

file

BEFORE THE
DEPARTMENT OF ECOLOGY
STATE OF WASHINGTON

IN THE MATTER OF APPLICATION)
FOR CHANGE UNDER SURFACE)
WATER PERMIT NO. 15523)

FINDINGS OF FACT
AND
ORDER

Upon review of the Examiner's report, I find that all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, in accordance with the Examiner's conclusions and recommendations, I find that said change will not impair existing rights or be detrimental to the public welfare.

IT IS ORDERED that a change of place of use be made under the aforesaid application authorizing appropriation of public waters in the amount, and for the use, and subject to the provisions set forth in the Examiner's report.

Any person feeling aggrieved by this order may obtain review thereof by application, within thirty (30) days of receipt of this order, to the Washington Pollution Control Hearings Board, Olympia, Washington 98504, with a copy to the Director, Department of Ecology, Olympia, Washington 98504, pursuant to the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Signed at Yakima, Washington this 13 day of August, 1984.

Russell K. Taylor
Russell K. Taylor, Regional Manager

file

State of Washington
Department of Ecology
Yakima, Washington

IN THE MATTER OF APPLICATION FOR CHANGE)
OF PLACE OF USE UNDER SURFACE WATER)
PERMIT NO. 15523 BY THE AENEAS LAKE)
IRRIGATION DISTRICT.)

Report for
Findings of Fact
and Decision

REPORT

Background

On January 31, 1980 the Aeneas Lake Irrigation District (A.L.I.D.) of Tonasket, Washington filed an application for change of place of use under Surface Water Permit No. 15523. The application was accepted and a legal notice was prepared and sent to the district.

This office received an affidavit of publication from the Oroville Gazette-Tribune attesting to proper public notice. The 30-day protest period expired on May 4, 1980. A letter of protest was filed by Mr. Gene L. Nihart on May 1, 1980. Mr. Nihart objects to the district altering its service area boundaries to include lands which are outside the irrigation district while landowners within the presently defined district who want water do not have assurance that water is available.

The above referenced public notice was found to be in error. The applicant's intent was again advertised by the Oroville Gazette-Tribune and an affidavit of publication received. The protest period, during which no protests were received, expired on June 28, 1980.

Investigation

Based upon discussion with Roger Beiler of CH₂M-Hill, consulting engineers for the A.L.I.D.; review of the June 1979 reconnaissance report prepared by CH₂M-Hill; discussion with Ron Weeks, manager of the A.L.I.D.; and review of the water right records of this office; the following data were gathered:

The A.L.I.D. comprises an area of approximately 2500 acres in Okanogan county near the town of Tonasket. The irrigation district's service area occupies a large portion of the south end of Horse Spring Coulee and the Lower Aeneas Creek drainage. A total of approximately 1225 acres were irrigated within the irrigation district boundaries during 1977 and about 1325 acres by 1980.

Surface Water Permit No. 15523 authorizes the A.L.I.D. to divert 12.0 cubic feet per second (cfs) from the Okanogan River at a point 1380 feet east and 450 feet south from the north quarter corner of Section 31, within Government Lot 10, Section 31, T. 37 N., R. 27 E.W.M. for the purposes of Aeneas Lake level maintenance and irrigation of 900 acres. An annual quantity of 2700 acre-feet was authorized for irrigation and 1200 acre-feet for maintenance of the level of Aeneas Lake. The district proposes to change the description of the place of use of lands irrigated under Surface Water Permit No. 15523 from the old description of Plateau Orchards to the current service area boundary of A.L.I.D. A.L.I.D.'s current plan is to utilize its 15.6 cfs (7000 gpm) pump station on the Okanogan River to irrigate a total of 1425 acres within its boundaries.

Exhibit "A" depicts the described place of use on Surface Water Permit No. 15523 and the current A.L.I.D. service area boundary, which is the proposed place of use on the instant application.

Several parcels of land within A.L.I.D. had groundwater or surface water rights prior to issuance of Permit No. 15523 to Plateau Orchards and the subsequent formation of A.L.I.D. A brief description of these rights is as follows:

1. Groundwater Certificate No. 4445 authorizes withdrawal of 795 gallons per minute (gpm), up to 360 acre-feet per year from a well located within the $S\frac{1}{2}NW\frac{1}{4}$ of Section 23, for irrigation of 90 acres within the $S\frac{1}{2}NW\frac{1}{4}$ and $SW\frac{1}{4}NE\frac{1}{4}$ of Section 23, T. 37 N., R. 26 E.W.M. Certificate of Change Vol. 1-4, Page 203, issued April 15, 1982 authorizing an additional point of withdrawal on Certificate No. 4445 at a point within the $SW\frac{1}{4}NE\frac{1}{4}$ of Section 23, T. 37 N., R. 26 E.W.M.
2. Groundwater Certificate No. 2578 authorizes withdrawal of 550 gpm, up to 320 acre-feet per year, from a well located within the $N\frac{1}{2}SE\frac{1}{4}$ of Section 23, for irrigation of 80 acres within the $N\frac{1}{2}SE\frac{1}{4}$ of Section 23, T. 37 N., R. 26 E.W.M.

The lands covered by Certificates No. 4445 and No. 2578 are situated within the A.L.I.D.; however, they do not receive water from the A.L.I.D. river pumping system.

3. Surface Water Certificate No. 8295 authorizes diversion of 1.0 cfs from Aeneas Lake at a point within Government Lot 6 of Section 25, T. 37 N., R. 26 E.W.M. for irrigation of 75 acres within Government Lots 6 and 7 of Section 25 and the $SW\frac{1}{4}NE\frac{1}{4}$ and $NW\frac{1}{4}SE\frac{1}{4}$ of Section 26, T. 37 N., R. 26 E.W.M.
4. Groundwater Certificate No. 6103-A authorizes withdrawal of 1000 gpm, up to 500 acre-feet per year, from a well located within Government Lot 5 of Section 36, T. 37 N., R. 26 E.W.M. for irrigation of 125 acres within the following described parcel of land:

That part of the Ko-mo-del-kish Indian Allotment No. 33 within Government Lot 11 of Section 25, and all of Allotment No. 33 lying within Section 36, T. 36 N., R. 27 E.W.M.; Government Lot 6 of Section 30, and Government Lot 13 and $N\frac{1}{2}NW\frac{1}{4}$ in Section 31, T. 37 N., R. 27 E.W.M.

The A.L.I.D.'s Permit No. 15523 was issued as a right supplemental, in part, to the prior rights described by Surface Water Certificate No. 8295 and Groundwater Certificate No. 6103-A. Permit No. 15523 in effect authorized irrigation of 700 acres of land in addition to the 200 acres previously irrigated under Certificates No. 8295 and No. 6103-A. The purpose of Surface Water Application No. S4-28282, filed August 17, 1983, is to increase the authorized rate of diversion by A.L.I.D. from the Okanogan River from 12.0 cfs to 15.6 cfs and to increase the total acreage the district is authorized to irrigate from 900 to 1425 acres.

Permit No. 15523 specifically provides that rights perfected under this filing shall be supplemental to Surface Water Certificate No. 8295 and Groundwater Certificate No. 6103-A. Therefore, the total annual diversion for irrigation use authorized under Permit No. 15523 shall not exceed 2700 acre-feet, less any amount withdrawn or diverted for irrigation under Certificates No. 6103-A and No. 8295.

Consideration of Objections

Protestant Nihart objects to A.L.I.D. altering its service area boundaries to include lands which are outside the former boundaries until A.L.I.D. provides water to all landowners that want water within the former boundaries. Mr. Nihart's objection relates to powers given to the A.L.I.D. board of directors through Chapter 87.03 Revised Code of Washington (RCW), not to the authority of the Department of Ecology to authorize a change of place of use as provided by RCW 90.03.380.

Conclusions

The writer concludes that the proposed change of place of use will not impair existing rights.


Recommendations

With respect to the above referenced factual findings and conclusions, the writer recommends the proposed change of place of use be approved in the amount of 12.0 cfs; up to 2700 acre-feet per year for irrigation of 900 acres from April 1 to October 1, and 1200 acre-feet per year for stockwater, recreation, and lake level maintenance all year; from the Okanogan River at a point located 450 feet south and 1380 feet east from the north quarter corner of Section 31, T. 37 N., R. 27 E.W.M. for use within the boundaries of the A.L.I.D., as shown on Exhibit "A".

Rights perfected under this filing shall be supplemental to Surface Water Certificate No. 8296 and Groundwater No. 6103-A. The total annual diversion and withdrawal for irrigation use authorized under permit for this application shall not exceed 2700 acre-feet per year, 12 cfs less any amount withdrawn or diverted for this use under other existing rights appurtenant to the same lands.

Upon expiration of the appeal period a Superseding Permit will be issued under Surface Water Permit No. 15523 to reflect the changes herein approved.

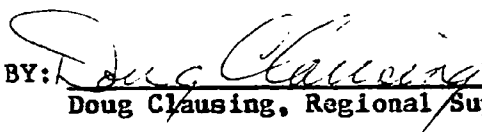
REPORT BY:


Robert F. Barwin

DATE:

8-10-84

APPROVED BY:


Doug Clausen, Regional Supervisor

DATE:

8/10/84

ska

REPORT OF EXAMINATION

Date of application July 24, 1968 Date of examination October 30, 1968 Application No. 21105
Name Plateau Orchards, Inc. Address Box B, Groville, Washington
Quantity applied for 12.0 c.f.s. Use Irrigation, stockwater, recreation and maintenance of lake level
Source of appropriation Okamegen River Tributary of Columbia River
within Ko-Mo-Del-Kia Indian Allotment No. 33
Legal sub. Gov't Lot 10, / Sec. 31 Twp. 37 N. Rge. 27 E. County Okanogan
Measured or estimated quantity See records Probable low flow See records
Quantity previously appropriated: W.T. - CWT. - E.T. -
Other use made of water Irrigation, hydroelectric, recreation, fish & game
Diversion works contemplated ~~unknown~~ No work to date; pumping from river contemplated
Other equipment Pipeline proposed
Irrigable acreage: Planned 900 acres Present 00 acres Feasible 900 acres
Other water rights appurtenant to this land Surface Water Certificate #8295, Ground Water Certificate 6103-A
Progress of project Not started
Protests None
Quantity recommended (total) 12.0 c.f.s., 3901 Irrig. 12.0 c.f.s., 2700 ac-ft per yr. Dom. -
Stockwater sc-ft per year
Maximum 1 ac-ft per yr. Muskrat Lake level maintenance Other uses (recreation)
12.0 c.f.s., 1200 ac-ft per yr.
Department of Fisheries and Game report See below

Special remarks and provisions:

The field examination of this application was conducted by Monroe Mashburn, Watermaster, Water Management Region 3, District 3A.

In accordance with the recommendations of the Departments of Fisheries and Game, the permit shall be issued subject to the following provision: Diversion intake shall be tightly screened at all times with wire mesh having openings with dimensions not greater than .125 (1/8) inch.

The water requirement for the irrigation of this land is calculated on each acre requiring 3 acre-feet per year or, a total of 2700 acre-feet for the irrigation of 900 acres. The 3 acre-feet per year as a maximum is based on a study which indicated a total consumptive use of water from all sources (precipitation, soil moisture, ground water, and irrigation) in the Groville area to be 24 inches for orchards. A 50% margin has been provided in addition to the assumption that all the orchard's consumptive requirement comes from irrigation.

The instantaneous diversion of 12 cubic feet per second is based on the maximum diversion of

0.013 cubic foot per second per acre for 900 acres.

The 1200 acre-foot per year allowed for lake level maintenance (inclusive of recreation) is based on Mr. Russell's letter of 22 March, 1965 to Mr. Beeman of Tonasket in which a preliminary evaluation of the hydrology of the Aenas Lake - Horse Spring Coulee area was set forth.

The 1 acre-foot per year allowed for stockwater assumes that a small herd will be using water included in the 12.0 c.f.s. instantaneous withdrawal allowed.

As provided under RCW (43.21.130) a meter shall be installed in this system such that a quantitative evaluation of the lake level maintenance program can be obtained. Records of the pumpage into and out of Aenas Lake shall be reported each year to the Department of Water Resources and the same shall be reviewed before certificate issues.

"Rights perfected under this filing shall be supplemental to Certificates No. 8225 (Surface Water) and No. 6103-A (Ground Water). The total annual diversion and withdrawal for irrigation use authorized under permit for this application shall not exceed 2,700 acre-feet per year, 12 c.f.s. less any amount withdrawn or diverted for this use under other existing rights appurtenant to the same lands."

The 2700 acre-foot approved for irrigation is to be used between 1 April and 1 October of each year. The 1201 acre-foot approved for lake level maintenance, recreation, and stockwater from the Okanogen River is available on a continuous basis.

In accordance with Section 90.03.290 RCW, I find that there is water available for appropriation from the source in question and that the diversion proposed in the application will not impair existing rights or be detrimental to the public welfare. Therefore, permit should issue as recommended above, subject to existing rights and indicated provisions.

Signed at Olympia, Washington
this day of January, 1969

KRIS G. KAUFFMAN
KRIS G. KAUFFMAN, Engineer
Division of Water Management

REPORT OF EXAMINATION

Date of application July 24, 1968 Date of examination 10/30/68 Application No. 21105
 Name Plateau Orchards, Inc. Address Box B, Oroville, Wash.
 Quantity applied for 12.0 c.f.s. Use irrigation, stockwater, recreation and maintenance of lake level
 Source of appropriation Okanogan River Tributary of Columbia River
 Gov't Lot 10, within Ko-Mo-Dal-Kia Indian Allotment
 Legal sub. No. 33 Sec. 31 Twp. 37 N. Rge. 27 E. County Okanogan
 Measured or estimated quantity SEE RECORDS Probable low flow SEE RECORDS
 Quantity previously appropriated: W.T. CWT. E.T.
 Other use made of water FISH & GAME
 Diversion works contemplated or ~~completed~~ RIVER PUMPING FROM RIVER
 Other equipment
 Irrigable acreage: Planned 900 ~~600~~ acres Present 300 ACRES Feasible 900 ACRES
 Other water rights appurtenant to this land SW Cert. 8295, GW Cert. 6103-A

Progress of project NOT STARTED
 Protests NONE
 Quantity recommended (total) Irrig. Dom.
 Power Municipal Other uses
 Department of Fisheries and Game report ~~_____~~ 300 below

Special remarks and provisions:
 The field examination of this application was conducted by Monroe Mashburn, Watermaster, Water Management Region 3, District 3A.

Screen Proviso

The water requirement for the irrigation of this land is calculated on each acre requiring 3 acre-feet per year or, a total of 2700 acre-feet for the irrigation of 900 acres. The 3 acre-feet per year as a maximum is based on a study which indicated a total consumptive use of water from all sources (precipitation, soil moisture, ground water, and irrigation) in the Oroville area to be 24 inches for orchards. A 50% margin has been provided in addition to the assumption that all the orchard's consumptive requirement comes from irrigation.

The instantaneous diversion of 12 cubic feet per second is based on the maximum diversion of 0.013 CFS ~~of 1.2 cfs per minute~~ per acre FOR 900 ACRES.

The 1200 acre-feet per year allowed for lake level maintenance (inclusive of recreation) is based on Mr. Russell's letter of 22 March, 1965 to Mr. Beeman of Tonasket in which a preliminary evaluation of the hydrology of the Aenas Lake - Horse Spring Coulee area was set forth.

The 1 acre-foot per year allowed for stockwater assumes that a small herd will be using water included in the 12.0 c.f.s. instantaneous withdrawal allowed.

As provided under RCW (43.21.130) a meter shall be installed in this system such that quantitative evaluation of the lake level maintenance program can be obtained. Records of the pumpage into and out of Aenas Lake shall be reported each year to the Department of Water Resources and ^{THE} same shall be reviewed before certificate issues.

Rights perfected under this filing shall be supplemental to Certificates No. ^{KOK} ~~8296~~ ⁸²⁹⁵ (Surface Water) and No. 6103-A (Ground Water). The total annual diversion and withdrawal for irrigation use authorized under permit for this application shall not exceed 2,700 acre-feet per year, 12 c.f.s. less any amount withdrawn or diverted for this use under other existing rights appurtenant to the same lands.

THE 2700 AC. FT. APPROVED FOR IRRIGATION IS TO BE USED BETWEEN 1 APRIL AND 1 OCTOBER OF EACH YEAR. THE 1201 AC. FT. ^{APPROVED} ✓ FOR LAKE LEVEL MAINTENANCE, RECREATION, AND STOCKWATER FROM THE OKANOGAN RIVER IS AVAILABLE ON A CONTINUOUS BASIS.

~~THE~~
CLOSING

\$200.⁰⁰/₁₀₀

KOK.

REPORT OF EXAMINATION

Date of application July 24, 1968 Date of examination 10-30-68 Application No. 21105

Name Plateau Orchards, Inc. Address Box B, Oroville, Wash.

Quantity applied for 12.0 c.f.s. Use irrigation, stockwater, recreation and maintenance of lake level

Source of appropriation Okanogan River Tributary of Columbia River

Gov't Lot 10, within Ko-Mo-Dal-Kia Indian Allotment

Legal sub. No. 33 Sec. 31 Twp. 37 N. Rge. 27 E. County Okanogan

Measured or estimated quantity SEE RECORDS Probable low flow SEE RECORDS

Quantity previously appropriated: W.T. _____ CWT. _____ E.T. _____

Other use made of water irrigation, Hydroelectric, Recreation, Fish and Game

Diversion works ~~contemplated~~ or observed NONE (UNDECIDED)

Other equipment NONE

Irrigable acreage: Planned 900 acres Present 300 ACRES Feasible 900 ACRES

Other water rights appurtenant to this land SW Cert. 8295, GW Cert. 6103-A

Progress of project Application No. 21105 NOT STARTED

Protests _____

Quantity recommended (total) _____ Irrig. _____ Dom. _____

Power _____ Municipal _____ Other uses _____

Department of Fisheries and Game report Hold for Review

Special remarks and provisions: _____ M.M.