or withdrawal (in cubic feet per second or gallons per minute) and explain how the amount was determined (e.g., meter data or power records).	
8.3	If the requested change/transfer is for a water right claim, include evidence demonstrating use of water prior to 1917 for surface water, or 1945 for ground water.	
8.4	<u>For surface water diversions</u> , explain whether streamflows were adequate to exercise the right throughout the historic period of diversion. If available, provide streamflow records to support the conclusion.	
8.5	<u>For groundwater withdrawals</u> , explain whether there has been an adequate supply of groundwater to exercise the water right throughout the historic period of withdrawal. Provide all groundwater data and methods used to support the conclusion.	
8.6	Describe your procedures for remaining in compliance with the provisions of your existing water right.	
8.7	If a water measuring device was installed, provide your measurement data.	
8.8	If a measuring device was not installed, do the pumps have a dedicated power meter(s)? If so, provide an estimate of water use using the power consumption to water consumption equation described in WAC 173-173-160(2).	
8.9	If no water use data are available, estimate annual use by using an alternative method and explain your methodology.	
8.10	Provide aerial photos, remotely sensed images, or other information and explain how they support the historic use.	

WATER USED FOR IRRIGATION

Section	Required information	Reference(s)
8.11	<u>If changing the purpose of use</u> , refer to the Provisions section of your water right document to determine whether the right is subject to the Family Farm Water Act. If so, contact the appropriate Ecology regional office prior to completing this form (refer to map on page 1).	RCW 90.66
8.12	Describe your irrigation scheduling practices (e.g., frequency and duration of irrigation sets). Describe how data from soil moisture probes, weather forecasts, crop inspection, or other irrigation scheduling techniques were used to determine irrigation practices.	

Section	Required information	Reference(s)
8.13	If adding the irrigation of additional acres or a new purpose of use, provide metering data for the most recent five-year period of continuous use. If metering data are unavailable, provide an estimate of water use for the most recent five-year period of continuous use and describe the methodology for this estimate.	POL 1210 GUID 1210 RCW 90.03.380
8.14	If water has been used from a state or federal water project (contract water) on the historic place of use, explain when and how that contract water was used.	

9. Hydrogeologic Analysis

We strongly recommend that applicants consult with Ecology in a pre-application meeting prior to conducting any hydrogeologic work, to determine the scope of data required for processing this application.

Section	Required information	
9.1	Provide a description of existing authorized points of withdrawal and proposed wells, their locations, well depths, static water levels, pumping rates and schedules, etc.	
9.2	Describe the hydrogeologic setting. Identify all ground water bodies and surface water bodies involved. Describe geographic recharge and discharge areas, seasonal variations, and interrelationships between surface and ground water, and between aquifers. Identify barriers to flow and hydrologic boundaries, if known.	
9.3	Describe, if available, the following characteristics of the aquifer and cite the source of that information: <ul style="list-style-type: none"> • Aquifer transmissivity • Aquifer storage coefficient and specific yield • Saturated thickness • Aquitard leakage • A detailed description of groundwater-flow boundaries • Water-level hydrographs for wells Associated water-quality information	
9.4	Additional hydrogeologic work may be required to process your application	

10. Environmental Assessment

Section	Required information	
10.1	Describe the aquatic uses of any related surface water bodies (i.e., fish and wildlife, recreation and aesthetic, water quality, etc.).	
10.2	Indicate whether the related surface water is fish-bearing, including whether it is inhabited by salmonids. List species and the times of year they are present. https://apps.wdfw.wa.gov/salmonscape/	

11. Maps and Other Documentation

Section	Required information	
11.1	<p>Attach detailed map(s) clearly indicating the following:</p> <ul style="list-style-type: none">• The existing places of use for all rights related to this proposed change. If any overlapping water rights for the place of use, or multiple rights that share the same point(s) of diversion/withdrawal exist, provide one map depicting all of the historic points of diversion, means of conveyance, and places of use. Identify related rights as such by water right number.• The county parcel numbers for the existing and proposed place(s) of use, unless the place(s) of use are for large service area such as that served by an irrigation district or municipal water system. Identify the name of the irrigation district or the water system.• The existing and proposed locations of the point(s) of diversion/withdrawal.• The names, informal or formal, used to identify each point of diversion/withdrawal (e.g., Well No. 1, River Well, S01, Smith Dam, etc.).• The proposed place(s) of use.• A grid layer referencing Section, Township, and Range of the area.• The location of the water delivery system and other such features relevant to your proposed change/transfer (e.g., mainlines, reservoirs, booster pumps, etc.)	

Certain applications may incur a Real Estate Excise Tax liability for the seller of the water rights. The Department of Revenue has requested notification of potential taxable water right related actions and therefore may be provided with a copy of this request. For further information, contact:

Department of Revenue
Real Estate Excise Tax
PO Box 47477
Olympia, WA 98504-7477
Phone (360) 570-3265

12. Signatures:

I certify that the information above is true and accurate to the best of my knowledge. I understand that in order to process my application, I hereby grant staff from the Department of Ecology or the County Water Conservancy Board access to the above site(s) for inspection and monitoring purposes. If assisted in preparing this above application, I understand that all responsibility for the accuracy of the information rests with me.

<u>Michael Kearney, Division Manager</u>		<u>10/25/2023</u>
Applicant Printed Name – Title	Applicant Signature	(Date: MM/DD/YYYY)
<u>Michael Kearney, Division Manager</u>		<u>10/25/2023</u>
Applicant Printed Name – Title	Applicant Signature	(Date: MM/DD/YYYY)
<u>Michael Kearney, Division Manager</u>		<u>10/25/2023</u>
Water Right Holder Printed Name	Water Right Holder Signature	(Date: MM/DD/YYYY)
<u>Michael Kearney, Division Manager</u>		<u>10/25/2023</u>
Landowner of Existing Place of Use Printed Name	Landowner of Existing Place of Use Signature	(Date: MM/DD/YYYY)
<u>Michael Kearney, Division Manager</u>		<u>10/25/2023</u>
Landowner of Proposed Place of Use Printed Name	Landowner of Proposed Place of Use Signature	(Date: MM/DD/YYYY)
<u>Michael Kearney, Division Manager</u>		<u>10/25/2023</u>
Authorized Representative Printed Name	Authorized Representative Signature	(Date: MM/DD/YYYY)


For additional information, contact the Ecology regional office where your project is located:

Region	Counties served	Mailing Address	Phone
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	3190 160th Ave SE Bellevue, WA 98008	425-649-7000
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300

12. Signatures:

I certify that the information above is true and accurate to the best of my knowledge. I understand that in order to process my application, I hereby grant staff from the Department of Ecology or the County Water Conservancy Board access to the above site(s) for inspection and monitoring purposes. If assisted in preparing this above application, I understand that all responsibility for the accuracy of the information rests with me.

Brian Wixon - Senior Director of
Real Estate & Title


Brian Wixon (Aug 12, 2023 21:32 CDT)

Aug 12, 2023

Applicant Printed Name – Title	Applicant Signature	(Date: MM/DD/YYYY)
Applicant Printed Name – Title	Applicant Signature	(Date: MM/DD/YYYY)
Water Right Holder Printed Name	Water Right Holder Signature	(Date: MM/DD/YYYY)
Landowner of Existing Place of Use Printed Name	Landowner of Existing Place of Use Signature	(Date: MM/DD/YYYY)
Landowner of Proposed Place of Use Printed Name	Landowner of Proposed Place of Use Signature	(Date: MM/DD/YYYY)
Authorized Representative Printed Name	Authorized Representative Signature	(Date: MM/DD/YYYY)

For additional information, contact the Ecology regional office where your project is located:

Region	Counties served	Mailing Address	Phone
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	3190 160th Ave SE Bellevue, WA 98008	425-649-7000
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300

ADA Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341

Attachment A: Mitigation Plan

Section	Required information	Reference(s)
A1	Identify what rights, as defined above, you expect to be impaired and identify the expected nature of that impairment.	
A2	Identify the source of supply for the proposed mitigation water.	
A3	Describe how this mitigation water source will offset the impacts of the proposed change. This should specifically address how the change in the amount of water in Section A4 will be offset by the source identified in Section A5	
A4	Estimate the change in consumptive quantity that would be available for the use being impaired. Describe the methodology used to support your estimate.	
A5	Describe the measures that will be taken to ensure mitigation will be maintained for the duration of the water right change authorization.	
A6	List each water right being proposed for transfer, relinquishment, or conveyance to the Trust Water Rights Program. Provide a history of beneficial use of each water right listed above and identify whether a separate water right change application has been filed for these water rights.	
A7	Provide copies of any agreements between you and other parties regarding mitigation for impacts, if applicable.	
A8	Describe the benefits and costs, including environmental effects, of any water impoundment or other resource management technique that is included as component of the application.	RCW 90.03.255 RCW 90.44.055
A9	For surface water, analyze whether there will be any increased water supply from the impoundment or technique, including recharge of groundwater, as a means of making water available or otherwise offsetting diversion impacts.	
A10	For groundwater, analyze whether there will be any increased water supply from the impoundment or technique, including recharge of groundwater, as a means of making water available or otherwise offsetting the impact of the diversion of surface water.	
A11	If you intend to offset your new use, describe how and when non-consumptive water returns to ground water or surface water, and explain how this volume was estimated. Specifically describe how the quantity, timing and location of return flow would change if the proposed change is approved.	WAC 173-500-050(5) WAC 173-500-050(9) POL 1020

Attachment B: Consolidation of Exempt Wells

RCW 90.44.105 provides that permit-exempt uses (RCW 90.44.050) may be consolidated with a valid right to withdraw groundwater only if all the following conditions are met.

Section	Required information	Reference(s)
B1	Provide evidence that water from the exempt wells tap the same body of public groundwater as the well with the water right to withdraw public ground waters.	RCW 90.44.105(1)
B2	Show that suitable arrangements have been made to discontinue use of the permit exempt well established under the exemption upon approval of the consolidation amendment.	RCW 90.44.105(2)
B3	Provide copies of legally enforceable agreements that bind present and future owners of the land from drilling and using another permit exempt well through appropriate title limitations.	RCW 90.44.105(3)
B4	Show that suitable arrangements have been made to properly decommission the permit exempt well(s) in accordance with Chapter 18.104 RCW and relevant Ecology rules.	RCW 90.44.105(4) RCW 18.104.048 WAC 173-160-381 RCW 18.104.043 RCW 18.104.040(4)(b)
B5	Describe impacts to other existing rights, including ground and surface water rights and minimum stream flows adopted by rule.	RCW 90.44.105(5)
B6	Provide evidence that the amount of water used is consistent with the average amount of water used for similar uses in the general area and explain how this was determined.	
B7	Is there an adopted Coordinated Water System Plan (CWSP) or Comprehensive Land Use Plan or another comprehensive watershed management plan in place for this location? Please indicate yes or no. If yes, please document whether your project is consistent with this plan.	RCW 70.116.030(1) RCW 36.70A.070

Attachment C: Quincy Basin Change Authorizations

Complete this attachment and the following sections of the Application for Change/Transfer of a Water Right:

- Sections 1 through 5
- Section 7. Related Water Rights
- Section 11. Maps and other Documentation

Section	Required information	Reference
C1	Provide a brief narrative explaining the general nature and intent of the proposed change(s) to the water right.	WAC 173-124
C2	If this water right has previously been changed, summarize whether the previously authorized changes have been completed.	

Attachment D: Drought Change Authorizations

Complete this attachment and the following sections of the Application for Change/Transfer of a Water Right:

- Sections 1 through 5
- Section 11. Maps and other Documentation

Note: In order to apply for a Drought Change Authorization, your water source must be within an area covered by a formal drought declaration.

Section	Required information	Reference(s)
D1	Describe the specific circumstances pertaining to your water shortage. Describe how existing water rights are insufficient to address these impacts due to the drought.	
D2	Describe how the water right proposed for change will address these impacts.	
D3	Have you had any previous drought-specific authorizations for the subject parcels? If yes: <ul style="list-style-type: none">• What are the Drought Authorization numbers?• Did those former authorizations cause impairment to other water users?	RCW 43.83B.410
D4	<u>For irrigation changes</u> , indicate what types of crop(s) or orchard(s) you will be growing this year. Describe how the crop(s) or orchard(s) may be impacted by this year's drought.	

6. Project Description

6.1	Provide a brief narrative explaining the general nature and intent of the proposed change(s) to the water right.
	<p>The applicant (Horse Heaven Wind Farm) is requesting to change the point of diversion, period of use, add a purpose of use, and transfer the place of use of a Department of Natural Resources (DNR) water right (Certificate G3-+22306CWRIS) located in the Horse Heaven Hills area of Benton County, Washington.</p> <p>This change is requested to supply temporary and perpetual water usage for the construction and operation of the Horse Heaven Clean Energy Center (Energy Center), which will combine wind, solar, and battery storage to produce renewable energy for the region and the State of Washington.</p> <p>DNR holds Groundwater Certificate G3-+22306CWRIS which authorizes 1,955 gallons per minute (gpm) and 1,043 acre-feet/year (ac-ft/yr) for the irrigation of 260.7 acres from two groundwater wells in Section 36, Township 7 North, Range 25 East. This application requests to change the existing authorized points of withdrawal to a different DNR-owned well, "the Gould Well", located approximately 5.5 miles to the north.</p> <p>This change requests to add industrial use to the purpose of use to support the temporary water usage for the Energy Center (concrete mixing, dust suppression, soil compaction, and fire prevention) as well as perpetual water usage for the Energy Center operation (O&M facilities and solar panel washing). Additionally, DNR plans to retain a portion of the irrigation use to utilize this water right to hydrate land surrounding the Gould Well.</p>
6.2	Are you aware of any compliance/enforcement actions that concern this water right? If so, describe.
	No.
6.3	If this water right has previously been changed, summarize whether the previously authorized changes have been completed.
	DNR filed a Temporary Donation to the Trust Water Rights Program on March 23, 2023 for the full amount of water right G3-+22306CWRIS. The donation was recorded under Document Number CG3-22306C.
6.4	If the water right includes a diversion from a permitted reservoir, list all the associated water rights, the maximum volume of water stored in the reservoir, and the means of withdrawal.
	N/A.

6.5	Attach a copy of any SEPA checklists or environmental analyses related to this project with this application.
See Attachment D for SEPA checklist for the project. Additional environmental documents relating to this project are provided in Attachment D and includes: a letter indicating withdrawal of expedited Environmental Impact Statement (“EIS”) review, the Energy Facility Site Evaluation Council (EFSEC) SEPA Determination of Significance in a Scoping Notice which included a public comment period through June 10, 2021, and the Draft EIS issued on December 19, 2022 with a public comment period ending on February 1, 2023.	
6.6	<u>For period of use change proposals</u>, indicate the time of the year that the change would be in effect.
<p>This application requests to change a portion of the existing seasonal irrigation water right to a year-round industrial water right for temporary use (three years) and permanent use. The current period of use is during the irrigation season, typically between April 1st through October 31th, while the proposed industrial period of use will be January 1st through December 31st.</p> <p>As described in Section 6.1 above, DNR plans to retain a portion of this water right to irrigate the property that surrounds the Gould Well, currently by a dryland lessee that will be converted to an irrigated lessee with irrigation phased around the completion of the energy project development. The period of use for irrigation will remain as is, through the irrigation season.</p>	
6.7	<u>For temporary change proposals</u>, indicate the timeframe that the proposed change would be in effect.
<p>A portion of the water right proposed for change will supply temporary water use for the construction of the Energy Center for a three-year period. During construction, water would be used to mix concrete for structural foundations and to suppress fugitive dust during grubbing, clearing, grading, trenching, and soil compaction. Fire prevention also represents minor water use; this involves staging water trucks at the job site to keep the ground and vegetation moist during extreme fire conditions.</p> <p>The project will be built using a “phased approach”, with construction estimated to take place over a three-year period. Once construction is complete, perpetual water use will consist of industrial use for O&M facilities and solar panel washing and irrigation use for seasonal irrigation. The development schedule for the irrigation portion of the change will be phased to allow for higher construction water use in the first three years without exceeding the water right quantities.</p>	

6.8	For municipal change proposals, provide the most recent water right self-assessment, if one exists, as submitted to the Department of Health (DOH).
N/A.	

System Design and Operation

6.9	Provide a description of the existing water supply system from the point of diversion or withdrawal to the place of use.
<p>The authorized points of withdrawal, referred to commonly as the John Barber Well No. 1 and No. 2 (Barber Wells), have historically been used to supply irrigation water under groundwater right G3-+22306CWRIS. Barber Wells 1 and 2 are shown on Attachment B (Figure 1), and well logs and construction schematics are included here as Attachment C.</p> <p>Barber Well No. 1 was drilled in 1976 to a depth of 860 feet below the ground surface. Barber Well No. 2 was drilled in 1978 to a depth of 990 feet below the ground surface. Both wells are equipped with 500-horsepower turbine pumps. Water is pumped from the wells to a center pivot irrigation system and then applied to the 125-acre field located Section 36.</p>	

6.10	Provide preliminary design plans and specifications for the proposed change, including diversion or withdrawal and conveyance facilities, if applicable, and the proposed flow rate and volume design capacity.
<p>The applicant proposes to use the DNR-owned Gould Well as a source of water supply for the Energy Center. DNR also intends to use the Gould Well to irrigate a portion of the land surrounding the well. The Gould Well was completed in December of 1980 to a depth of 1,220 feet below ground surface but later deepened to a depth of 1,340 feet and a larger-diameter pump chamber was reamed to a depth of 900 feet. The Gould Well has adequate capacity to meet the proposed instantaneous rate and a new well pump will be right-sized. A well log and construction schematic of the Gould Well is included here as Attachment C.</p>	

6.11	Describe how the change proposal would affect return flow.
<p>This water right change proposes to add a year-round industrial supply to the purpose of use. Historically, water has been used for seasonal agricultural irrigation from a center-pivot irrigation system. The application efficiency of this irrigation method is estimated to range from 70 to 90 percent (Ecology Water Resources Program Guidance 1210). The average percent consumptive use for this irrigation method is 95 percent.</p> <p>The proposed use includes year-round industrial supply which is assumed to be fully consumptive. Under this proposed use, consumptive use will not increase under the Annual Consumptive Quantity (ACQ) standard as an equivalent amount of acres will be fallowed (both temporarily and permanently) to offset the proposed industrial and related uses.</p>	

6.12	Provide the current and projected system efficiency covered by the water right proposed for change.
<p>Based on Ecology Guidance 1210, Table 1, the application efficiency of a center-pivot irrigation system ranges from about 70 to 90 percent. Total consumptive use based on the application efficiency is estimated to be near 95 percent. The proposed irrigation is expected to be of similar efficiency. Proposed industrial uses are expected to be entirely consumptive.</p>	

6.13	Provide an explanation of how the proposed use will not increase the authorized maximum flow rate (Qi) or annual volume (Qa).
The water right instantaneous rate limit is 1,995 gallons per minute (gpm). The existing points of withdrawal were able to produce the full instantaneous rate when the water system was in operation. The proposed point of withdrawal (Gould Well) will have a pump installed right sized to meet the designed pumping rate in order to stay compliant with its water right authorization. The applicant will ensure no increase in the total quantity of water use by installing a measuring device maintained in accordance with RCW 90.03.360 and Washington Administrative Code (WAC) 173-173.	

6.14	<u>For surface water diversions</u>, describe how your plans comply with WDFW fish screening requirements.
N/A.	

Development Schedule

6.15	Provide a general timeline that includes the steps needed to begin the project, complete the project, and put the water to full beneficial use.
The applicant proposes a three-year development schedule for the temporary construction water use. Phased irrigation after the end of temporary use is expected to take another three years.	

6.16	<u>For changes to water rights currently under a development schedule</u>, provide a description of the current status of your project.
N/A.	

6.17	Identify and discuss other land-use or environmental permits required and the timeline to obtain those permits.
The applicant will obtain the required federal and state permits outlined in the Application for Site Certification including but not limited to, Construction Stormwater General Permit, Water Quality Permits, Authorization to Use State-owned Lands, Access Permits, Utility Permits, Oversize and Overweight Permits, Sand and Gravel General Permits, and Building Permits.	

7. Related Water Rights

7.1	List any other water rights (applications, permits, certificates, or claims) related to this change application. Include any rights that overlap the place of use.						
Water rights that overlap the place of use or are related to the subject water right include two water right permits (G4-24435 and S4-25639(A)), and one Change-ROE (CS4-25369(A)@2). The attributes of these water right are described in Table 7.1.1 below.							
Table 7.1.1. Related Water Rights							
Water Right Identifier	Owner	Priority Date	Qi	Qa (ac-ft/yr)	Irrigated Acreage	Purpose of Use	Source
G4-24435	WA DNR	1976	4300 gpm	1638	430	IR	Three Wells

S4-25639(A)P	WA DNR	1977	56.99 cfs	13713.95	3453.5	IR	Surface Water Pumps
CS4-25639(A)@2	WA DNR	2011	72.15 cfs	17375.15	4392.1	IR	Surface Water Pumps

Water right Certificates S4-28608GWRIS and G4-25953(A2) and Change-ROE CG4-24758(A)@1 were initially identified as overlapping the subject water right place of use. After further review, it was determined that these water rights have overly broad places of use that are adjacent to, but unrelated to, the subject water right in this change application.

7.2 Explain how the water rights listed above have been exercised.

Permit G4-24435 authorizes 430 acres of irrigation with a place of use northwest of the subject water right. The water right permit utilizes three groundwater wells, two of which are the John Barber wells under the subject water right. This water right permit will continue to use the Barber Wells after this change application is complete.

Permit S4-25639(A) was assigned to the DNR in 1994, superseding the original 1978 permit under the Paterson Power & Water District. The permit was superseded again in 2005 and issued for 72.15 cfs, 17,3175.15 ac-ft/yr for the irrigation of 4,392.1 acres. It was subsequently split into several “children” certificates following Ecology’s agreement to a partial perfection strategy. DNR has perfected portions of the permit on some lands, while surrendering an equivalent number of acres that would otherwise be developed and transferring quantities to other DNR lands. The place of use of the subject water right starting in 2022 is now irrigated with this surface water right.

Change-ROE CS4-25639(A)@2 requested an additional point of diversion from the Columbia River pump station, that would allow for a more cost-effective means to development the irrigation system and acreage. On January 31, 2013, Ecology approved the Benton County Conservancy Board’s decision to authorize the additional diversion point.

The water rights described above are being developed separately from the subject water right.

7.3 List all wells that have been added through a Showing of Compliance form.

N/A.

8. Historic Use

8.1 Describe how the water proposed for change has been beneficially used since the water right was established.

Based on a review of historical aerial imagery, irrigation has remained generally consistent within the authorized place of use for the extent of the available imagery (approximately 35 years). Attachment E includes historical imagery from 1985 through 2021. The extent of irrigation visible in the imagery dated 1985 and 1991 is estimated to be 260 acres. From the year 1996 to present, the extent of the irrigation appears to have been reduced to about 125 to 125.5 acres.

8.2	For the water right proposed for change and the portfolio of any related rights, provide the historic flow rate from each point of diversion or withdrawal (in cubic feet per second or gallons per minute) and explain how the amount was determined (e.g., meter data or power records).
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According to the water right documentation, the authorized point of withdrawals, Barber Wells 1 and 2 are each equipped with 500-horsepower turbine pumps. A pumping test conducted on Barber Well No. 1 in September of 1976 indicated a maximum flow rate of 2,232 gpm, which resulted in a water level drawdown of 30 feet in the well. A more recent pump testing on Barber Well No. 1 was completed by GeoEngineers in February of 2013 (GeoEngineers, 2013). Their reporting indicates Barber Well No. 1 sustained pumping rates on the order of 900 gpm with very little drawdown. The water right file does not contain any information on flow testing at Barber Well No. 2; however no known restrictions to the well's ability to produce the designed flow rate have been noted and the well is completed in the same aquifer, which we have reason to believe is capable of producing similar quantities of water. Additionally, there are no flow meters associated with Barber Well No. 1 or 2.

8.3	If the requested change/transfer is for a water right claim, include evidence demonstrating use of water prior to 1917 for surface water, or 1945 for ground water.
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N/A.

8.4	For surface water diversions, explain whether streamflows were adequate to exercise the right throughout the historic period of diversion. If available, provide streamflow records to support the conclusion.
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N/A.

8.5	For groundwater withdrawals, explain whether there has been an adequate supply of groundwater to exercise the water right throughout the historic period of withdrawal. Provide all groundwater data and methods used to support the conclusion.
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There has been an adequate supply of groundwater to exercise this right as supported by historical aerial imagery (included here as Attachment E).

The source aquifer is associated with the Columbia River Basalt Group (CRBG). The uncased sections and the perforated sections of the Barber Wells are open exclusively to the Wanapum Basalt Formation; specifically, the productive water-bearing zone is located at the top of the Frenchman Springs Basalt member. The aquifer is highly transmissive and is presumed to have no hydraulic connection between the shallower, overlying Saddle Mountain Basalt Formation. Available water level data collected at Barber Well No. 1 indicates a relatively small water level decline over the past 50 years (Table 8.5.1).

Table 8.5.1 Water Level Data in Barber Well No. 1

Date	Depth to Water (ft. bgs)
9/1976	372
3/1995	389
2/2010	403
2/2011	394

	2/2012	398	
	2/2013	394	
bgs = below ground surface			

8.6	Describe your procedures for remaining in compliance with the provisions of your existing water right.
There are no existing provisions associated with the subject water right.	

8.7	If a water measuring device was installed, provide your measurement data.
There is no measuring device installed.	

8.8	If a measuring device was not installed, do the pumps have a dedicated power meter(s)? If so, provide an estimate of water use using the power consumption to water consumption equation described in WAC 173-173-160(2).
The pumps do not have dedicated power meters.	

8.9	If no water use data are available, estimate annual use by using an alternative method and explain your methodology.																																								
<p>No water flow meters or dedicated power meters are available for measuring water use at each source. As an alternate, water use calculations were made following Ecology guidance and described in detail below. The water use calculations described herein are considered draft, and subject to change pending additional information and analyses.</p> <p>The extent of irrigation was determined from readily available aerial photos obtained for the years between 1985 and 2021. Table 8.9.1 identifies the extent of irrigated acreage in each year. The aerial photographs utilized in this analysis are contained in Attachment E. The acreage of harvested crops in recent years were also verified by DNR through the provided Agricultural Lease Reports.</p>																																									
<p>Table 8.9.1 Irrigated Acreage Estimated within Place of Use</p> <table><tr><th>Date</th><th>Acreage</th><th>Date</th><th>Acreage</th></tr><tr><td>1985</td><td>260</td><td>2012</td><td>125.5</td></tr><tr><td>1991</td><td>260</td><td>2013</td><td>125.5</td></tr><tr><td>1996</td><td>125.5</td><td>2015</td><td>125.5</td></tr><tr><td>2003</td><td>125.5</td><td>2016</td><td>125.5</td></tr><tr><td>2004</td><td>125.5</td><td>2017</td><td>125.5</td></tr><tr><td>2005</td><td>125.5</td><td>2018</td><td>125.5</td></tr><tr><td>2006</td><td>125.5</td><td>2020</td><td>125.5</td></tr><tr><td>2009</td><td>125.5</td><td>2021</td><td>125.5</td></tr><tr><td>2011</td><td>125.5</td><td colspan="2">Authorized Irrigated Acreage = 260.7</td></tr></table>		Date	Acreage	Date	Acreage	1985	260	2012	125.5	1991	260	2013	125.5	1996	125.5	2015	125.5	2003	125.5	2016	125.5	2004	125.5	2017	125.5	2005	125.5	2018	125.5	2006	125.5	2020	125.5	2009	125.5	2021	125.5	2011	125.5	Authorized Irrigated Acreage = 260.7	
Date	Acreage	Date	Acreage																																						
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2009	125.5	2021	125.5																																						
2011	125.5	Authorized Irrigated Acreage = 260.7																																							

Ecology routinely relies on the Washington Irrigation Guide (WIG) to provide estimates of evapotranspiration (ET) by different crops. ET can be translated to total water use per acre (water duty), by dividing ET by irrigation efficiency. Irrigation efficiency differs according to the type of irrigation system (e.g., wheel line, solid-set, center-pivot), and Ecology has adopted a guidance document (GUID 1210) with efficiency estimates.

Based on the WIG, GUID 1210, and reported crop types (see Appendix H for DNR crop reports from lessee), Table 8.9.2 below summarizes crop water duty information for the crops recently reported irrigated by DNR's lessee. Irrigated Agricultural Lease Reports provided by DNR indicate the crops type historically irrigated are alfalfa, corn, and grass seed. The Prosser, Washington WIG station was selected to represent the crop irrigation requirement in the vicinity of the water right place of use.

Table 8.9.2 Water Use Crop Irrigation Requirement

Crop	Crop Irrigation Requirement (ET) (inches)	Efficiency Range ¹	Total Irrigation Requirement (Water Duty) (ac-ft/acre)
Alfalfa	35.31	70% - 90%	4.20 – 3.27
Corn	28.14	70% - 90%	3.35 – 2.61
Pasture/Turf	37.29	70% - 90%	4.44 – 3.45

¹ Based on Ecology GUID 1210, center pivot irrigation systems have an application efficiency range of 70 – 90%.

For comparison, the authorized water duty from the Certificate is 4.0 ac-ft/acre (1,043 ac-ft/yr / 260.7 acres). We understand the lessee typically irrigated with spray heads and an end-gun. We selected an overall efficiency of 85% and a %Evap of 10%, for an overall %CU of 95%. This suggests that DNR historically fully utilized the authorized water duty of 4.0 ac-ft/acre when alfalfa and pasture/turf crops were grown under the subject water right, but under more modern center-pivot delivery the water duty is approximately 3.5 ac-ft/acre. Water use in the years when corn was grown may result in slightly less water consumption than the authorized water duty. However, corn is a routine crop rotation and temporarily reduced use from crop rotation is exempt from relinquishment.

Based on the irrigation of 125.5 acres and a water duty of 3.5 ac-ft/acre, annual total water use is calculated to be 439.3 ac-ft/yr.

8.10	Provide aerial photos, remotely sensed images, or other information and explain how they support the historic use.
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Based on review of historical imagery, irrigation has remained consistent within the authorized place of use since 1996. The dated aerial photos are contained within Attachment E.

Water Used for Irrigation

8.11	If changing the purpose of use, refer to the Provisions section of your water right document to determine whether the right is subject to the Family Farm Water Act. If so, contact the appropriate Ecology regional office prior to completing this form (refer to map on page 1).
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N/A.

8.12	Describe your irrigation scheduling practices (e.g., frequency and duration of irrigation sets). Describe how data from soil moisture probes, weather forecasts, crop inspection, or other irrigation scheduling techniques were used to determine irrigation practices.
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Water is applied to the crops via center-pivot irrigation system. Additional information on the irrigation scheduling practices will be documented in the ROE.

8.13	If adding the irrigation of additional acres or a new purpose of use, provide metering data for the most recent five-year period of continuous use. If metering data are unavailable, provide an estimate of water use for the most recent five-year period of continuous use and describe the methodology for this estimate.
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Ecology interprets the “addition of new uses” under RCW 90.03.380(1) to mean the addition of a previously unauthorized purpose(s) of use, while retaining an existing purpose of use. In accordance with the added use requested in the application, it is required to determine that the annual consumptive quantity (ACQ) under the water right for change will be no greater after the change. The ACQ is defined in statute as the average consumptive use of the highest 2 years over the most recent 5 years of continuous beneficial use.

The appropriate time period of analysis is the 5-year period from 2018 to 2022 (since water was donated to trust in 2023), with the highest two years believed to be consistent with the certificate water duty (2019 and 2020).

Table 8.13.1 Water Use for Two Highest Years

Year	Crops Grown	Acres	Water Duty (ac-ft/acre)	Annual Volume by Year (ac-ft/yr)
2019	Alfalfa	125.5	3.5	439.3
2020	Alfalfa	125.5	3.5	439.3

The ACQ was estimated based on the following assumptions:

- Irrigation of 125.5 acres of alfalfa;
- Certificated water duty of 3.5 ac-ft/acre; and
- Average consumptive percentage of 95% (from GUID 1210 for center-pivots)

Calculations for the consumptive water use are summarized below:

$$\%CU \text{ (per Guidance 1210)} = 95\%$$

$$CU = TIR \times \%CU ; 439.3 \text{ ac} - \text{ft/yr} \times 95\% = 417.3 \text{ ac} - \text{ft/yr}$$

$$CU/acre = \frac{417.3 \text{ ac} - \text{ft}}{125.5 \text{ acres}} = 3.325 \text{ ft/acre}$$

$$\text{Non} - \text{Consumptive Use} = TIR - CU ; 439.3 - 417.3 = 22 \text{ ac} - \text{ft}$$

During the 3-year construction period when the energy project needs 184 ac-ft (consumptive), the new lessee will be only allowed to develop a total of 70.2 acres assuming the same efficiency.

417.3 ac-ft CU – 184 ac-ft CU = 233.3 ac-ft CU
 233.3 ac-ft CU / 3.325 ac-ft/acre CU = 70.2 acres

After the 3-year period when the energy project only needs 12 ac-ft of consumptive use, the lessee may develop Y acres.

417.3 ac-ft CU – 12 ac-ft CU = 405.3 ac-ft CU
 405.3 ac-ft CU / 3.325 ac-ft/acre CU = 122 acres

8.14 If water has been used from a state or federal water project (contract water) on the historic place of use, explain when and how that contract water was used.

N/A.

9. Hydrogeologic Analysis

9.1 Provide a description of existing authorized points of withdrawal and proposed wells, their locations, well depths, static water levels, pumping rates and schedules, etc.

The Barber Wells are constructed in the SW¼ SW¼ and the SE¼ NW¼ of Section 36, Township 7 North, Range 25 East, Benton County Tax Parcel ID 1-3675-000-0000-000 (see Figure 1; Attachment B). The proposed point of withdrawal (Gould Well) is in the NW¼ NE¼ of Section 36, Township 8 North, Range 25 East, Benton County Tax parcel ID 1-3685-100-0000-000. Tables 9.1.1 and 9.1.2 contain information on the existing and proposed points of withdrawal utilized under this water right.

Table 9.1.1 Point of Withdrawal Construction Information

Well	Well Casing Diameter (inches)	Surface Elevation (feet)	Well Depth (feet)	Bottom of Well Elevation (feet)	Screened / Open Interval (feet)
Barber Well No. 1	8 to 24	732.36	845	-112.64	Uncased from: 268-597; 832-860 Perforated from: 727-737; 802-832
Barber Well No. 2	10 to 18	770	990	-220	Uncased from: 640-990
Proposed (Gould Well)	16	1078	1,340	-262	Uncased from: 787-1340

Notes: Elevations are presented relative to the NAVD88.

Water well reports and construction schematics for each well are included in Attachment C.

9.2	<p>Describe the hydrogeologic setting. Identify all ground water bodies and surface water bodies involved. Describe geographic recharge and discharge areas, seasonal variations, and interrelationships between surface and ground water, and between aquifers. Identify barriers to flow and hydrologic boundaries, if known.</p>
	<p>A detailed description of the project site hydrogeology will is provided as a Hydrogeologic Technical Memorandum, included as Attachment G. A summary of pertinent information is provided below. Subsurface geologic and hydrogeologic conditions in the project area were evaluated based on a review of water well reports, previously conducted assessments, and available published reports, including but not limited to:</p> <p>GeoEngineers, 2013, Paterson Project Area Exploration, Testing, and Analysis, Columbia River Off-channel Aquifer Storage Project, Benton County Washington, Prepared for Washington State Department of Ecology, September 27, 2013.</p> <p>Kahle, S.C., Morgan, D.S., Welch, W.B., Ely, D.M., Hinkle, S.R., Vaccaro, J.J., and Orzol, L.L., 2011, Hydrogeologic Framework and Hydrologic Budget Components of the Columbia Plateau Regional Aquifer System, Washington, Oregon, and Idaho. USGS Groundwater Resources Program Scientific Investigations Report 2011-5124.</p> <p>Molenaar, Dee, 1982, Water in the Horse Heaven Hills, south-central Washington: Washington Department of Ecology Water-Supply Bulletin 51, p.122.</p> <p>Packard, F.A., Hansen, A.J., Jr., and Bauer H.H., 1996, Hydrogeology and simulation of flow and the effects of development alternatives on the basalt aquifers of the Horse Heaven Hills, south-central Washington: U.S. Geological Survey Water-Resources Investigations Report 94-4068, 92 p., 2 pls.</p> <p>Reidel, S.P. and Fecht, K.R., 1994, Geologic map of the Richland 1:100,000 quadrangle, Washington, Washington Division of Geology and Earth Resources, Open File Report 94-8, 1:100,000.</p> <p>Swanson, D.A., and Wright, T.L., 1978, Bedrock geology of the southern Columbia Plateau and adjacent area, Chap. 3, <i>in</i> Baker, V.R., and Nummedal, D., eds., The channeled scabland: Washington, D.C., National Aeronautical and Space Administration, Planetary Geology Program.</p> <p>The subject water rights are located in the Horse Heaven Hills region of southeastern Washington about 8 miles north of the Columbia River. The project area is underlain by Miocene- and Pliocene-age basalts of the Columbia River Basalt Group (CRBG), which have been divided into six geologic formations, and these formations are further divided into members and flow units. From oldest to youngest, the CRBG formations include, the Imnaha Basalt, Picture Gorge Basalt, Prineville Basalt, Grande Ronde Basalt, Wanapum Basalt, and the Saddle Mountains Basalt (Swanson et al., 1979). Of importance to this change application are the Wanapum and Saddle Mountains Basalts.</p> <p>Quaternary-age alluvium unconsolidated sediments are mapped at the ground surface near the Barber Wells (Reidel and Fecht, 1994); however, these sediments are presumed to be only approximately 10 feet in thickness and therefore have no bearing on water supply capabilities.</p> <p>Hydrogeologic Setting</p> <p>The hydrostratigraphy of the Columbia River Basalt Group (CRBG) in the immediate project vicinity has been developed during USGS test well construction observations by Pearson (1973) and detailed hydrogeologic framework by Kahle et al. (2011). Water wells reports and other available information indicate that two formational units within the CRBG—the Saddle Mountains Basalt and the Wanapum Basalt—make up the aquifer system in the project vicinity. These basalt units are separated by clay and silt interbeds of the Ellensburg Formation. A correlation chart showing the general stratigraphy and hydrogeologic units in the Columbia Plateau Regional Aquifer System is shown below by Kahle</p>

and others, (2009). Relevant hydrogeologic units to this water right change application are outlined in red.

ERA	PERIOD	EPOCH	Sediment stratigraphy	Basalt stratigraphy		Hydrogeologic unit		
Cenozoic	Quaternary	Holocene	Alluvial, colluvial, eolian, glacial, glacial outburst flood, lacustrine, landslide, terrace, and peat deposits; ash, debris-avalanche and debris-flow deposits, talus; Touchet Beds, Palouse Formation	Quaternary and Pliocene Basalts		Overburden		
		Pleistocene						
	Tertiary	Pliocene	Alluvial fan deposits; Alkali Canyon, Chenoweth, Deschutes, Madras and Ringold Formations; Dalles Group; Thorpe Gravel; and unknown continental sedimentary deposits	Columbia River Basalt Group				
		Miocene	Ellensburg, Deschutes, Latah, Madras, Payette, and Ringold Formations; Dalles Group; Snipes Mountain deposits; Deer Creek Beds; and unknown continental sedimentary deposits			Saddle Mountains Basalt flow members and interbeds		Saddle Mountains unit
						Mabton interbed (Mabton Member of the Ellensburg Formation)		Mabton unit
						Wanapum Basalt flow members and interbeds		Wanapum unit
						Vantage interbed (Vantage Member of the Ellensburg Formation)		Vantage unit
						Prineville Basalt	Grande Ronde Basalt flow members and interbeds	Grande Ronde unit
		Picture Gorge Basalt						
	Imnaha Basalt							
pre-Columbia River Basalt Group rocks, undivided						Older Bedrock		

The occurrence of groundwater is generally limited to fractured and/or vesicular interflow zones between basalt flows and within the sedimentary interbeds found between some basalt flows (Molenaar, 1982). The interiors of individual basalt flows are generally massive and form barriers to vertical flow, resulting in strong vertical gradients (often downward) between interflow zones (Molenaar, 1982).

Structural Setting

Geologic structures in the Horse Heaven Hills region include faults and folds that compartmentalize the aquifer zones and thus groundwater flow within the Columbia River Basalts. Several north-northeast and northwest-oriented faults have been mapped in the project area and documented in a 1996 United States Geological Survey (USGS) report within limited field evidence of their existence (Packard, et al., 1996). These inferred faults were presumed to behave as barriers to groundwater flow; however, recent aquifer testing in the project area confirms that at least one of these faults did not act as a barrier to groundwater flow in the vicinity of the Gould Well.

Regional Aquifer Description

The Saddle Mountains Basalt and the Wanapum Basalt units contain water-bearing zones that were encountered during the drilling of both the Barber Wells and the Gould Well. The Barber Wells were completed to a depth of 845 and 990 feet below ground surface and source water from the Frenchman Springs member of the Wanapum unit. The uncased section of the Gould Well is open exclusively to the Wanapum Basalt Formation; specifically, the productive water-bearing zone is located at the top of the Frenchman Springs member at a depth of 1,188 feet below ground surface.

Aquifer Recharge and Discharge

Recharge to the aquifer system in the project area is primarily through infiltration of precipitation, surface water pumped by irrigators from the Columbia River, and water pumped from the deep aquifers (Packard et al., 1996). Recharge typically occurs only during certain sporadic, short-term periods, when rainfall exceeds evapotranspiration plus runoff (Packard et al., 1996). Downward movement of water from the shallow overburden to underlying basalt is controlled by the vertical

conductivity, unit thickness, and head differences between the units (Kahle et al., 2011). Groundwater from the aquifers is discharged primarily through irrigation well usage.

Regional Water Level Trends

Severe groundwater level declines (exceeding 250 feet) in the Wanapum Basalt are well documented in the western portion of the Horse Heaven Hills beginning in the 1970s. However, available water level data collected in the vicinity of the Gould Well show relatively small water level declines over the past 30 to 40 years. Static water-level measurements within the Wanapum Basalt in the project area are presented in Table 9.2.1.

Table 9.2.1. Regional Water Level Measurements

Source Well	Date	Depth to Water (ft. bgs)
Gould Well	3/1981	738
	3/2014	788
	2/11/2015	786
	4/2/2015	790
Barber Well No. 1	9/1976	372
	3/1995	389
	2/2010	403
	2/2011	394
	2/2012	398
	3/2013	394

Static water level measurements taken at the Gould Well indicate an average decline of about 48 feet between March 1981 and February 2015, or about 1.4 feet per year. DNR records include six water level measurements from the Barber Well No. 1, as tabulated above. The measurements indicate a decline of about 17 feet between 1976 and 1995, or about 0.9 feet per year. Annual winter water level measurements in the Barber Well No. 1 fluctuated between 2010 and 2013, but the water level trend was slightly upward during that time. Using an arithmetic average of water levels between 2010 and 2013 results in an estimated decline of 0.5 feet per year between 1995 and 2012.

9.3 Describe, if available, the following characteristics of the aquifer and cite the source of that information:

- **Aquifer transmissivity**
 - **Aquifer storage coefficient and specific yield**
 - **Saturated thickness**
 - **Aquitard leakage**
 - **A detailed description of groundwater-flow boundaries**
 - **Water-level hydrographs for wells**
- Associated water-quality information.**

Hydraulic parameters have been published for aquifers within the CRBG by Kahle et al. (2011) and Packard et al. (1996). The Wanapum unit is the primary water-bearing basalt unit tapped by the Barber Wells and Gould Well. The saturated thickness of the Wanapum aquifer ranges from less than 300 feet to about 1,000 feet (Packard et al., 1996).

Lateral hydraulic conductivity is a measure of a material's ability to transmit water laterally and can be readily estimated from specific-capacity data reported on driller's well logs. The range in horizontal hydraulic continuity for the Wanapum unit is 0.007 to 5,200 feet per day, with a median of 3 to 11 feet per day reported by Kahle et al., (2011) and 0.8 to 8 feet per day by Packard et al., (1996).

The storage coefficient, a measure of the unit's ability to store and release water, is estimated to be 3.0E-5 to 4.0E-5 for the Wanapum unit (Kahle et al., 2011).

Additionally, aquifer parameters were estimated from previous aquifer tests performed on the Gould Well in 1981 and 2015, and the Barber Well No. 1 in 2013. Based on these aquifer tests, specific capacity and transmissivity estimates for the source aquifer (Frenchman Springs member of the Wanapum) are presented in Table 9.3.1 below:

Table 9.3.1 Summary of Regional Aquifer Parameters

Well	Date	Pumping Rate (gpm)	Drawdown (ft.)	Specific Capacity (gpm/ft.)	Transmissivity (gpd/ft.)
Gould Well	3/1981	1,680	15	112	224,000
	2/2015	1,860	16	115	547,000
Barber Well No. 1	2/2013	905	3.38	268	2,390,000

9.4 Additional hydrogeologic work may be required to process your application.

Additional hydrogeologic information is included in Attachment G

10. Environmental Assessment

10.1 Describe the aquatic uses of any related surface water bodies (i.e., fish and wildlife, recreation and aesthetic, water quality, etc.).

N/A, the source aquifer is deep and not hydraulically connected to surface water.

10.2 Indicate whether the related surface water is fish-bearing, including whether it is inhabited by salmonids. List species and the times of year they are present. <https://apps.wdfw.wa.gov/salmonscape/>.

N/A.

11. Maps and Other Documentation

11.1	<p>Attach detailed map(s) clearly indicating the following:</p> <ul style="list-style-type: none">• The existing places of use for all rights related to this proposed change. If any overlapping water rights for the place of use, or multiple rights that share the same point(s) of diversion/withdrawal exist, provide one map depicting all of the historic points of diversion, means of conveyance, and places of use. Identify related rights as such by water right number.• The county parcel numbers for the existing and proposed place(s) of use, unless the place(s) of use are for large service area such as that served by an irrigation district or municipal water system. Identify the name of the irrigation district or the water system.• The existing and proposed locations of the point(s) of diversion/withdrawal.• The names, informal or formal, used to identify each point of diversion/withdrawal (e.g., Well No. 1, River Well, S01, Smith Dam, etc.).• The proposed place(s) of use.• A grid layer referencing Section, Township, and Range of the area.• The location of the water delivery system and other such features relevant to your proposed change/transfer (e.g., mainlines, reservoirs, booster pumps, etc.)
See Attachments	

Attachment A: Mitigation Plan

A.1	Identify what rights, as defined above, you expect to be impaired and identify the expected nature of that impairment.
Click or tap here to enter text.	
A.2	Identify the source of supply for the proposed mitigation water.
Click or tap here to enter text.	
A.3	Describe how this mitigation water source will offset the impacts of the proposed change. This should specifically address how the change in the amount of water in Section A4 will be offset by the source identified in Section A5.
Click or tap here to enter text.	
A.4	Estimate the change in consumptive quantity that would be available for the use being impaired. Describe the methodology used to support your estimate.
Click or tap here to enter text.	
A.5	Describe the measures that will be taken to ensure mitigation will be maintained for the duration of the water right change authorization.
Click or tap here to enter text.	
A.6	List each water right being proposed for transfer, relinquishment, or conveyance to the Trust Water Rights Program. Provide a history of beneficial use of each water right listed above and identify whether a separate water right change application has been filed for these water rights.
Click or tap here to enter text.	
A.7	Provide copies of any agreements between you and other parties regarding mitigation for impacts, if applicable.
Click or tap here to enter text.	
A.8	Describe the benefits and costs, including environmental effects, of any water impoundment or other resource management technique that is included as a component of the application.
Click or tap here to enter text.	

A.9	<u>For surface water</u>, analyze whether there will be any increased water supply from the impoundment or technique, including recharge of groundwater, as a means of making water available or otherwise offsetting diversion impacts.
Click or tap here to enter text.	

A.10	<u>For groundwater</u>, analyze whether there will be any increased water supply from the impoundment or technique, including recharge of groundwater, as a means of making water available or otherwise offsetting the impact of the diversion of surface water.
Click or tap here to enter text.	

A.11	If you intend to offset your new use, describe how and when non-consumptive water returns to groundwater or surface water, and explain how this volume was estimated. Specifically describe how the quantity, timing and location of return flow would change if the proposed permit is approved.
Click or tap here to enter text.	

Attachment B: Consolidation of Exempt Wells

B.1	Provide evidence that water from the exempt wells tap the same body of public groundwater as the well with the water right to withdraw public ground waters.
Click or tap here to enter text.	

B.2	Show that suitable arrangements have been made to discontinue use of the permit exempt well established under the exemption upon approval of the consolidation amendment.
Click or tap here to enter text.	

B.3	Provide copies of legally enforceable agreements that bind present and future owners of the land from drilling and using another permit exempt well through appropriate title limitations.
Click or tap here to enter text.	

B.4	Show that suitable arrangements have been made to properly decommission the permit exempt well(s) in accordance with Chapter 18.104 RCW and relevant Ecology rules.
Click or tap here to enter text.	

B.5	Describe impacts to other existing rights, including ground and surface water rights and minimum stream flows adopted by rule.
Click or tap here to enter text.	

B.6	Provide evidence that the amount of water used is consistent with the average amount of water used for similar uses in the general area and explain how this was determined.
Click or tap here to enter text.	

B.7	Is there an adopted Coordinated Water System Plan (CWSP) or Comprehensive Land Use Plan or another comprehensive watershed management plan in place for this location? Please indicate yes or no. If yes, please document whether your project is consistent with this plan.
Click or tap here to enter text.	

Attachment C: Quincy Basin Change Authorizations

C.1	Provide a brief narrative explaining the general nature and intent of the proposed change(s) to the water right.
Click or tap here to enter text.	

C.2	If this water right has previously been changed, summarize whether the previously authorized changes have been completed.
Click or tap here to enter text.	

Attachment D: Drought Change Authorizations

D.1	Describe the specific circumstances pertaining to your water shortage. Describe how existing water rights are insufficient to address these impacts due to the drought.
Click or tap here to enter text.	

D.2	Describe how the water right proposed for change will address these impacts.
Click or tap here to enter text.	

D.3	<p>Have you had any previous drought-specific authorizations for the subject parcels?</p> <p>If yes:</p> <ul style="list-style-type: none"> • What are the Drought Authorization numbers? • Did those former authorizations cause impairment to other water users?
Click or tap here to enter text.	

D.4	<p><u>For irrigation changes</u>, indicate what types of crop(s) or orchard(s) you will be growing this year. Describe how the crop(s) or orchard(s) may be impacted by this year's drought.</p>
Click or tap here to enter text.	

January 16, 2024

Benton County Water Conservancy Board
Attention: Dr. Darryll Olsen
3030 W. Clearwater, Suite 205-A
Kennewick, WA 99336

Re: Water Right Change Application CG3-22306@1

Dear Benton County Water Conservancy Board:

This letter requests modification of water right Change Application CG3-22306@1 and provides supplemental information to be considered for the water right record. Change Application CG3-22306@1 was filed by Horse Heaven Wind Farm, LLC on November 6, 2023, and transferred to the Benton County Water Conservancy Board (Board). The submitted application requested to change the point of diversion, period of use, add a purpose of use, and transfer the place of use of a Department of Natural Resources (DNR) water right. The current proposed purpose and period of use in the change application is shown below in Table 1.

Table 1. Proposed Purpose and Period of Use in CG3-22306@1

Purpose of Use	GPM	Ac-Ft/Yr	Period of Use
Irrigation of up to 260.7 acres	1,805 gpm	1,031	Irrigation Season
Industrial, Construction, Dust Abatement	150 gpm	184	Year-Round (For Three Years)
Industrial	150 gpm	12	Year-Round
Not to Exceed	1,955 gpm	1,043	

Notes: gpm = gallons per minute; Ac-Ft/yr = acre-feet per year

Requested Modification of Change Application CG3-22306@1

DNR is requesting that the Board modify Change Application CG3-22306@1 to increase the temporary and perpetual instantaneous rate to 450 gallons per minute (gpm) for industrial, construction, and dust abatement uses. The originally requested instantaneous rate (150 gpm) was calculated over a 12-hour pumping period. This modification is requested to reflect the projected instantaneous water demand during an 8-hour pumping period. Full authorization of the instantaneous rate (1,955 gpm) will not be exceeded, and actual coordination of irrigation and non-irrigation uses will occur between the applicant and the farm when filling events occur. Any surplus water will be used for irrigation purposes.

Modification of the proposed purpose and period of use of the change application is shown in Table 2 below.

Table 2. Modification of Proposed Purpose and Period of Use in CG3-22306@1

Purpose of Use	GPM	Ac-Ft/Yr	Period of Use
Irrigation of up to 260.7 acres	1955 gpm	1,043	Irrigation Season
Industrial, Construction, Dust Abatement (non-additive)	450 gpm	184	Year-Round (For Three Years)
Industrial (non-additive)	450 gpm	12	Year-Round
Not to Exceed	1,955 gpm	1,043	

Notes: gpm = gallons per minute; Ac-Ft/yr = acre-feet per year

Additionally, DNR requests a modification to the proposed place of use. This request is being made to ensure that all land water is to be used on is described on the change application. The proposed place of use is located within the following township and range: T9N, R26E., T9N, R27E., T8N, R25E., T8N, R26E., T8N, R27E., T8N, R28E., T7N, R26E., T7N, R27E., T7N, R28E., T7N, R29E., T7N, R30E., T6N, R30E., and T6N, R31E.

Supplemental Material for Change Application CG3-22306@1

DNR is providing the following supplemental material for the water right file to be considered by the Board:

- Relinquishment of Annual Quantity. Consistent with the findings of Section 8.1 in the submitted *Change Application Supporting Documentation*, DNR agrees that the extent of irrigation under the water right authorization has been reduced to 125.5 acres. Aerial imagery of the irrigated place of use and agricultural lease reports reveals a reduction in irrigated acreage since the year 1996. The reduction in irrigation creates a relinquishment risk of 134.5 acres, when compared to the full water right authorization.
- Preservation of Instantaneous Rate. The water right's full authorization of instantaneous rate has been preserved. There has been no modification to the installed pumps despite the reduction in the irrigated acreage. The water right file indicates that the two wells authorized under the water right are equipped with a 500-horsepower, and 350-horsepower vertical turbine pump (see Attachment A). From total head pressure, horsepower, and pump efficiency, the calculated the instantaneous flow rate of each well is 2,246 gpm and 1,572 gpm, respectively. Based on these findings, the full instantaneous rate of the water right should be preserved for peaking under the new proposed uses. This quantity of peaking is also needed for the new purposes.

Coordination for Change Application CG3-22306@1

DNR understands that the permitting process of the change application involves several mandatory steps including conducting a site visit and publishing a legal notice of the application. DNR is available to offer coordination of a site visit to aid in the technical investigation of the existing water right and the proposed changes. The Board may contact DNR with any proposed dates for a site visit if coordination is requested.

Company Name
Month 1, 2013

Project No. 123456-78

Additionally, DNR will work with the application to prepare and submit a public notice for the Board's review in accordance with RCW 90.03.280. The public notice will include information as described in WAC 173-153-080.

Please let us know if the Board has any questions or concerns about the proposed amendment request or would like DNR to facilitate coordination of a site visit.

Sincerely,

Department of Natural Resources



Christina Frantz
Water Resources Program Manager
Christina.frantz@dnr.wa.gov

Attachments: Attachment A – Barber Well Pump Information

cc: Dave Kobus, Scout Clean Energy

Dan Haller, Aspect Consulting

S:\Horse Heaven Wind Farm\2023 DNR Water Right Change\Change Application\Transmittal to Board\Modification to Change App\litr_Modification_2024.01.08.docx

Report of Examination

REPORT OF EXAMINATION

Prepared by Members of the Benton County Water Conservancy Board

BACKGROUND

The applicant is: HHH Wind Farm, LLC (with DNR water right ownership), 5775 Flatiron Parkway, Suite 120, Boulder, Colorado, 80301.

This project is being proposed to provide additional green power resources for the region.

As noted above, an existing groundwater well will be used to service the project site, for multiple industrial and agricultural purposes. New primary and secondary mainlines will be built to provide site water delivery.

Attributes of the water right as currently documented:

Name on Certificate: WA State Dept of Natural Resources, SE Region, 713 Bowler Rd., Ellensburg, WA 98926.

West Richland G3-+22306CWRIS	MAXIMUM GAL/MINUTE gpm 1,955	MAXIMUM ACRE-FT/YR Acre-ft. 1,043	TYPE OF USE, PERIOD OF USE Acres Irrigation 260.7 acres, irrigation season.				
SOURCE Groundwater			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: <u>Wells (Parcel Nos.)</u> 1 1367500000000000 2	$\frac{1}{4}$ SW SE	$\frac{1}{4}$ SW NW	<u>SECTION</u> 36	<u>TOWNSHIP N.</u> 7N	<u>RANGE EWM</u> 25EWM	<u>WRIA</u>	<u>COUNTY</u> Benton
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
All within: Section 36, T.7N, R.25 EWM; and application site maps.							

Tentative determination of the water right:

See Water Board's Decision above; the water right certificate is in good standing.

Previous changes:

Water right Trust Program submittal in 2022.

History of water use:

Per the applicant information, portions of the water right certificate have been continuously used for irrigation. Some de factor relinquishment has occurred for non-use, not subject to RCW 90.14.140 exemptions. About 125.5 acres are not subject to relinquishment, per DNR and consultant, and Water Board review.

SEPA:

The Water Board has a narrow public interest, or SEPA, jurisdiction, tied to water resources management and water law, and specific provision per the groundwater code RCW 90.44.

The direct water right change/transfer described herein is subject to SEPA review, and an environmental impact statement has been prepared by the lead agency, the Washington State Energy Facility Site Evaluation Council (EFSEC). The Water Board has specifically reviewed the key water resources issues/questions pertinent to SEPA and water law in general: 1) is water available (extent and validity); 2) does potential impairment exist; 3) will the water be beneficially used; and 4) will the water be used efficiently? The Water Board determines the above can be answered in the affirmative, and no impairment issues exist. The water right extent and validity has been reviewed/modified for this C/T per RCW 90.03.380, where changes in purpose and place of use are subject to an annual consumptive quantity (ACQ) review.

The Water Board has requested directly from EFSEC staff to confirm whether their EIS adequately covers water source impacts associated with this project. The EFSEC staff have determined that the Final EIS did acknowledge (private) water rights from groundwater sources in the project area, to service the project.

The Water Board did consult with other governmental and Tribal parties affected by the proposed project.

The Benton and Yakima County Commissioners raised the question of comprehensive land use planning. Based on statutory/rule review, the Water Board (with legal counsel) concludes that EFSEC authority overrides local land use restrictions, in this particular case.

The Water Board directly consulted with Yakima Nation Tribal staff and their legal counsel. The Yakima Nation conveyed two major points: 1) the EIS coverage was not specific enough; and 2) the DNR lacked statutory authority to lease water rights for portions of the project's water demand purposes. Regarding the first point, the Water Board determined that the four key water right use questions above were met (including hydraulic continuity). The new C/T point of withdrawal was determined to be in the same body of groundwater for management purposes, per detailed discussion with Ecology staff.

The second point was reviewed with legal counsel, and determined that leasing a water right certificate (real property) was no different than leasing a tract of land (real property). Water right change/transfers also are subject to Real Estate Excise Tax (taxable water right actions) per WA State Dept. of Revenue review. The legality question regarding DNR lease of water rights on DNR and non-DNR adjacent lands does not appear to be a limiting issue in this C/T decision.

So, relative to the water supply/right issue governed by SEPA coverage, the Water Board defers to the decisions by the lead SEPA agency, the EFSEC. They have stated that appropriate SEPA compliance exists.

Family Farm Act Compliance:

The FFA affects the holding of (irrigation) water rights acquired after December 8, 1977. The Act does not affect the use of prior water rights held by a single party (RCW 90.66.020, 90.66.040; also see PCHB No.13-146, Reichman, February 14, 2014). The applicant's certificate has a pre-FFA date.

The Water Board concludes that the applicant's change/transfer request is consistent with the FFA.

COMMENT AND PROTESTS

Public notification/hearings for the applicant's request were filed in the Tri-City Herald; with public hearings offered (no requests for public hearings or participants). Copies are provided in the Public Notice attachments. The WADOE/Water Board did receive dissenting comments from the Benton-Yakima County Commissioners and the Yakama Nation and has responded to such (as noted above).

The County Commissions cited concerns over land use restrictions/zoning affecting irrigated agriculture. These concerns appear to be superseded by statutory/rule authority granted to EFSEC (discussed with Commission staffs). The Tribal concerns regarding water supply focus on source location and DNR water right leasing authority. The basic water right change/transfer (permitting tests) have been met, and the new POW is in direct hydraulic continuity with the existing POW, per review of the applicant's information and discussed with Ecology technical staff. The DNR's ability to lease certificated water use on partial DNR land does not deviate from a real estate lease, a practice already conducted by DNR.

The application materials have been distributed to several other state resources agencies (WDFW) and interested parties. No additional comments have been received from these parties concerning the application or proposed actions.

The application materials were made available to the public including public hearing notice; no hearing was requested—no comments or BCWCB meeting participants addressed the proposed action.

Issues Raised by WADOE:

The Water Board has provided the CRO-WRP-WADOE with the initial change/transfer application and public notice of the ROE/ROD. The BCWCB has previously discussed/reviewed this water right with CRO staff. No specific action comments were received during the application review process.

Protests:

Date: Comments and protests noted above from Benton-Yakima County Commissions and Yakama Nation.

This was recognized by the board as a ☒ Protest ☒ Comment

Name/address of protestor/commenter: See attachments.

Issue: Discussed above.

Board's analysis: Discussed above.

Other Items/Issues: None. *Pertinent Comments:* None.

INVESTIGATION

Prepared by Members of the Benton County Water Conservancy Board

The following information was obtained from site inspections (BCWCB representatives); and from general knowledge of this project by the Water Board, technical reports and documents, research of WADOE records, and discussions/information with the water right C/T applicant's technical representatives. Several discussions have been made with other agency/Tribal staff/consultants.

The applicant has provided technical information, personal communications, and technical references requested by the Water Board, including data to verify the existing and proposed use areas; and the applicant's technical representative has communicated extensively with individual Water Board members to answer specific questions about the change/transfer request. The Water Board has received supplemental information from the applicant, as needed.

The Water Board has reviewed the standing of the water right documentation provided by the water right holder concerning water management, and recent air-photography for the general water right place of use and purpose, and new POW site. The Water Board is familiar with the added POW site (Horse Heaven Hills area).

The Water Board has forwarded copies (regular ground mail) of the application change/transfer request and public notice to the state Dept. of Fish & Wildlife, the Tribes, and to all parties requesting such copies. No comments were received by these parties during the formal, and informal, public comment period for the change/transfer application.

Verification of Existing Water Right:

The existing water use retains an active water right certificate on file, granted by the Washington State Dept. of Ecology. The use is available for existing change/transfer actions. It is concluded that the water right is in good standing, subject to the conditions contained within this ROE/ROD.

The DNR did place into the Temporary Trust Program portions of the right that it apparently assumed reflected allowed consumptive use for change/transfer, about 409 acre-ft. DNR assumed the remaining portion of the right was subject to relinquishment review.

Proposed project plans and specifications:

The proposed change/transfer action supports the development of a new wind/solar farm along the Horse Heaven Hills (HHH) area. The project description is included in the EFSEC docket summary (application attachments), with perhaps as many as 244 to 150 wind turbines depending on size (see application location maps). The wind turbine range would generally follow the northern HHH ridge area, and perhaps cross about 72,428 acres (with transmission lines); the solar arrays and batteries would cover no more than 6,570 acres. The project at full development would generate about 1,150 MWs (nameplate). Peaking power capability would vary.

The project would be as close as 4 miles south/southwest from the Kennewick City limits.

The water use would be used for general industrial development at the site, dust control, solar array cleaning, and some irrigated agriculture.

Other Water Rights Appurtenant to the Property and Associated Rights:

There are surface water rights affecting the existing project area; no other water rights specifically attached to land or directly affected by the project (see applicant/consultant report attachment). This action would remove the existing water right placed into the Trust Program.

The existing groundwater pumps/infrastructure had been intended to serve the original water right certificate, and perhaps other rights (see application attachments), but the allocated gpm for this C/T decision is based on the actual pumping use for irrigated acres and not “pumps and pipes” status for other rights or relinquished portions of the certificate.

Effect or Benefit to Public Interest:

A Washington State Supreme Court ruling has stated that “...a ‘public interest’ test is not a proper consideration when Ecology acts on a change application under RCW 90.03.380.” PUD No. 1 of Pend Oreille County v. Dep’t of Ecology, 70372-8 (2002). By extension, neither does the Water Board have authority to apply a public interest test when evaluating a change in water right request under RCW 90.03.380. This Court decision involved a surface water right.

To the extent review of public interest is applicable, the Water Board finds that the application for change is consistent with groundwater code provisions (RCW 90.44), and public policy objectives of the state to: identify existing water supplies, provide for beneficial water use, avoid impairment issues, and provide for efficient use of water resources. The existing/future water use also is consistent with land use provisions as determined by EFSEC.

The Benton/Yakima County Commissions raised concerns regarding negative impacts to existing farmland.

Tentative Determination:

In order to make a water right change decision, the Water Board must make a tentative determination on the extent and validity of the right. The Water Board has made the tentative determination as displayed in the first section 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. Some water rights may additionally be lost through abandonment; or some rights may be subject to special management area provisions. The Board’s tentative determination was based upon the following findings.

Water Right Review and History:

First, the water right applicant/owner holds a valid water right certificate, in good standing, as regulated by Ecology, and is on file with the WADOE. The Water Board/Ecology have approved previous change/transfer decisions in this general HHH area.

Water right use/need has been varied per the applicant’s demand estimates

Second, under the change request, the total amount of water withdrawal from the existing right and proposed change cannot exceed the amount previously used; more specifically, the portion of the right that has been put to actual beneficial use or is statutorily protected from relinquishment. The change/transfer request must not

exceed the existing water right limits; no enlargement of the right is allowed. The Water Board's determination conforms with this requirement.

Extent and Validity Analysis, ACQ Analysis and Beneficial Use Review:

The Water Board concurs with the DNR and their consultant that existing groundwater source irrigation activity on the site has diminished in past years, and about 125.5 acres would not be subject to nonuse (de facto relinquishment) per RCW 90.14.140 provisions (and Trusting Program donation). The 125.5 acres are the subject of the water right change request for a new point of withdrawal, change in location, and purposes of use, requiring an annual consumptive quantity (ACQ) analyses per RCW 90.03.380.

Data, Information, and Methodology:

1. The Water Board has reviewed the relevant water right data surrounding this change/transfer, including previous water use estimates, the applicant's land use data and leasing information, mapping, the consultant's ACQ analysis report, and arial photo information from Google Earth Pro.
2. The Water Board has multi-decadal experience in reviewing ACQ and extent and validity factors for water rights in Benton County and elsewhere.
3. The Water Board has reviewed the annual water use estimates provided by DNR for irrigated agriculture crops, consistent with RCW 90.03.380 requirements; and the water use application and efficiency estimates provided by AgWeatherNet at <https://weather.wsu.edu/?p=97750>, Horrigan weather station site (near existing project), and the Benton-Franklin Water Conservancy Boards' ACQ Methodology for calculating water use efficiencies and total consumptive use, including 90% applied efficiencies for low pressure center pivot applications (CSRIA.org). The total allowed water right use estimate for C/T is 502 acre-ft.
4. The Water Board has reviewed relinquishment (or de facto relinquishment factors) for this change/transfer action.
5. The Water Board has taken into account future water use estimates provided by the applicant and associated with similar types of construction-energy projects in the region.

ACQ Analysis/Determination:

6. The estimated allowed water use is based on 125.5 existing irrigated acres (Trust-pre-Trust period), per DNR and consultant estimates, and available arial imagery review (Gogle Earth Pro), for the most recent period of continuous use, 2017-2021 (see application attachments and supplemental information).
7. The 2017-2021 water use data confirm a two-year, peak-year average over five years, 2019-2020, of about 4 acre-ft./acre, for irrigating alfalfa. The AgWeatherNet data for the Horrigan Site and Water Conservancy Board efficiencies (CSRIA.org) are equal to or exceed the allowed use of the existing certificate (4 acre-ft./acre). The total allowed use for C/T is about 502 acre-ft.
8. This consumptive use estimate is consistent with the requirements of RCW 90.08.380, where only consumptive use estimates (not return flows) are available for change/transfer (ET and applied efficiencies) for water spreading type actions. The Water Board methodology has been applied to numerous C/Ts.
9. Under the first phase, 3-year period, 280.8 acre-ft. could be allocated to 70.2 irrigated acres. Additional allocations can be made for industrial construction use (184 acre-ft.) and industrial use with the project fully developed (12 acre-ft.). With the project fully developed, the total allowed irrigation use would be 490 acre-ft., for 122.5 acres; and industrial use of about 12 acre-ft.

10. The allowed gpm quantity (1,955 gpm) under the existing certificate for irrigation is about 7.5 gpm per acre (260.7 acres). If applied to 122.5 acres, the gpm estimate would be reduced to about 918.8 gpm, for continued irrigation. The applicant has further requested another 300 gpm for use during the construction phase (all industrial use) and 150 gpm after the construction phase.
11. As noted above, future use will be staged between the construction and completion periods, varying use given the size/timing of the project, but the final allowed use cannot exceed 502 acre-ft., for: 122.5 irrigated acres, 490 acre-ft., 918.8 gpm; and 12 acre-ft., 150 gpm, industrial use.
12. The Water Board notes that a small portion of the existing right (12 acre-ft.) will change from seasonal irrigation to year-round use. This level of change is viewed as imperceptible to the status/conditions of the groundwater source and will have no impairment complications.
13. Since 2022, the DNR has available surface water for their HHH irrigation projects. This water, under permit, could be used to irrigate the property previously served by the groundwater right—a form of serial perfection.

Tentative Determination Finding:

Based on the above information and analyses (and application attachments/references), the Water Board has determined that the full amount of the said water right for change/transfer is presented within the above “Board Decision” summary, and should be the amount not exceeded by the applicant for final certification, as issued by WADOE. This amount is in full consideration of and compliance with RCW 90.03.380 and 90.14.140(2)(d), and other portions of the water code, and takes into account the new point of withdrawal.

Hydrologic, and Other Technical Investigations:

The change/transfer relies on withdrawing water from the same body of groundwater (management area) as the existing points of withdrawal for this portion of the HHH area. Review of the pertinent well logs and analysis by the applicant’s technical consultant communications/report confirms this conclusion (see attached application report). The added POW also has been discussed with CRO-Ecology staff.

The Water Board has reviewed the hydraulic continuity/impairment features for the new well (see attached report); and concludes that active well use will not create any impairment observations.

Review of Potential Impairment:

Given the limited changes to the water rights, and existing POW, the Water Board determines that this change/transfer request will not create impairment (see attached reports). The Water Board makes this determination, with certainty, given the proposed operations at the new withdrawal site, and a detailed review of other factors affecting the change/transfer request. These factors have been discussed with the applicant’s technical consultant (see attached report).

Further, the Water Board notes:

- 1) For this immediate area, no record/affirmation of impairment has been noted by the Water Board or Ecology.
- 2) The Water Board has reviewed with the applicant, in detail, potential impairment issues for the applicant’s change request. This review indicates that the change action will not impair other water rights.

3) Based on the public notice of this change request, the Water Board has received no impairment issue comments from other existing water right holders, including those who withdraw/divert water from nearby sites.

4) The change will not increase water use relative to the existing allowed use, create impairment, or detrimental environmental impacts.

Given the above review, the Water Board concludes that the proposed action will not create impairment to other water rights and the conditions provided within this ROE/ROD.

Because the proposed action will not increase the existing allowed water use (with change modifications) or increase the water amount put to allowed beneficial use, or likely affect other existing water rights (or applications for new water rights), no impairment is perceptible. The applicant's technical information has been reviewed regarding water use within the same body of water for management purposes and potential impairment.

The proposed change/transfer will be beneficial in the conservation and management of water resources from existing practices for the following reasons: 1) there will be no increase in withdrawal/diversion on an annual basis after the change/transfer, compared to existing allowed operations; and 2) controls and monitoring on the quantity of water pumped will help ensure that the authorized quantity is not exceeded, as required under water use estimates and metering provisions.

The Water Board has published public notice of the proposed action and reviewed any potential technical issues concerning impairment.

Existing water rights located within the nearby area--within the same sections/T-R and adjacent sections--were noted according to information contained within the WADOE E-data base system and visual inspection, and ongoing Water Board review within this area (also see attached technical report).

Water Right Adjudication Process:

Water right adjudication does not affect the application.

DECISION CONCLUSIONS:

Tentative Determination-Extent and Validity:

1. The allowed right use is verified; the extent and validity, and ACQ, analysis has been reviewed by the Water Board. The right is being used consistently with Ecology authorization.
2. The proposed change/transfer will result in no increase in the annual quantity of water authorized and is consistent with the requirements of RCW 90.03.380 and 90.14.140 (relinquishment), and other provisions of the groundwater water code. The change/transfer request will not increase the allowed water right; the change/transfer will not increase allowed consumptive use from the designated source.
3. There will be no increase in water withdrawal on an annual basis. In addition, continued monitoring of the quantity of water pumped will help ensure that allowed water withdrawals are not exceeded, for the changes requested.

Relinquishment or Abandonment Concerns:

4. The Water Board's review per this ROE/ROD indicates relinquishment of about 138 acres due to non-use, per RCW 90.14.140.

Hydraulic Analysis:

5. Per the above cited information and attachments (technical reports), the Water Board concludes that the change/transfer will be implemented in the same body of water for management purposes.

Impairment:

6. The Water Board determines that impairment is not an issue affecting this change request; the change is within the same body of water for management purposes; the proposed action creates no impairments to other water right holders or permit applicants; adequate data and information exists to make this determination with confidence.

Consideration of Comments/Protests:

7. Public notice has been provided for the proposed action, and any public concerns have been reviewed by the Water Board. Public notice and application submittal have been forwarded to several state resource agencies/tribes/interested parties for comment; the agencies have provided direct comments to the application. The comments discussed above, indicate opposition to the project. These comments have been discussed with the parties and Ecology staff; nevertheless the Water Board concludes that the C/T is consistent with state water law and the SEPA practices adhered to by EFSEC.

SEPA and FFA Review:

8. The Water Board has reviewed the proposed project for SEPA (noted above) and FFA (non-FFA water right) compliance.

Public Interest:

9. Per EFSEC qualifications, the proposed action supports the public interest concerned with the direct use of water rights, is consistent with allowed beneficial uses, and is consistent with local area/regional economic development needs (farm support and construction features) and the land use practices reviewed by EFSEC. The Water Board also took into consideration any potential conflicts with environmental justice principles, strictly relative to water use and water law. Even so, the Water Board has noted that the County Commissions and the Yakama Nation may assert that the project conflicts with some aspects of the local public interest and environmental justice principles directly affecting Tribal values.
10. The proposed action is consistent with the intent of RCW 90.03.380, 90.14.140, 90.80, and recent case reviews by the Washington State Supreme Court.
11. The Water Board has provided for specific conditions and provisions affecting the use of the water rights, as identified below. The Water Board's decision is contained in the Water Board Decision table above.

PROVISIONS

Conditions and Limitations:

1. The point of diversion/withdrawal, place(s) of use, purpose of use, and period of use for the water right are designated in the summary table above (under Water Board Decision table).

2. Per issued superseding certificate, for the subject water right, water withdrawals shall not exceed the total instantaneous and volume use, periods of use, and site area designated above under Water Board Decision table.
3. Use of water under this authorization shall be contingent upon the water right holder's utilization of up-to-date water conservation practices.
4. An approved measuring device(s) must be installed and maintained for the sources (all points of withdrawal/diversion) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use," WAC 173-173, describing the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements."
5. Water use will be measured and recorded for water supply use. Water use data shall be recorded weekly and shall be submitted annually to Ecology by January 31st of each calendar year (along with WA State Dept. of Health metering requirements). At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, weekly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting. Recorded water use data shall be submitted via internet. To set up an internet reporting account, contact the Central Regional Office. If you do not have internet access, you can still submit hard copies by contacting the Central Region Office for forms to submit your water use data.
6. All water wells constructed within the state shall meet the "minimum Standards for Construction and maintenance of wells, as provided under RCW 18.104 (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC Minimum Standards for Construction and Maintenance of Water Wells. Installation and maintenance of an access port as described in Groundwater Bulletin No.1 is required, per WAC 173-160-291(3). In general wells shall be located at least 100 feet from source contamination and at least 1,000 feet of the boundary of a solid waste landfill. Any well that is unusable, abandoned, or is an environmental, safety, or public hazard shall be decommissioned. In addition to the required access port, the applicant shall install and maintain, in operating condition, an airline And pressure gauge. The pressure gage shall be equipped with a standard tire valve and placed in a location accessible to Dept. of Ecology personnel. The airline shall extend from the land surface to the top of the pump bowls and the total airline length shall be reported to the Dept. of Ecology upon completion of the pumping system.
7. Ecology staff may require specific drilling parameters for the well; and will perform a site inspection for the new well when construction phase is completed.
8. Department of Ecology personnel, upon presentation of proper credentials and prior notification, shall have access at reasonable times, to project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with the law.

Mitigation:

9. None is required for the C/T water use.

Construction Schedule:

10. By January 1, 2028, the applicant will notify the Water Resources Program, Eastern Region Office, WADOE, that project construction is completed, unless further extended for good cause.
11. By January 1, 2030, proof of appropriation (for actual beneficial use of water) will be provided to the Water Resources Program, Eastern Region Office, WADOE, unless further extended for good cause.

DECISION APPROVALS

Approvals:

The conclusions in this Report of Examination were authored/developed by Water Board members and staff, with the applicant or applicant's representative providing support information as requested.

The undersigned Water 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. The Report of Examination documents all factors reviewed and considered by the Water Board. The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this Report of Examination and concurs with the ROE's conclusions.


The Benton County Water Conservancy Board hereby APPROVES the water right change/transfer described within this record of examination and record of decision, and submits this certificate for conditional approval to the Director of the Washington State Department of Ecology. If the Director takes no action within forty-five days of receipt of this ROE/ROD, then the Water Board's decision, as written, is final.

Approved Unanimously by the BCWCB
Kennewick, Washington

This 12th day of July 2024

Approved and Signed on Behalf of the Water Board by:

Signed:



Darryll Olsen, Ph.D., Chairman
Benton County Water Conservancy Board
Date Mailed to WADOE Director/Representative: on or before July 29, 2024

Temporary Donation to the Trust Water Rights Program

7/12/24, 10:54 AM

Subject: **RE: Benton Board changes**
Date: 7/12/2024 10:54:33 AM Pacific Daylight Time
From: Dan.Haller@aspectconsulting.com
To: dolsenecon@aol.com

Record/Document Number	CG3-22306C	Phase	Trust Water Temporary Donation	Priorit
Application Number		Stage	Donation Accepted	WRIA
Permit Number		Status	Active	Count
Certificate Number	G3+ 22306 C	WR Class	Groundwater	Regioi
Consrv Bd Number				
WR Doc ID	6805136			

Persons or Organizations

[Click to Show Contacts](#)

Last or Organization Name	First Name	MI	Role	Address
WA DNR			Primary	713 E Bowers Rd, Ellensburg WA

Phase Quantities

Phase	Qi	Units	Qa	Irr Acres
Trust Water Temporary Donation	1955	GPM	409	260.7

Assignment Groups

Assignment Group
TW Acquisition - Temporary Don

Provisions

No provis

Purposes of Use

Basic Information Additional Information

Purpose	From	To	Qi	Units	Use Type	Qa	
Groundwater Preservation			1955	GPM	Primary	409	Prim

Sources

Basic Information Additional Information Latitude/Longitude Information

Device Type	Source Name	Common Name	Tributary To	WRIA	County
Well	Groundwater	WELL		31	Benton
Well	Groundwater	WELL		31	Benton

Dan Haller, PE (WA), CWRE (WA) | Senior Principal Water Resources Engineer | Direct: 509.895.5462 | Cell: 509.952.8607
Aspect Consulting (A Geosyntec Company) | 1106 N 35th Ave, Yakima, WA 98902 | aspectconsulting.com , geosyntec.com

This email is intended solely for the addressee(s) and may contain confidential or legally privileged information. If you are not the intended recipient, please immediately alert the sender by reply email and delete this message and any attachments without storing, copying, distributing, or using the contents.

From: Dan Haller
Sent: Friday, July 12, 2024 10:53 AM
To: 'dolsenecon@aol.com' <dolsenecon@aol.com>
Subject: RE: Benton Board changes



**DEPARTMENT OF
NATURAL RESOURCES**

SOUTHEAST REGION
713 BOWERS ROAD
ELLENSBURG, WA 98926

509-925-8510
TRS 711
SOUTHEAST.REGION@DNR.WA.GOV
WWW.DNR.WA.GOV

Department of Ecology
Central Region
1250 W Alder St
Union Gap, WA 98903-0009

Subject: Trust Water Right Donation for G3-+22306CWRIS

Dear Department of Ecology:

The Washington State Department of Natural Resources (DNR) would like to temporarily donate the full amount of water right G3-+22306CWRIS for instream flow purposes. The place of use starting in 2022 is now irrigated with surface water right S4-25639(A). We request the temporary donation for 10 years while strategies are developed to move this water right to other DNR lands. Please find the donation form attached.

For any additional information or questions, please contact Christina Frantz at 509-899-7932 or christina.frantz@dnr.wa.gov.

Thank you for your consideration.

Sincerely,

Christina Frantz

Christina Frantz
Product Sales and Leasing Division
Washington State Department of Natural Resources

Enclosures (2)

C: Kari Fagermess, Assistant Division Manager
File: 78-000628

WATER RESOURCES PROGRAM

Temporary Donation to the Trust Water Rights Program

Water Right Information

WATER RIGHT CERTIFICATE OR CLAIM NUMBER G3-+22306CWRIS	NAME(S) ON WATER RIGHT OR CLAIM State of Washington Department of Natural Resources	
WATER RIGHT OWNER OR LEGAL REPRESENTATIVE Washington Department of Natural Resources	PHONE NO. 509-899-7932	ALT PHONE NO.
ADDRESS 713 Bowers Rd		
CITY Ellensburg	STATE WA	ZIP CODE 98926
EMAIL ADDRESS christina.frantz@dnr.wa.gov		
CONTACT (if different than owner)		
PHONE NO.	EMAIL ADDRESS	

Temporary Donation Agreement

The water right owner or legal representative ("Donor") agrees to temporarily donate water quantities ("donated quantities") associated with the water right identified above, to the Washington Department of Ecology (Ecology) to be held in the Trust Water Rights Program.

Donated Quantities

All ☒ or a portion ☐ of the Water Right Certificate or Claim to be temporarily donated

Instantaneous Quantity: cfs OR **1955** gpm

Annual Volume: **409** acre-feet per year

Description of how water will be made available for temporary donation (e.g., non-use, change in use practices): **non-use**

The Donor attests that the donated quantities have been diverted or withdrawn and put to beneficial use. The Donor attests that the donated quantities, in addition to any portion of the water right retained for use, do not exceed the Donor's highest use within the last five years, unless:

- A qualifying [exemption to relinquishment](#) applies in the last five years, and the Donor attests that the donated quantities and any retained use do not exceed the highest use in the five years preceding the qualifying exemption (RCW 90.14.140(1)); OR
- The right or claim is for municipal or hydropower purposes, and the Donor attests that the donated quantities and any retained use do not exceed historical beneficial use ([RCW 90.14.140\(2\)\(a\) or \(d\)](#)).

Location

The Donor owns or represents the following parcels that are associated with the donated quantities:

QTR QTR	QTR	SEC	TWP	RGE	COUNTY	PARCEL No(s).
		36	7N	25E	Benton	13675000000000
LEGAL DESCRIPTION: All of Section 36, T07N, R25E						

Duration of Temporary Donation

The Donor agrees not to divert or withdraw the donated quantities until the term expires. The temporary donation term will begin on the day Ecology's acceptance email is sent to the Donor, and expires on the date provided below. When the temporary donation expires, the donated quantities revert back to the Donor.

End Date

3/1/2033

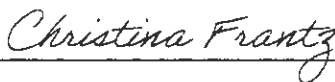
Terms and Conditions

- The donated quantities are not subject to relinquishment while accepted in the Trust Water Rights Program.
- Ecology's acceptance of the temporarily donated quantities is not a validation or quantification of the water right. Any relinquishment or non-use of the water right that may have occurred prior to this temporary donation cannot be reversed, or addressed in any way through this Agreement.
- During the term of this temporary donation, the donated quantities will be used to support instream flows and groundwater preservation only; they cannot be used to mitigate other water uses.
- The Donor agrees to provide proof of beneficial use prior to the donation if requested by Ecology (RCW 90.42.080).
- If the Donor sells or leases the water right or portion of the right that has been temporarily donated, the donor must notify the buyer or leasor of the temporary donation.
- This Agreement will be considered fully executed, and the temporary donation considered accepted into the Trust Water Rights Program, only if the Donor receives confirmation of Ecology's acceptance by email or letter.

Signatures

I, the Donor, agree to the terms and conditions herein and certify that the information above is true and accurate to the best of my knowledge. I understand that all responsibility for the accuracy of the information rests with me.

Christina Frantz Water Resource Program Manager



03/23/2023

Donor Printed Name – Title

Donor Signature

Date (MM/DD/YYYY)

Send your completed form to Ecology

Attach a scanned copy of the completed and signed agreement form in an email and send it to the regional office where your water right is located (see email addresses below). We strongly encourage paperless processing, but if you do not have access to email, mail the form to the appropriate regional office below.

Office Locations and Contact Information

Region/ Office	Counties served	Mailing Address	Phone
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	wrCRO@ecy.wa.gov 1250 W Alder St Union Gap, WA 98903-0009	509-575-2490
Office of Columbia River	OCR has jurisdiction for designated OCR projects, and new projects located within one mile of the Columbia River.	wrCRO@ecy.wa.gov 1250 W Alder St Union Gap, WA 98903-0009	509-457-7141
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	wrERO@ecy.wa.gov 4601 N Monroe Spokane, WA 99205-1265	509-329-3400
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	wrNWRO@ecy.wa.gov PO Box 330316 Shoreline, WA 98133-9716	206-594-0000
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Thurston, Skamania, Wahkiakum	wrSWRO@ecy.wa.gov PO Box 47775 Olympia, WA 98504-7775	360-407-6300



Sawyer, Nisa (ECY)

From: DeJesus, Anthony (ECY)
Sent: Monday, March 27, 2023 8:08 AM
To: Tyler, RYanne (DNR); ECY RE WR CRO
Cc: Frantz, Christina (DNR); Sawyer, Nisa (ECY); Monter, Nikole (ECY)
Subject: RE: Temporary Donation to the Trust Water Rights Program G3-+22306CWRIS
Attachments: G3-+22306CWRIS cover letter_Signed.pdf; G3-+22306CWRIS Trust Donation_Signed.pdf

Good Morning RYanne,

Thank you for submitting your Trust Water Rights application. Once our intake process is complete, and your application is entered into the Water Rights Tracking System, I will be able to process your donation.

Respectfully,

Anthony DeJesus (he/him)

Trust Water Coordinator
Central Regional Office
Water Resource Program
Washington Department of Ecology
(509) 406-4873

From: Tyler, RYanne (DNR) <RYanne.Tyler@dnr.wa.gov>
Sent: Friday, March 24, 2023 9:41 AM
To: ECY RE WR CRO <wrcro@ECY.WA.GOV>
Cc: Frantz, Christina (DNR) <Christina.Frantz@dnr.wa.gov>
Subject: Temporary Donation to the Trust Water Rights Program G3-+22306CWRIS

Good morning,

Please see attached cover letter and trust donation.

Thank you,

RYanne

RYanne Tyler
Water Rights Specialist
Division of Product Sales and Leasing
Washington State Department of Natural Resources
Cell: (509) 899-6688
RYanne.Tyler@dnr.wa.gov

**Scout Clean Energy Responses to EFSEC
Questions**

**Source: Linnea Fossum on behalf of Horse Heaven
Wind Farm, LLC dated 2/28/2025**

Q1: It looks like there are drainages in the general vicinity and will be good to know the name and the distance from the ride and parking area. And what part of 3.4 discusses this area. As far as I can initially tell, this property is not part of the footprint discussed in Chapter 3.4.

Response: Tetra Tech's wetland biologist visited the site on 2/25/25 and confirmed that there are no bed or banks along the swale feature that is visible on Google Earth to the northwest of the proposed new gravel road. Specifically, there are no bed or banks where it intersects with Sellards road, nor were there bed or banks further up the swale feature where it gets within 300 feet of the potential road and well. Not having bed or banks in either location means that this swale is not considered a waterway and is therefore not considered jurisdictional by either the state or the county. As a result, in accordance with Benton County's Critical Areas Ordinance, no setbacks from this feature are required. Map and photos are attached to this memo.

Q2: I checked the FEIS and your information and had trouble finding the information regarding the expected number of water truck trips per day. Could this be seasonal as well?

Response: Using the estimate provided in the ASC of 220,000 gallons per day, and assuming each truck carries 4,000 gallons, on average there would be 55 trucks per day visiting the well site. Since water demand would be higher in the dry season, we estimate a potential maximum of approximately 80-100 trucks per day between May and October. Minimal truck traffic would occur during the rainy season (December-March). During shoulder months (November and April, depending on weather), traffic is estimated close to the average of 55 trucks per day. Note that the estimate of 220,000 gallons per day reflects construction use only; as described in the ASC, use during operations will be much lower. During operations, if panel washing is conducted, it is anticipated to be done no more than three times per year with an average of 675,000 gallons of water used for each wash (2,025,000 gallons per year). Assuming each wash takes approximately two weeks, it is estimated that an average of 14 water trucks per day could access the well site during each panel washing occurrence.

Q3: Are there any plans to fence any part of the facility at Gould Well? The parking lot, road, well site?

Response: This detail has not been designed yet. To be conservative, we assume there would be a fence around the parking area and well site but not along the road.

Q4: Just want to confirm, the graveled yard is for turn around and some water storage tanks. Not parking? If parking, would that be a daily thing (vehicles present during work hours) or would vehicles like water trucks be parked there.

Response: During construction, water trucks may be parked either in the graveled yard or at the project laydown area overnight or during times when water is not being delivered to the site. Other vehicle traffic is not anticipated but occasional project vehicles could visit the well location for inspections, maintenance, etc.

Attachment – Photos from Site Visit to Assess Swale Feature

Figure 1: Photo locations



Figure 2: Photo from Sellards Road looking northeast



Figure 3: Photo from upper swale adjacent to potential road, looking northeast



Washington Department of Ecology (Ecology) Letter from Mike Herbert to Breean Zimmerman regarding Technical Review for Benton Co. Conservancy Board Decision BENT-24-01 dated 09/05/2024

Date: September 5th, 2024

To: Breean Zimmerman (Permitting Unit), and the file

From: Mike Herbert (Technical Unit), reviewed by John Kirk, L.HG

RE: Technical Review for Benton County Conservancy Board Decision BENT-24-01

I reviewed the Benton County Water Conservancy Board change decision BENT-24-01. This change application requests a change of point of withdrawal (POW), change of place of use (POU), change of purpose of use, and change of period of use to ground water right CG3-+22306CWRIS. CG3-+22306CWRIS authorizes a total annual quantity (Qa) of 1043 acre-feet per year (afy) and instantaneous quantity (Qi) of 1,955 gallons per minute (gpm) for the irrigation of 260.7 acres for the irrigation season. The two authorized POWs are Wells 1 and 2 located in the SW ¼, SW ¼ and SE ¼, NW ¼, of Section 36, Township 7N, Range 25E W.M. The existing POU is all within Section 36, Township 07N, Range 25E W.M.

The proposed POW is a Department of Natural Resources (DNR) well located approximately six and a half miles to the north in NW ¼, NE ¼, of Section 36, Township 8N, Range 25E W.M. The change of POU expands to cover area within Township 9N, Range 26E. W.M., Township 9N, Range 27E. W.M., Township 8N, Range 25E. W.M., Township 8N, Range 26E. W.M., Township 8N, Range 27E. W.M., Township 7N, Range 26E. W.M., Township 7N, Range 27E. W.M., Township 8N, Range 28E. W.M., Township 7N, Range 28E. W.M., Township 7N, Range 29E. W.M., Township 7N, Range 30E. W.M., Township 6N, Range 30E. W.M., and Township 6N, Range 31E. W.M. The proposed change of use is to facilitate operations of the Horse Heaven Clean Energy Center which would combine wind, solar and battery storage to produce renewable energy for the State of Washington. The change is for 1,031 afy at 1805 gpm for seasonal irrigation, a three-year temporary use of 184 afy at 150 gpm for industrial, construction and dust abatement, and 12 afy at 150 gpm for year-round industrial use.

Authorized POW Well 1 was drilled in 1976 by Spokane Drilling Co for the DNR to a depth of 860 feet below ground surface (bgs). The well is open to and withdraws from a zone of water bearing strata from 814-860 feet bgs. Well 2 was drilled in 1978 by Moore drilling, Inc for the DNR to a depth of 990 feet bgs. The drillers log appears to indicate that it is withdrawing from a zone of water bearing strata at a similar depth as Well 1. Both Wells 1 and 2 are completed into the Frenchman Springs Member of the Wanapum Formation of the Columbia River Basalt Group (CRBG).

The proposed DNR POW, referred to as the Gould well was drilled in 1980 by Larry Burd's Well Drilling to a depth of 1340 feet bgs. The Gould well is open to a productive water bearing zone located at the top of the Frenchman Springs Member of the Wanapum Formation. There is an inferred fault between the two wells that has not yet been confirmed

by any geologic mapping. There appears to be no offset of strata in cross section to suggest there is any barrier to groundwater flow between the existing authorized wells and the proposed well. All three of the wells had similar static water level elevations within them at the time of drilling. Both Wells 1 and 2 as well as the proposed Gould well are drawing groundwater from the Wanapum Formation and are completed in the same body of public groundwater for appropriation.

An impairment analysis is required to determine that drawdown impacts experienced within a neighboring well will not lead to impairment due to the authorization of this application. This evaluation assumes conservative aquifer parameters and a maximum impact pumping schedule to determine the maximum amount of drawdown expected to be experienced within a closest neighboring well. After a search of the Department of Ecology Well Log Viewer and aerial photography it is determined that in this location of the Horse Heaven Hills, there are no neighboring water right users within the Wanapum Formation within two miles of the proposed well.

To withdraw the full annual quantity of 1043 acre-feet by pumping the well at the maximum instantaneous rate of 1955 gpm, the well would be pumped continuously for 120.7 days. Using the most conservative hydraulic aquifer properties reported by the United States Geological Survey (USGS) for the Wanapum aquifer, the maximum drawdown interference to occur if there were a neighboring well within a distance of two miles would be less than 6 feet. Assuming moderate aquifer values and there being no identified neighboring wells within two miles, exercising this water right under this change would not result in interference that would injure the exercise of a neighboring water right.

Mike Herbert

Hydrogeologist | Water Resources Program
Department of Ecology | Central Regional Office
1250 W Alder St
Union Gap, WA, 98903
(509) 490-1934



References:

Ely, D.M., Bachmann, M.P., and Vaccaro, J.J., 2011. Numerical simulation of groundwater flow for the Yakima River Basin aquifer system, Washington: U.S. Geological Survey Scientific Investigation Report 2011-205155, 90 pgs.

Fetter, C.W. 2001. Applied Hydrogeology Fourth Edition. Prentice Hall, New Jersey.

Vaccaro, J.J., Jones, M., Ely, D., Keys, M., Olsen, T., Welch, W., and Cox, S., 2009, Hydrogeologic Framework of the Yakima River Basin Aquifer System, Washington.

Washington Department of Ecology Well Database, available at:

<http://apps.ecy.wa.gov/wellog/>

**Washington Department of Natural Resources Land
Use License No. 60-104618 Valid 03/01/2023 -
02/29/2024 Gould Well Premises Permitted Uses &
Activities dated 04/12/2023**



HILARY S. FRANZ
COMMISSIONER OF PUBLIC LANDS

LAND USE LICENSE ("License")

License No. 60-104618

THIS LICENSE is between Horse Heaven Wind Farm, L.L.C, a Foreign Limited Liability Company, registered in Delaware, herein called the "Licensee" and the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, herein called the "State" dated as of APRIL 12 2023.

Issuance. State, for and in consideration of Five THOUSAND AND 00/100 Dollars (\$5,000.00), hereby issues to Licensee a non-exclusive, revocable license (hereafter "License") over a parcel of land in Benton County legally described as set forth in Exhibit A, (collectively referred to as "Premises") subject to the applicable terms and conditions herein.

Permitted Uses and Activities. Activities may include:

- a. Vehicles may be operated on the Premises to access an unused well (known as the Gould Well);

- b. All vehicle traffic will use the route shown on Exhibit A, Site Map;
- c. Licensee shall use the route as specified to access the well, and shall minimize any damage to crops and soils;
- d. Licensee is authorized to remove the cap on the State's well, to perform evaluation and testing, and agrees to recap the well (a welded lid cap) upon State's request when activities under this license have been completed;
- e. Water discharged during the pump test well be designed to minimize any damage to the crops, soils, and erosion;
- f. The Licensee is authorized to access the Premises on foot to conduct authorized activities;
- g. Licensee shall coordinate with the State's Lessee, before entering the Premise, to outline their planned activities, and address any of the Lessee concerns before beginning activities. The Lessee's contact information can be provided by the State, upon request.

The permitted uses and activities of this License shall not interfere with DNR's land management activities, nor be changed or modified without the prior written consent of DNR, which shall be at its sole discretion. Any unauthorized use of the License may result in immediate suspension of the License followed by termination if the unauthorized use is not resolved to the satisfaction of DNR.

Prohibited Uses and Activities. Licensee will not engage in the following activities on DNR's managed lands while performing work under this License:

- a. Clearing;
- b. Construction of new roads;
- c. Camping;
- d. Lighting any type of campfire, cookfire, or any other fire; and,
- e. Recreational activities.

The preceding list of prohibited activities is not intended to be exhaustive, but is provided to illustrate the types of activities not permitted by this License.

Access. Provisions for the use of rights of way across DNR's managed land (hereafter "State Lands"), including the Premises and access to the Premises are as follows:

- a. A nonexclusive right to use the route over and across the location shown on the map(s) attached as Exhibit B ("Access").

Condition of Premises. Licensee accepts the Premises in its present condition. The State has no obligation to make any repairs, additions, or improvements thereto and expressly disclaims any warranty that the Premises are suitable for the intended use.

Term. This License is valid from March 1, 2023, through February 29, 2024.

Revocation. This License may be revoked by State at will or upon material breach of any of the conditions herein. State may suspend but shall not revoke this License without providing Licensee prior notice and a reasonable opportunity to satisfy State's concern(s); provided however, State shall retain sole discretion over the decision to revoke this License.

Permittees. Licensee may permit its respective employees, agents, contractors, sub-contractors, licensees, and their agents, herein individually referred to as "Permittee" and collectively referred to as "Permittees", to exercise the rights granted herein. Acts or omissions of the Permittees operating under this License shall be deemed an act of the Licensee. Restrictions or requirements placed on the Licensee herein shall apply equally to the Permittees.

State Representative. State shall designate a representative from each applicable DNR Region who will authorize plans of operation, provide Licensee with the records or information referenced in this License, and resolve issues arising from this License (hereafter "Region Representative"). State may change the Region Representative by providing written notice to the Licensee.

Licensee Representative. Licensee shall designate a representative who will have the authority to take any actions necessary to administer this License, to include executing a plan of operations and resolving issues arising from this License (hereafter "Project Representative"). The Licensee may change its Project Representative by providing written notice to State.

Advertising. Licensee shall ensure any advertising related to the use of this License does not imply the endorsement by or affiliation with the Washington State Department of Natural Resources, the state or any other state entity. Licensee shall submit copies of all such advertising to the State's designated representative, prior to the publication of the advertising, to review for compliance with this requirement.

Timber and Reproduction. "Timber" is defined as merchantable trees at least 6 inches in diameter (measured at 4.5 feet from ground level). "Reproduction" is defined as a tree less than 6 inches in diameter that may be planted or naturally grown. Licensee shall not remove or damage timber or reproduction within or outside of the Premises without written prior approval from State.

Licensee shall pay State the appraised value of Timber damaged or cut, and Five and No/100 Dollars (\$5.00) for reproduction damaged or cut.

Restoration of Premises. Licensee assumes responsibility for restoration of Premises to a condition equal to or better than its condition immediately prior to Licensee's use. Such restoration shall be completed prior to expiration of this License.

License Inspection. A copy of this License must be available on the Premises at all times for inspection by the State or an authorized law enforcement agency during licensed activity.

Prior Rights. This License is subject to any rights and valid claims previously granted or conveyed by State, and to any rights and valid claims pending on or encumbering the Premises. Licensee's rights herein are subject to all matters of public record, and to all prior unrecorded easements, permits, leases and agreements affecting the Premises that are filed with the Department of Natural Resources in Olympia, Washington and with its Region offices (copies of which will be provided upon request).

Compliance with Laws. Licensee shall comply with all applicable laws, including but not limited to all State (Department of Natural Resources) regulations, county and municipal laws, ordinances, or regulations.

Required Permits and Licenses. Licensee shall obtain and be in possession of all permits and licenses required for the permitted use, and shall provide proof of such permits and licenses upon request by State.

Plan of Operations. For each applicable DNR Region, Licensee shall meet with the Region Representative and agree in writing to a plan of operations ("Plan of Operations") at least thirty (30) days prior to commencement of the activity on the Premises, including use of roads. DNR, at its sole discretion, may place restrictions on Licensee's use of the Premises that ensures protection of the Premises and other uses. Any material breach of the Plan of Operations will be considered a material breach of this License.

The Plan of Operations shall include, but not be limited to the following requirements as determined by DNR:

- a. access plan;
- b. a well inspection and upgrade plan;
- c. a plan for erosion control;
- d. confirm the route road to be used by Licensee;

- e. define all work that must be performed on the Premises or roads prior to, during, or upon completion of use under this License;
- f. fire prevention closures and restrictions;
- g. seasonal or weather restrictions on road use; and,
- h. vehicle type restrictions on road use.

Fire Prevention. Licensee shall take all reasonable measures to prevent and minimize the start and spread of fire on or adjacent to Premises. Measures shall include ensuring all vehicles carry a fire extinguisher of at least a 5 B/C rating and a serviceable shovel, following State safety operating procedures which include compliance with Washington Administrative Code (WAC) 332-24-301 (Industrial restrictions) and WAC 332-24-405 (Spark emitting requirements) as now written or later amended.

State shall have the right, but not the duty, to notify Licensee of fire hazards created by Licensee activities that need to be controlled on the Premises and adjacent State land. As soon as possible but no later than two weeks unless otherwise agreed upon, Licensee shall remediate the fire hazard created by Licensee, or provide an acceptable plan for such fire hazard remediation.

Roads. Roads may not be used when excessive damage due to weather or other conditions will result. During operations under this License, the Licensee shall take such precautions as necessary to minimize insofar as possible soil erosion, soil stream delivery, and damage to the soil as required under Washington State Forest Practices. Licensee shall not obstruct roads or take action that restricts the flow of traffic or use on roads without State's written permission.

Parking. Licensee shall display a copy of this License on the vehicle dashboard when parking on State lands. Licensee shall park so as to not obstruct roads, turnouts on active haul routes, or the operation of gates.

Repairs. Licensee shall repair damage to the roads, trails or facilities arising out of its use to a condition equal to or better than their condition immediately prior to such use with the exception of damage caused through normal and prudent usage.

Road Maintenance. During periods when a road, or portion thereof, is being used by the Licensee, that portion of the road so used shall be maintained by said party at its own expense and, at the termination of each period of such use, shall be left in a condition equal to or better than the condition of the road immediately prior to said use.

Survey Markers. Licensee shall not destroy any land survey corner monuments or reference points (including but not limited to corner markers, witness objects, or line markers) without prior written approval from State, which shall not be unreasonably withheld. Monuments or reference points that must necessarily be disturbed or destroyed during road construction or maintenance activities must be adequately referenced and replaced, at Licensee's cost, under the direction of a Professional Land Surveyor licensed in Washington, in accordance with all applicable state law in effect at the time of construction, including but not limited to RCW 58.24, and all state regulations pertaining to preservation of such monuments and reference points.

Protection of Natural Resources and Improvements. Licensee shall take all reasonable precautions to prevent or minimize damage to natural resources (e.g., vegetation, wildlife, soil, water) and improvements (crops, buildings, roads, etc.) within the Premises.

Licensee shall cut no State timber, remove no State-owned valuable materials (as defined in RCW 79.02.010), in addition to coal, minerals, oil or gas, not disturb or remove any cultural, historical or paleontological (fossil) resources, without the prior written consent of the State. All ground disturbance shall be kept within the Premises unless otherwise approved by State in advance. Survey and transportation equipment shall be set back from the stream, lake, pond and wetland bank so surveying activities will not damage or encroach on riparian or wetland areas.

Protection of Well. Licensee shall take all reasonable precautions to prevent or minimize damage to well and well improvements within the Premises. Licensee shall repair all damage to the well or well improvements to either its former state or to Washington State Department of Ecology well construction standards (WAC 173-160 and RCW 18.104).

Waste. Licensee shall not cause or permit any filling activity to occur in or on the Premises, except as approved by State. Licensee shall not deposit refuse, garbage, or other waste matter or use, store, generate, process, transport, handle, release, or dispose of any hazardous substance, or other pollutants in or on the Premises except in accordance with all applicable laws.

The term hazardous substance means any substance or material as those terms are now or are hereafter defined or regulated under any federal, state, or local law including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA 42 USC 9601 *et seq.*) as administered by the U.S. Environmental Protection Agency, or the Washington Model Toxic Control Act (MTCA RCW 70.105D) as administered by the State Department of Ecology.

Licensee shall immediately assume responsibility for a hazardous substance release (spill) caused by Licensee or its Permittees on or adjoining the Premises.

As responsible party, Licensee shall:

- Immediately notify all necessary emergency response agencies, as required under federal, state and local laws, regulations, or policies.

- After emergency response agency notifications are completed, notify State (Department of Natural Resources) of all spill releases, Licensee actions completed for spill reporting, and actions planned or completed toward spill cleanup. State notification requirements are “same business day” notification for normal state work days and “next available business day” notification for weekends and holidays.
- At Licensee’s sole expense, conduct all actions necessary to mitigate the spill release. Mitigation response actions may include, but are not necessarily limited to, initial release containment, follow-up site cleanup and monitoring actions, and continued contact and coordination with regulators and State, as defined under the aforementioned laws, regulations, policies and this License.
- Other than performing initial emergency response cleanup/containment actions, obtain approvals in advance of all site cleanup actions (e.g. site characterization investigations, feasibility studies, site cleanup and confirmation sampling, and groundwater monitoring) conducted on State lands, in coordination with regulatory agencies and State.
- Obtain and understand all necessary hazardous substance spill release notification and response mitigation requirements, in advance of conducting Licensee operations on State Land.

Clean Water Act. Licensee is subject to the federal Clean Water Act (CWA) enforced by the Washington State Department of Ecology (DOE) through its delegated authority. Licensee shall perform its activities on State lands in a manner to prevent entry, or spillage of solid matter, contaminants, debris, and other pollutants and wastes into flowing water, dry watercourses, lakes, ponds, and underground water sources. Activities near streams or other bodies of water shall not cause the water turbidity to exceed State DOE water quality standards for the stream. Licensee shall not block or divert water courses unless by permit. When State is aware of actual or potential noncompliance with applicable CWA requirements by Licensee that affect water quality, State will notify Licensee and DOE. Licensee shall work with DOE and notify State of any remedial actions or mitigation measures required by DOE or Licensee to cure the problem.

Noxious Weed Control. Licensee shall control, at its own cost, all noxious weeds on any portion of the Premises where Licensee’s activities may have caused or aggravated an infestation of noxious weeds, unless otherwise agreed upon. Licensee shall be responsible for its proportional cost for noxious weed control where Licensee’s activities may have caused or aggravated an infestation of noxious weeds on adjacent land. Payment for noxious weed control may include in-kind services or materials. Licensee is responsible for notifying State of noxious weed problems and mitigating noxious weed problems attributable to Licensee’s activities.

Insurance. Before using any of said rights granted herein and at its own expense, the Licensee shall obtain and keep in force during the term of this License and require its contractors and sub-contractors, to obtain while operating on the Premises, the following liability insurance policies, insuring Licensee against liability arising out of its operations, including use of vehicles. Additionally, insurance must cover permittees for claims arising out of or resulting from the event or activity. Failure to buy and maintain the required insurance shall result in the termination of the License. The limits of insurance, which may be increased by State, as deemed necessary, shall not be less than as follows:

- (a) Commercial General Liability (CGL) insurance with a limit of not less than \$1,000,000. If such CGL insurance contains aggregate limits, the general aggregate limits shall be at least twice the "each occurrence" limit, and the products-completed operations aggregate limit shall be at least twice the "each occurrence" limit.
- (b) Business Auto Policy (BAP) insurance, and if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 with such insurance covering liability arising out of "Any Auto". Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary the policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or expense" as provided in the 1990 or later versions of CA 00 01. Licensee waives all rights against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.
- (c) Employer's liability ("Stop Gap") insurance, and if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Licensee shall comply with all State of Washington workers compensation statutes and regulations. Workers compensation coverage shall be provided for all volunteers, employees of Licensee and employees of any contractors or sub-contractors. Except as prohibited by law, Licensee waives all rights of subrogation against State for recovery of damages to the extent they are covered by workers compensation, employer's liability, commercial general liability or commercial umbrella liability insurance.

All insurance must be purchased on an occurrence basis and must be issued by companies admitted to do business within the State of Washington and have a rating of A- or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved, at the State's sole discretion, in advance by the Risk Manager for the Department of Natural Resources.

If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and Chapter 284-15 WAC.

The State of Washington, Department of Natural Resources, its elected and appointed officials, agents and employees shall be named as additional insureds on all general liability, excess, and umbrella insurance policies.

Before using any said rights granted herein, Licensee shall furnish State with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified above. Certificate(s) must reference the State's Land Use License number.

State shall be provided written notice before cancellation or non-renewal of any insurance referred to herein, as prescribed in statute (Chapter 48.18 RCW or Chapter 48.15 RCW).

Licensee shall include all contractors, sub-contractors and other Permittees as insureds under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each. Contractors and sub-contractors must comply with all insurance requirements stated herein. Failure of contractors, sub-contractors to comply with insurance requirements does not limit Licensee's liability or responsibility.

All insurance provided in compliance with this License shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State. Licensee waives all rights against State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this License.

By requiring insurance herein, State does not represent that coverage and limits will be adequate to protect Licensee and such coverage and limits shall not limit Licensee's liability under the indemnities and reimbursements granted to State in this License.

If Licensee is self-insured, evidence of its status as a self-insured entity shall be provided to State. If requested by State, Licensee must describe its financial condition and the self-insured funding mechanism.

Indemnification. Licensee shall indemnify, defend (with counsel acceptable to State) and hold harmless State, its employees, officers and agents from any and all liability, damages (including, but not limited to, personal injury and damages to land and other natural resources), expenses, causes of action, suits, claims, costs, fees (including, but not limited to, attorneys' fees), penalties, or judgments, of any nature whatsoever, arising out of the use or occupation of the Premises by Licensee, its Permittees, contractors, concessionaires, agents, employees, guests, invitees, customers or affiliates, except as may arise solely out of the willful act of State or State's elected officials, employees, or agents. To the extent that RCW 4.24.115 applies, Licensee shall not be required to indemnify, defend, and hold State harmless from State's sole or concurrent negligence.

Notice. Unless otherwise specified herein, any notices required or permitted under this License may be delivered personally, sent by facsimile machine, emailed with acknowledgment of receipt, or mailed certified, return receipt requested, to the following addresses or to such other place as the parties hereafter direct. Notice will be deemed given upon delivery or upon confirmation of facsimile, whichever is applicable.

To State:
Department of Natural Resources, Southeast Region
713 Bowers Road
Ellensburg, WA 98926
509-925-8510
chad.unland@dnr.wa.gov

To Licensee:
Scout Clean Energy
5775 Flatiron Parkway, Suite 120
Boulder, Colorado, 80301
480-766-1558
daphne@scoutcleanenergy.com

Temporary Markers. Unless otherwise agreed upon, State shall not be responsible for preserving any temporary markers such as stakes, flags, paint, tags or signs used by Licensee for purposes consistent with this License ("Temporary Markers"). State shall take reasonable precautions to avoid damage to Temporary Markers placed by Licensee, but State is not liable for third party damage to same. Prior to placing Temporary Markers on Premises, Licensee shall inform State in writing of location and provide a general description of such Temporary Markers. Licensee shall remove all Temporary Markers from Premises upon completion of operation or termination of License, whichever occurs first.

Billing and Payment. When Licensee is required to pay State under this License, State shall use its standard billing practices and invoice Licensee with reference to the State License number and Licensee Lead Tract Number. The invoice shall include an explanation for the billing, how the costs were calculated and any supporting documentation. Licensee shall pay State any undisputed amount within thirty (30) days receipt of a proper invoice or pay interest at a rate of one percent per month until such time as the amount due is paid in full.

Integrated Agreement; Modification. This License, including appendices and attachments, constitutes the entire agreement and understanding of the parties with respect to the subject matter of the License and supersedes all prior negotiations and representations. This License may not be modified except in writing signed by the parties. The parties agree to execute any additional documents reasonably necessary to effectuate the provisions and purposes of this License.

Severability. If any provision of this License is held to be invalid or unenforceable, this provision shall not affect or invalidate the remainder of this License, and to this end, the provisions of this License are declared to be severable. If any such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this License.

Non-waiver. The waiver by State of any breach or the failure of State to require strict compliance with any term herein shall not be deemed a waiver of any subsequent breach.

Assignment. This License, and any of the rights granted herein, shall not be assigned.

Construction. The terms of this License shall be given their ordinary meaning unless defined herein and shall not be presumed construed against the drafter.

Exhibits. All exhibits referred to in this License are deemed to be incorporated in this License in their entirety.

Headings. The headings in this License are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this License nor the meaning of any of its provisions.

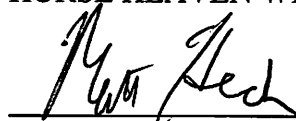
Survival. All obligations of Licensee to be performed prior to the expiration or earlier termination shall not cease upon the termination or expiration of this License, and shall continue as obligations until fully performed. All clauses of this License which require performance beyond the termination or expiration date shall survive the termination or expiration date of this License.

Counterparts. This License may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this License at different times and places by the parties shall not affect its validity so long as both parties execute a counterpart of this License.

WITNESS WHEREOF, the parties hereto have caused this License to be executed as below subscribed.

HORSE HEAVEN WIND FARM, LLC

Dated: April 5, 2023.



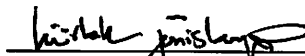
MATT HECK, Vice President

Address: Scout Clean Energy
5775 Flatiron Parkway, Suite 120
Boulder, Colorado, 80301
Phone: (480) 766-1558
UBI No. 604 055 142



STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: APRIL 12, 2023.



KAERLEK JANISLAMPI,
Acting Assistant Southeast Region Manager

Approved as to form
May 25, 2016
by Mike Rollinger
Assistant Attorney General
for the State of Washington

Exhibit A **Legal Description of Premises**

All portions of State owned land in Section 36, Township 8 North, Range 25 East, W.M., located Benton County, Washington, as shown on the site map below.

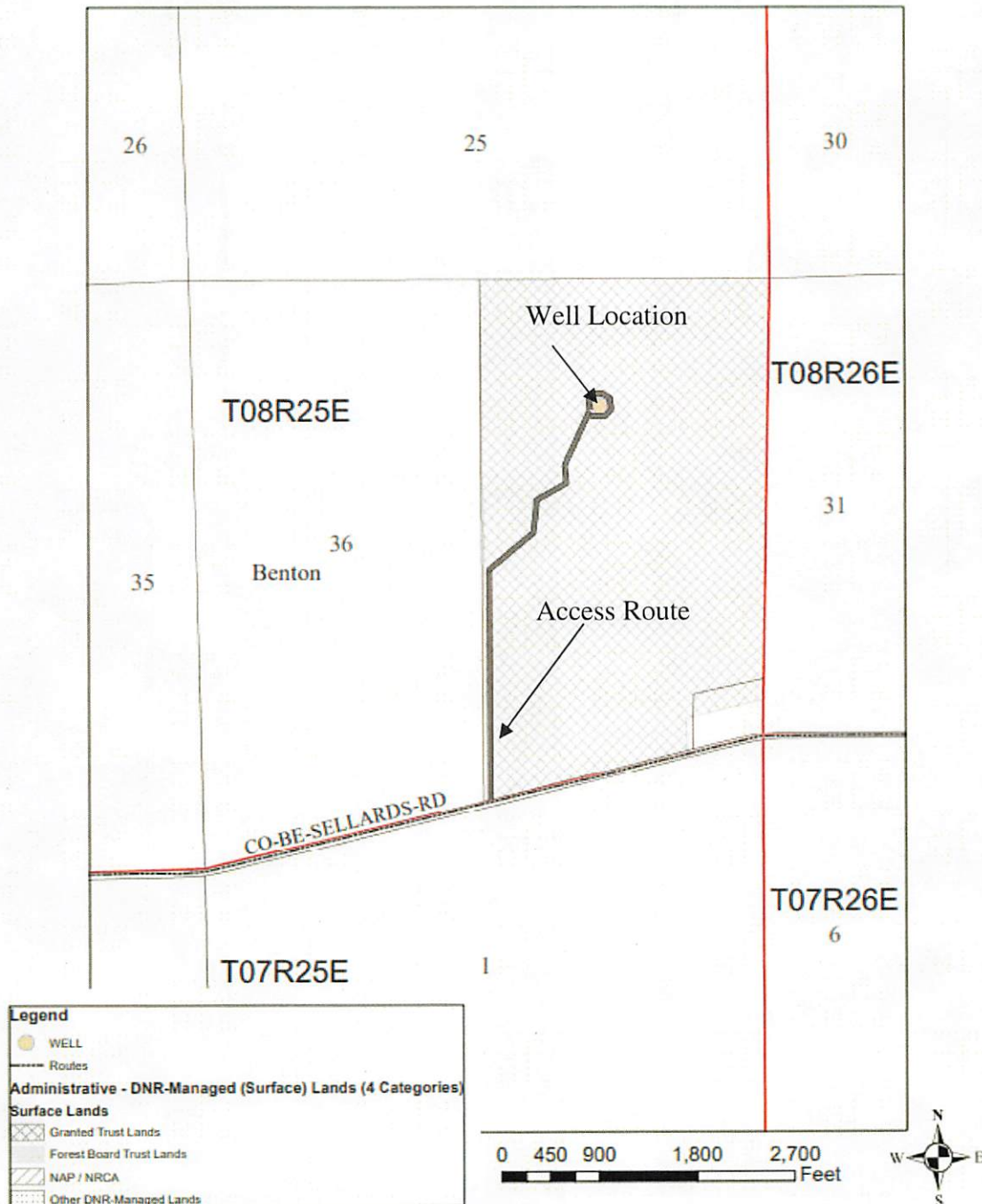
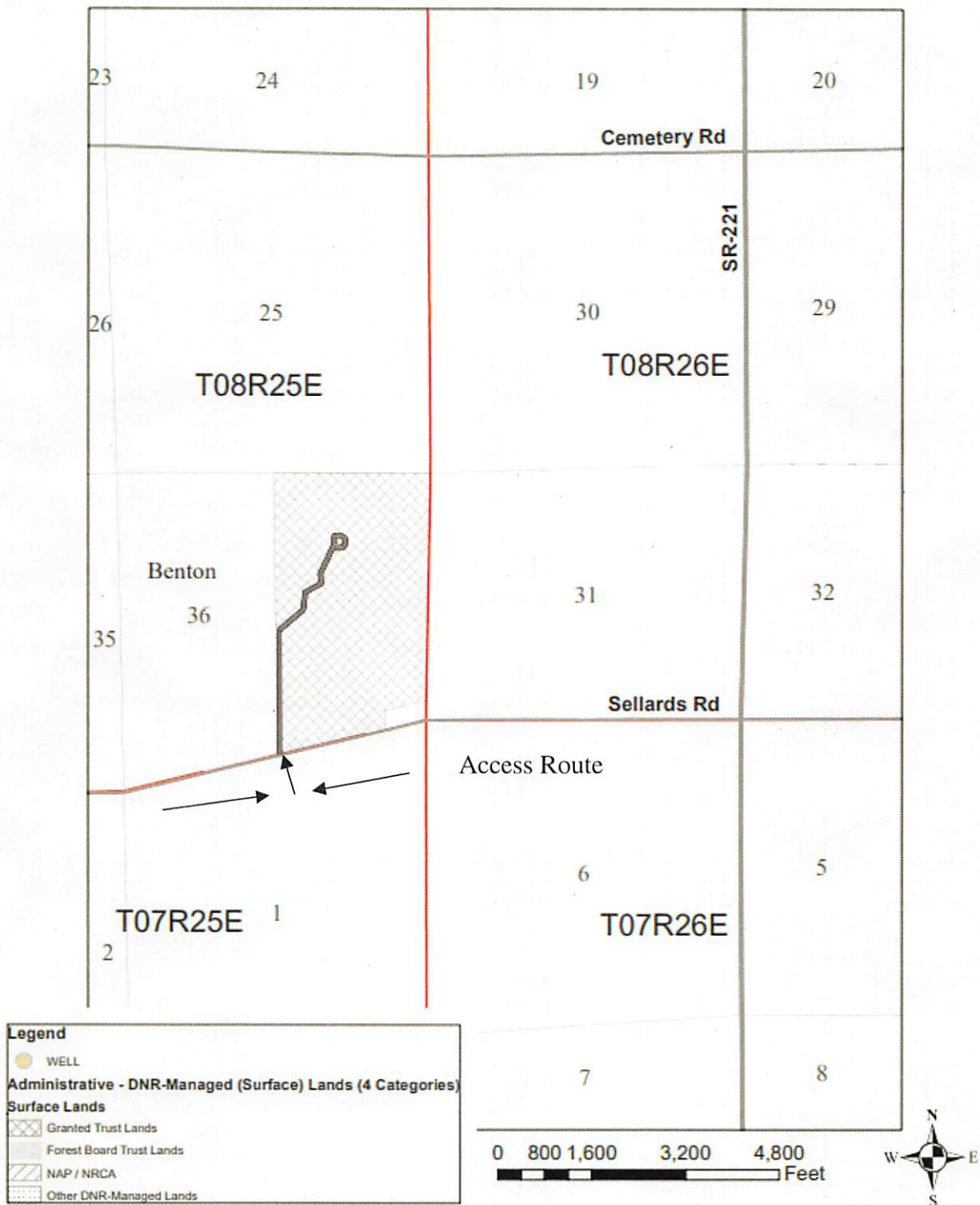


Exhibit B Access/Map



**Washington Department of Natural Resources
Letter from Michael Kearney to Dave Kobus on
DNR Uplands Leasing Program dated 10/18/23**

Dave Kobus
Senior Project Manager
Scout Clean Energy
5775 Flatiron Parkway, Suite 120
Boulder, CO 80301

October 18, 2023

Dear Mr. Kobus,

The Department of Natural Resources (DNR) acknowledges that Scout Clean Energy has an interest in the use of water from DNR's Gould Well, located on Benton County tax parcel 136851000000000, for the Horse Heaven project currently undergoing adjudication with the Energy Facility Site Evaluation Council (EFSEC).

DNR's Uplands Leasing program agrees that it will proceed with the application to change the point of diversion, period of use, add a purpose of use, and transfer the place of use of a Department of Natural Resources (DNR) water right (Certificate G3--22306CWRIS) to the Gould Well upon Scout Clean Energy's successful completion of EFSEC's process and approval by the Governor.

In addition, DNR would execute the necessary agreements to supply the Horse Heaven project's temporary and operational water needs. This is estimated at a temporary use of 184 acre-ft/yr for construction and operational needs for 12 acre-ft/yr for the life of the project. DNR will retain the remainder of the water for use in irrigation.

Please feel free to reach out to myself with any questions at the above email or phone number.

Thank you,

Michael Kearney
Division Manager
Product Sales & Leasing
Department of Natural Resources

Cc: Todd Welker, Deputy Supervisor for State Uplands