

CHEHALIS CITY COUNCIL AGENDA

CITY HALL
350 N MARKET BLVD | CHEHALIS, WA 98532

Anthony E. Ketchum, Sr. Mayor	Robert J. Spahr, Mayor Pro Tem, Position at Large No. 3 Kelly Wilson, Position at Large No. 2 Kate McDougall, Position at Large No. 1
Jerry Lord, District 1 Daryl J. Lund, District 2, District 2 Dr. Isaac S. Pope, District 4	

Regular Meeting of Monday, April 25, 2022 5:00 pm

To access this meeting via Zoom:

Meeting ID: 822 5811 8879

Pass Code: 674890

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| 1. <u>Call to Order.</u> (Mayor Ketchum)
2. <u>Pledge of Allegiance.</u> (Mayor Ketchum)
3. <u>Approval of Agenda.</u> (Mayor Ketchum) |
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| Special Acknowledgments |
| 4. <u>Moment of Silence in Remembrance of Chehalis Airport Employee, William Villanueva.</u> |

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|---|
| PRESENTATIONS |
| 5. <u>Proclamation, Police Week May 9-15, 2022.</u> (Mayor Ketchum) |

CITIZENS BUSINESS (PUBLIC COMMENT)
Individuals wishing to provide public comments in general and on agenda items should submit comments by 4:00 pm on the day of the meeting. All comments received will be acknowledged by the Mayor under Citizens Business of this meeting agenda. Please use the following form to submit comments – https://www.ci.chehalis.wa.us/contact . If you do not have computer access or would prefer to submit a comment verbally, please contact Interim City Clerk Cassie Frazier at 360-345-1042 or at cfrazier@ci.chehalis.wa.us . Public comments will be limited to five (5) minutes.

ITEM	ADMINISTRATION RECOMMENDATION	PAGE
CONSENT CALENDAR		
6. <u>Minutes of the Regular City Council Meeting of April 11, 2022.</u> (City Clerk)	APPROVE	1
7. <u>Vouchers and Transfers – Accounts Payable in the Amount of \$536,387.94 Dated April 15, 2022.</u> (City Manager, Finance Director)	APPROVE	5
8. <u>Bids for Rock, Gravel, Asphalt.</u> (City Manager, Interim Public Works Director)	APPROVE	7

9. <u>Interim Fire Station Project: Acceptance and Closeout of the Site Preparation Component of the Project Completed by Barcott Construction</u> (City Manager, Fire Chief)	APPROVE	13
10. <u>Resolution No. 4-2022, Authorizing the Application for State and Federal Grant Assistance for Recreation Park Parking Lot Construction.</u> (City Manager, Parks and Recreation Manager)	ADOPT	25

ITEM	ADMINISTRATION RECOMMENDATION	PAGE
OLD BUSINESS		
11. <u>Ordinance Number 1028-B, Second and Final Reading – Amending the 2022 Budget.</u> (City Manager, Finance Director)	PASS	33

ITEM	ADMINISTRATION RECOMMENDATION	PAGE
NEW BUSINESS		
12. <u>Water Rights Purchase from Marwood Farms, LLC.</u> (City Manager)	APPROVE	41
13. <u>Modification of Lodging Tax Funding for Chehalis Centralia Railroad and Museum.</u> (City Manager)	APPROVE	163
14. <u>Ordinance 1029-B First Reading- Revision to Infraction Penalties-</u> (City Manager, Police Chief, City Attorney)	APPROVE	169

ITEM	ADMINISTRATION RECOMMENDATION	PAGE
ADMINISTRATION AND CITY COUNCIL REPORTS		
15. <u>Administration Reports.</u>	INFORMATION ONLY	- - -
a. City Manager Update. (City Manager)		
16. <u>Councilor Reports/Committee Updates.</u> (City Council)	INFORMATION ONLY	- - -

EXECUTIVE SESSION		
17. Pursuant to RCW:		
a. 42.30.110(1)(c) – Sale/Lease of Real Estate		
b. 42.30.140.(4)(b)- Collective Bargaining (Chapter Controlling- Application)		

**THE CITY COUNCIL MAY ADD AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA.
NEXT REGULAR CITY COUNCIL MEETING IS MONDAY, May 9, 2022.**

Chehalis City Council

Meeting Minutes

April 11, 2022

The Chehalis City Council met in regular session on Monday, April 11, 2022. Mayor Ketchum called the meeting to order at 5:00 pm with the following members present: Jerry Lord, Kate McDougall, Dr. Isaac Pope, Bob Spahr and Kelly Wilson. Councilor Daryl Lund was present via Zoom. Staff present included: Jill Anderson, City Manager; Lance Bunker, Interim Public Works Director; Cassie Frazier, Interim City Clerk, Erin Hillier, City Attorney via Zoom; Brandon Rakes, Airport Operations Coordinator; Chun Saul, Finance Manager, Jud Riddle, Interim Water Manager. Dan Warn, Reporter and Jared Wenzelburger, Photographer, both from The Chronicle.

1. **Approval of Agenda.** Mayor Ketchum noted that there was an addition to the agenda under New Business line-item number 10, Water System Infrastructure. Also, under Executive Session there will be no Litigation or Potential Litigation. With these notations, a motion to approve the agenda as presented was made by Councilor Spahr. The motion was seconded by Councilor Lord and carried unanimously.

2. **Proclamation, Administrative Professionals Week- April 25-29, 2022.** Mayor Ketchum presented a proclamation in honor of the numerous administrative professionals within our office as well as our community, nation, and the world.

3. **Port of Chehalis Update.** Lindsey Senter spoke on behalf of the Port of Chehalis. Ms. Senter presented the various upcoming projects going on within the Port.

4. **Consent Calendar.** Councilor Pope moved to approve the consent calendar comprised of the following:

- a. Minutes of the regular City Council meeting of March 28, 2022; and
- b. Vouchers and Transfers – March 31, 2022, Claim Vouchers No. 133585 - 133685 and Electronic Funds Transfer Checks No. 1836 - 1861 and 41 Voucher Checks in the amount of \$228,706.36, and Voided Check No. 133459 for the net total of \$228,661.36; and
- c. Vouchers and Transfers- March 31, 2022, Payroll Vouchers No. 41951-41974, Direct Deposit Payroll Vouchers No. 14598-14715, Electronic Federal Tax and DRS Pension/Deferred Comp Payments No. 386-389 in the amount of \$926,604.73 ; and

The motion was seconded by Councilor Spahr and carried unanimously.

5. **Ordinance Number 1028-B, First Reading- Amending the 2022 Budget.** Chun Saul, Finance Director, presented an overview of the 1st Budget Amendment of 2022. This ordinance is to update the 2022 beginning fund balances from estimates to actual 2021 ending balances, to carry over the capital budget balance to 2022, and to update new revenues and additional appropriations requested.

A motion to approve Ordinance number 1028-B, First Reading- Amending the 2022 Budget was made by Councilor Spahr and seconded by Councilor Lord. Mayor Ketchum asked City Attorney Erin Hillier to read the full ordinance for the record. The motion carried unanimously.

6. **Water System Infrastructure- Potential Partnership for Construction of a Connecting Water Main Line to Facilitate Economic Growth.** City Manager Jill Anderson addressed the Council on this item, stating that this topic was broached over the last few weeks, noting the City Council Growth Management Committee also showed concern for this issue. Staff came to Ms. Anderson a couple of weeks ago about the infrastructure in the Urban Growth Area and the limitations it has on future growth. Three separate projects are showing interest in the area, but the system can only take on one. The main ask is if the City of Chehalis is interested in partnering with Lewis County to make this connection happen. Ms. Anderson did want to note that the County has not made a decision on this matter at this juncture and the City is the first legislative body to consider it. Todd Chaput of the Economic Alliance of Lewis County stated that at the March 31st meeting with the City staff, they discussed various ways to accommodate growth in the area and have considered bringing in Napavine. The goal is to partner together with the County, Port and Cities to complete the loop and provide for continued growth, not only for industrial but also residential in the area. The hope

is, with the \$250,000 commitment from the City and the partnering with the County, the area can move forward with the continued growth. Mr. Chaput did mention another meeting scheduled for April 15, 2022, to further discuss this topic at hand.

Mayor Ketchum asked to clarify that the area of discussion was indicated in orange on the map provided. Mr. Chaput clarified that this was the area in question and noted that it is about 2000 feet and would complete the loop already established in the area and relieve stress on other areas, such as Market Street. If this isn't completed, it could hinder further growth.

Councilor Spahr asked Ms. Anderson what it was they were approving at tonight's meeting. Councilor Spahr asked if the Council were agreeing to a concept and then the details of the partnership would be worked out at a later date. Ms. Anderson agreed that this was correct. Councilor Spahr asked if it was in the City's codes, if a developer wants to come and develop a property, who is responsible for moving or attaching the water and sewer line to the development. Ms. Anderson stated that it typically is the developer, however in this case for the developments that are being proposed, it is quite a distance away from this loop, therefore a nexus would be difficult to establish for the projects currently being discussed with the City. This would be an improvement to current customers, as well as future developments down the line.

A motion was made to approve the request by Councilor Spahr. The motion was seconded by Councilor McDougall and carried unanimously. Mayor Ketchum thanked the Economic Alliance and the Port of Chehalis for opening up the lines of communication with the County.

7. Administration Reports.

a. City Manager Update.

- a. Ms. Anderson addressed the Council by starting out acknowledging the current insurance dilemma being experienced by the Steam Train and Chehalis Centralia Railroad and Museum. Ms. Anderson wanted to let the Council know that she has been in contact with new president as well as their new risk manager. The Museum is close to obtaining insurance for the premises and has offered verbal confirmation that the steam train and caboose have never been without insurance. The City is currently waiting for those documents to be provided.
- b. Ms. Anderson also noted that she participated in a strategic planning session for the 911 committee with Police Chief Randy Kaut and various stakeholders throughout the County. There was a general consensus that a new governance structure was necessary.
- c. Staff have also been working on submitting applications, due April 15th, for appropriations requests for Senator Cantwell and Senator Murray. The City has also had some help from outside services consultant who will helping the City down the road on Capital Improvement Projects and the planning that goes with them.
- d. Lastly, there are still plans to have the April 23rd Earth Day Clean-up sponsored by Experience Chehalis.

9. Councilor Reports/Committee Updates.

- a. **Councilor Lund.** Councilor Lund asked Ms. Anderson to explain what she meant by our assets at the railroad being covered by insurance, stating that he was under the impression that the lease with the railroad stated that they were required to have a million-dollar liability insurance policy and the railroad hasn't had this for the last 30 days. Ms. Anderson stated that is what the City is looking into, the lease agreement has a "Hold Harmless" agreement with the City but there is not a requirement for insurance in the agreement. There is not currently insurance on the premises and is the issue at this moment. The railroad has a separate insurance policy for the engine and caboose, but Councilor Lund is correct, we do not have that coverage in hand. Councilor Wilson asked if that was property coverage or liability and if it was while they are operating or when they are parked. Ms. Anderson indicated that it was her understanding that the railroad does not have operating insurance, but the engine and caboose are covered by liability insurance. There is a separate insurance for the property that they still need to obtain. Councilor Lund disagreed, stating that he doesn't believe there is liability insurance on the engines and that a million-dollar policy isn't enough coverage for the City. Councilor Lund asked that his fellow Council members consider that since the railroad breached their contract by not having insurance, they consider increasing the requested coverage amount to five or ten million dollars and to require it on everything we lease to them. Ms. Anderson agreed with Councilor Lund and mentioned the agreement extension in 2017 and how they discussed the amounts required being low at that time and a funding opportunity from the state caused a "time is of the essence" situation, however it was acknowledged that the insurance amounts were quite low and should be updated moving forward.

- b. **Councilor McDougall.** Councilor McDougall said she is excited to be a part of the Lewis County Public Health and Social Services group with her history in healthcare. This group is not directly City related.
- c. **Mayor Ketchum.** Mayor Ketchum informed the Council that he had attended the Transit Board meeting. The Mayor also attended the Night by Night Shelter meeting and was surprised by the positive outcome from it and the positive attitudes everyone had. Mayor Ketchum also attended the Mayors' meeting with the County, the Friends of West Side Park meeting and the City's GMA (Growth Management Committee) where they discussed some of the issues brought forth earlier in the meeting. Lastly, Mayor Ketchum attended the Experience Chehalis monthly meeting.

10. **Executive Session.** Mayor Ketchum announced the council would take a short recess and then be in executive session pursuant to RCW 42.30.110(1)(c) – Sale/Lease of Real Estate, not to exceed 6:03 pm and there will be no action taken following conclusion of the executive session. Mayor Ketchum closed the regular meeting at 5:43 pm. and the executive session began at 5:46 pm. Mayor Ketchum adjourned the executive session and reopened the regular meeting at 6:03 pm and was immediately adjourned.

Anthony Ketchum, Sr., Mayor

Cassie Frazier, Interim City Clerk

Approved:

Initials: _____

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Chun Saul, Finance Director
Clare Roberts, Accounting Tech II

MEETING OF: April 25, 2022

SUBJECT: 2022 Vouchers and Transfers – Accounts Payable in the Amount of
\$536,387.94

ISSUE

City Council approval is requested for 2022 Vouchers and Transfers dated April 15, 2022.

DISCUSSION

The April 15, 2022 Claim Vouchers have been reviewed by a committee of three councilors prior to the release of payments. The administration is requesting City Council approval for Claim Vouchers including Electronic Funds Transfer Checks No. 1955 - 1991 and 50 - 53 and Voucher Checks No. 133996 - 134104 in the amount of \$536,387.94 dated April 15, 2022, which included the transfer of:

- \$ 129,654.02 from the General Fund
- \$ 4,880.87 from the Street Fund
- \$ 7,985.00 from the Tourism Fund
- \$ 2,341.06 from the LEOFF 1 OPEB Reserve Fund
- \$ 172,493.72 from the Wastewater Fund
- \$ 47,774.99 from the Water Fund
- \$ 3,290.10 from the Storm & Surface Water Utility Fund
- \$ 99,169.31 from the Airport Fund
- \$ 7,000.00 from the Airport Capital Fund
- \$ 6,533.83 from the Custodial Court Fund
- \$ 55,265.04 from the Custodial Other Agency Fund

RECOMMENDATION

It is recommended that the City Council approve the Claim Vouchers including Electronic Funds Transfer Checks No. 1955 - 1991 and 50 - 53 and Voucher Checks No. 133996 - 134104 in the amount of \$536,387.94 dated April 15, 2022.

SUGGESTED MOTION

I move that the City Council approve the Claim Vouchers including Electronic Funds Transfer Checks No. 1955 - 1991 and 50 - 53 and Voucher Checks No. 133996 - 134104 in the amount of \$536,387.94 dated April 15, 2022.

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Lance Bunker, Interim Public Works Director

MEETING OF: April 25,2022

SUBJECT: Bids for Rock, Gravel, and Asphalt 2022

ISSUE

A bid for asphalt to be used by the City in 2022 has been received and tabulated. This information is being presented for the City Council’s review and consideration.

DISCUSSION

The administration recently advertised for rock, gravel, and asphalt bids. One bid was received from Lakeside Industries for asphalt materials that are anticipated to be needed for road construction and maintenance by the Public Works Streets department and other City departments in 2022. The bid is based on the materials being picked up by the City at the bidders’ site.

Please note that the administration placed a restriction that all pick-up locations were required to be within 12 miles of Chehalis City Hall because of the current high costs of fuel.

The bid from Lakeside Industries is attached. Unfortunately, no rock bids were received.

FISCAL IMPACT

The bids provide a set price for the listed products for the year and eliminates the need to solicit prices for each purchase.

RECOMMENDATION

It is recommended that the City Council award the 2022 bid for asphalt to Lakeside Industries and to reopen bidding for rock.

SUGGESTED MOTION

I move that the City Council award the 2022 bid for asphalt to Lakeside Industries and to reopen bidding for rock.

CITY OF CHEHALIS

Specifications and Quotation Proposal for Maintenance Rock and Asphalt

The City of Chehalis solicits your bid on the following items to be supplied to the city during 2022. Firm prices are solicited for the materials as shown on the proposal. No maximum or minimum quantities are specified. The City does not guarantee to purchase any specific quantity and will not expect the supplier to furnish or stockpile any specific quantities or products. Actual purchases will be made as needed by the City based upon the following considerations:

- ***The type of material available at the supplier's plant when needed;***
- ***Quality of products available;***
- ***Satisfactory service by the supplier,***

all of which shall be determined by the Public Works Director or his designee. All items listed followed by "WSDOT/APWA" shall conform to the State of Washington Department of Transportation/American Public Works Association current *Standard Specifications for Road, Bridge, and Municipal Construction* and amendments thereto.

Supplies must have pick-up location within 12 miles of Chehalis City Hall to be considered.

Suppliers may submit prices on any or all items and are requested to list other material which they will have regularly available.

All measurements and prices shall be by **ton**. Scales shall be easily accessible and shall be state certified.


After bids are opened, the City will determine a list of qualified suppliers and notify those suppliers of the City's intention to purchase various materials.

The City of Chehalis reserves the right to reject any or all quotations or to accept the quotation which appears to best serve the interest of the City.

**ALL ITEMS BID ON THIS PAGE ARE FOR MATERIALS
FURNISHED AND LOADED BY THE VENDOR.**

Item	Spec. Reference	Price Per Ton
1. Snow Sand 3/8"		\$ _____
2. Snow Sand 1/4"		\$ _____
3. 1/4" - Crushed Screenings	WSDOT Sec 9-03.4	\$ _____
4. 3/8" – No. 10 Crushed Screenings	WSDOT Sec 9-03.4	\$ _____
5. 1/2" – No. 4 Crushed Screenings	WSDOT Sec 9-03.4	\$ _____
6. 5/8" – 1/4" Crushed Screenings	WSDOT Sec 9-03.4	\$ _____
7. Ballast	WSDOT Sec 9-03.9	\$ _____
8. Crushed Surfacing Base Course	WSDOT Sec 9-03.9	\$ _____
9. Crushed Surfacing Top Course	WSDOT Sec 9-03.9	\$ _____
10. Quarry Spalls	WSDOT Sec 9-13	\$ _____
11. Rip Rap	WSDOT Sec 9-13	\$ _____
12. 1 1/2" Drain Rock		\$ _____
13. 3" Minus Rock		\$ _____
14. Pea Gravel	WSDOT Sec 9-12	\$ _____
15. Sand, Washed	WSDOT Sec 9-03	\$ _____
16. _____ (size) Pit Run Rock		\$ _____
17. Asphalt Concrete Class "B"	WSDOT Sec 9-03.8	\$ 88.00
18. Asphalt Concrete Class "G"	WSDOT Sec 9-03.8	\$ 91.00
19. Asphalt Cold Mix Patch Material		\$ 132.00

The undersigned bidder hereby agrees to furnish the items listed on this proposal at the prices quoted.

SIGNED 
(Signature)

Jeremy Johnson
(Printed Name)

TITLE Operations Manager

FIRM Lakeside Industries, Inc.

ADDRESS 2001 Johnson Rd
Centralia, WA 98531

TELEPHONE 360-736-2847

EMAIL jeremy.johnson@lakesideindustries.com

DATE OF BID 4/13/2022

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Chief Tedd Hendershot, Fire Department

MEETING OF: April 25, 2022

SUBJECT: Interim/Temporary Fire Station Project: Acceptance and Closeout of the Site Preparation Component of the Project Completed by Barcott Construction

INTRODUCTION

One of the three parcels that make up the property purchased for the development of a permanent fire station, located on Sitka Street, has been designated for use as an interim fire station. The Interim/Temporary Fire Station project consists of three components: site preparation; constructing a temporary apparatus bay; and the movement and improvement of a mobile structure to serve as crew quarters and administrative offices. The purpose of this item is to request that the City Council accept the site preparation component of the Interim/Temporary Fire Station Project, performed by Barcott Construction, as complete. This project had a contractor's bond; therefore, no release of retainage is needed.

DISCUSSION

On November 23rd, 2020, Barcott Construction was awarded the Interim/Temporary Fire Station Site Preparation work in the amount of \$223,718.18. The site preparation project consisted of: ground excavation; importing fill and rock; grading; utility hook ups; and Sitka Road improvements. This project was subdivided into two schedules A and B. Schedule A was for the Site improvements and Schedule B was for the Sitka Road improvements.

The Scope of Work and associated costs for the site preparation (Schedule A) have substantially increased since the original bidding of the project. At the start of construction, the Contractor submitted a claim for a change in site conditions due to the discovery of petroleum-based products in various locations in the topsoil throughout the site. These were not discovered during the Phase I or Phase II Environmental reports and ultimately determined to be limited to the topsoil and not an environmental hazard. In addition, there was water saturated subgrade with various locations of materials unsuitable for construction. These discoveries have resulted in a substantial change in the scope of work, including the need for additional excavation and construction of a larger pavement section with geotextile reinforcement; over-excavation of unsuitable soils and materials; and import of suitable replacement rock. These modifications resulted in an increase in the bid from \$223,718.18 to an estimated \$373,638.89 for an increase of \$149,920.71 (including the original 15% contingency authorized in the amount of \$33,357.73)

The contractor completed 34.67% of the original bid work and was paid \$77,554.40 for the work done prior to the revised bid. This amount paid for the work completed under the original bid was not a part of the revised bid amount, rather it was an additional cost outside the revised bid.

During the further site work, it was discovered that there was an area of additional unsuitable material that required additional excavation, rock, and fabric. In addition, there was a need to add funds for electrical service and improvements for lighting the site. Total change orders for this additional work including sales tax amounted to \$61,440.91.

The total cost of original bid, revised bid, change orders, other adjustments brought the final cost of the site preparation project to \$518,420.79. The following is a summary of the project costs:

Site Preparation Work by Barcott Construction	Schedule A Amount Paid	Schedule B Amount Paid	Total Schedule A & B
Original bid with sales tax	\$64,054.40	\$13,500.00	\$77,554.40
Re-bid with sales tax	\$303,417.31	\$69,985.45	\$373,402.76
Change orders with sales tax	\$60,525.86	\$915.05	\$61,440.91
Interest for PE#2 late payment	\$5,213.75	\$808.98	\$6,022.73
Total Project Cost	\$433,211.31	\$85,209.48	\$518,420.79

FISCAL IMPACT

The Interim/Temporary Fire Station Site Preparation Project was a planned project in 2020-2021 and was funded by:

1. Transportation Benefit District fund \$85,209.48
2. Public Facilities Reserve Fund \$433,211.31

RECOMMENDATION

It is recommended that the City Council accept the Interim/Temporary Fire Station Site Preparation Project as complete and authorize staff to complete the administrative close out the project after all statutory requirements are met.

Please note that the site preparation project is just one component of the larger effort to construct an Interim/Temporary Fire Station at 500 NW Sitka. The apparatus bay has been completed and the administrative work is being done to advance the closeout of that component of the larger project. The movement and installation of the Mobile Structure is expected to be complete in May.

SUGGESTED MOTION

I move that the City Council accept the Interim/Temporary Fire Station Site Preparation Project as complete and authorize staff to complete the administrative close out the project after all statutory requirements are met.

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Trent Lougheed, Public Works Director

MEETING OF: August 9, 2021

SUBJECT: Temporary (Interim) Fire Station Construction Update – Request for Additional Budget Authority for Site Preparation Work and Required Additional Components of the Temporary Apparatus Bay

ISSUE

The City is in the process of site preparation, construction of the temporary (interim) apparatus bay, and relocation of the existing mobile structure for the temporary (interim) fire station at the property recently purchased for the new Headquarters Fire Station. Multiple unknown and unforeseen circumstances and construction requirements have resulted in the need to request additional budget authority necessary to complete the project in order to provide adequate long-term temporary facilities for use by the City's Fire Department.

INTRODUCTION

Below is a brief history of the efforts taken to acquire property and relocate the temporary fire station from the Airport property to the property acquired for the new Headquarters Fire Station located at the southeast corner of the intersection of Chamber Way and State Street:

- On 3/2/2020, the City Council approved the selection of the Architectural firm Rice Fergus Miller to provide the design and construction professional services for the new Headquarters Fire Station. The scope of services was expanded for site analysis during the due diligence period for the desired site, and site design for the temporary fire station improvements.
- On 7/13/2020, the City Council directed staff to prepare a bond ordinance to secure \$1,525,000 for funding the land purchase, which included \$300,000 for purchase of a mobile structure for use as temporary crew quarters and the purchase and installation of a pre-engineered metal building for use as an apparatus bay. Council approved the bond ordinance on 7/27/2020.
- On 11/23/2020, the City Council awarded the contract for construction of the site improvements to Barcott Construction in the amount of \$257,278.18 (including sales tax and contingency). This amount includes the improvements to Sitka, which is funded by the TBD fund.
- On 12/14/2020, the City Council authorized the City Manager to purchase the existing mobile home from Cascade Trader and relocate the structure from its current location, and associated footings and modifications in the amount of \$63,650.

The scope of work and costs associated with the work to date have exceeded estimates and additional financial authority is needed to pay for the temporary fire station site improvements, temporary apparatus bay, and potentially the relocation of the existing mobile structure.

COST SUMMARY

In order to provide greater clarity, the Site Preparation costs, and the costs with creating a temporary emergency fire station have been broken out for your information.

Site Preparation Work

The Scope of Work and associated costs for the site preparation of this site have substantially increased since the bidding of the project.

At the start of construction, the Contractor submitted a claim for a change in site conditions due to the discovery of petroleum-based products in various locations in the topsoil throughout the site (which were not discovered during the Phase I or Phase II Environmental reports). In addition, the water saturated subgrade with various locations of unsuitable materials (which were not identified in the soils report developed during the due diligence phase of the site acquisition). These discoveries have resulted in a substantial change in the scope of work, including the need for additional excavation and construction of a larger pavement section with geotextile reinforcement, and over-excavation of unsuitable soils and materials with import of suitable replacement rock. These modifications resulted in an increase in the bid from \$257,278.18 to an estimated \$373,638.89 for an increase of \$116,360.71.

During further site work, it was discovered that there was an area of additional unsuitable material that required additional excavation, rock, and fabric. This resulted in an additional cost of approximately \$12,929.90 above the previous increased estimate.

Lastly, the original construction bid documents did not include electrical improvements for site lighting and service. The cost of this additional work is \$42,534.63.

Therefore, the total additional funding needed for the site improvements for the temporary fire station is anticipated to be \$139,498.44. The administration is also recommending an additional contingency amount of \$20,000 for any additional unforeseen changes or additions to the Scope of Work resulting in a total requested increase in budget authority of \$191,825.24 for the site improvements. This additional cost (as well as the costs listed above) include applicable sales tax.

The table on the next page summarizes the cost increases.

Site Preparation Work			
Item	Amount	Totals	Notes
Site Prep Bid Award November 23, 2020		\$257,278.18	Transportation Benefit District (TBD) Funds for Sitka Street work and general funds for station site
Additional Site Work needed based on soil conditions	\$116,360.71 \$12,929.90		
Electrical Work	\$42,534.63		
Contingency	\$20,000.00		
Subtotal of Additional Work	\$191,825.24	\$191,825.24	
SITE PREPARATION WORK TOTAL Including previously approved expenses		\$449,103.42	Approximately \$39,000 is from TBD funds

Temporary Apparatus Bay and Mobile Manufactured Structure

The original bid for the temporary structure that will serve as an apparatus bay (which is necessary to protect and secure fire department vehicles) was \$170,681.17 (including sales tax). This cost included the purchase and installation of:

- 60' x 68' engineered steel structure
- 8 each, 12'x14' bay doors with automatic openers
- 1 each, man door
- 8 each, high bay lights
- 3 each, outdoor flood lights
- 2 each, 24" exhaust fans

When plans were submitted for the building permit for this newly acquired site, the plans reviewer indicated that the insulation (\$24,236.80) and a concrete slab floor with footings (\$91,915.90) would be required (to meet Building Code Requirements) due to the length of time that the structure would be in use at this location (this was not required for the Airport site as the use was anticipated to be less than a year before relocation). For the plans submitted for permitting, the structure also required additional engineering requirements and submittals (\$7,202.98). The total cost of the revised structure is \$294,036.85 (including sales tax) for a total increase of \$123,355.67. The administration is also recommending a contingency allowance of \$20,000 for any unforeseen costs associated with the apparatus bay and movement of the manufactured structure, including over-excavation of unsuitable soils in the footing locations, which results in an additional requested budget authority of \$143,355.68.

Temporary (Interim) Apparatus Bay and Crew Quarters		
Item	Additional Costs	Amount
Temp Apparatus Bay		\$170,681.17
Insulation	\$24,236.80	
Concrete Slab Floor & Footings	\$91,915.90	
Additional Engineering Submittals	\$7,202.98	
Contingency for App Bay and Mobile Structure Relocation	\$20,000	
Subtotal of Additional Costs	\$143,355.68	\$143,355.68
Total Apparatus Bay Building Cost (Including Previously Approved Expenses)		\$314,036.85

FISCAL IMPACT

The total requested budget increase for required anticipated changes for the temporary fire station construction project is \$335,180.92, which includes site improvement and apparatus bay improvement costs. These are typically General Fund Costs; however, the expenses meet the requirements associated with the expenditure of the City’s American Rescue Act allocation, which is approximately \$2 million dollars.

The table below summarizes the fiscal impact.

Temporary (Interim) Fire Station Project		
Item	Amount	Notes
Site Prep Work	\$257,278.18	Previously Approved with Bid Award
Apparatus Bay Building Costs	\$170,681.17	Previously Approved in Bond
SUBTOTAL	\$427,959.35	
Additional Site Prep Costs	\$191,825.24	Including Contingency
Additional App Bay Costs, Etc.	\$143,355.68	Including Contingency
Additional Construction Project Budget Needed	\$335,180.92	

RECOMMENDATION

It is recommended that the City Council:

- 1) Approve an increase budget for the Temporary (Interim) Fire Station Project of \$335,180.92 to fund the necessary increases in Scope of Work for the Site Improvements and Apparatus Bay; and
- 2) Increase the signing authority of the City Manager to pay expenses associated with the revised project budget; and
- 3) Authorized the use American Rescue Plan Act (ARPA) Funds to pay for the costs associated with the preparation of the Temporary (Interim) Fire station.

SUGGESTED MOTION

I move that the City Council:

- 1) Approve an increase budget for the Temporary (Interim) Fire Station Project of \$335,180.92 to fund the necessary increases in Scope of Work for the Site Improvements and Apparatus Bay; and
- 2) Increase the signing authority of the City Manager to pay expenses associated with the revised project budget; and
- 3) Authorized the use American Rescue Plan Act (ARPA) Funds to pay for the costs associated with the preparation of an interim fire station.

Pay Period: 7/1/2021 to 9/30/2021

Item No.	Item Description	Bid Qty	Bid Prices		This Estimate		PE #2		Total Revised Bid		PE #1		Total to Date		
			Unit Price	Total	Qty	Total	Qty	Total	Qty	Total	Qty	Total	Qty	Total	
Schedule A															
1	Roadway Surveying	1	LS	\$5,000.00	\$5,000.00		\$0.00	100%	\$5,000.00	100%	\$5,000.00	0	\$0.00	100%	\$5,000.00
2	Mobilization	1	LS	\$30,000.00	\$30,000.00		\$0.00	100%	\$30,000.00	100%	\$30,000.00	50%	\$15,000.00	50%	\$45,000.00
3	Clearing & Grubbing (Item paid for under original contract)	-	LS	\$0.00	\$0.00		\$0.00	--	\$0.00	--	\$0.00	100%	\$10,000.00	--	\$10,000.00
4	Removal of Structures & Obstructions (Item paid for under original contract)	-	LS	\$0.00	\$0.00		\$0.00	--	\$0.00	--	\$0.00	100%	\$3,000.00	--	\$3,000.00
5	Roadway Excavation of Native Clean Clay Soils, Incl Haul	1,575	CY	\$30.00	\$47,250.00	375.00	\$11,250.00	1200.00	\$36,000.00	1575.00	\$47,250.00	20%	\$2,000.00	1,575.00	\$49,250.00
5a	Unsuitable Excavation	-	CY	\$30.00	\$0.00		\$0.00	696.00	\$20,880.00	696.00	\$20,880.00	0.00	\$0.00	696.00	\$20,880.00
6	Construction Geotextile for Separation	2,020	SY	\$2.10	\$4,242.00		\$0.00	2020	\$4,242.00	2020	\$4,242.00	0.00	\$0.00	2,020.00	\$4,242.00
7	Crushed Surfacing Base Course	725	Ton	\$40.00	\$29,000.00	164.64	\$6,585.60	1136.26	\$45,450.40	1300.90	\$52,036.00	0.00	\$0.00	164.64	\$52,036.00
7a	Quarry Spalls	-	Ton	\$40.00	\$0.00		\$0.00	458.19	\$18,327.60	458.19	\$18,327.60	0.00	\$0.00	0.00	\$18,327.60
8	HMA Cl. 1/2" PG 58H-22	550	Ton	\$115.00	\$63,250.00	498.47	\$57,324.05	0.00	\$0.00	498.47	\$57,324.05	0.00	\$0.00	498.47	\$57,324.05
9	2" Backflow (Paid for under Original Contract)	1	LS	--	\$0.00		\$0.00	--	\$0.00	--	\$0.00	--	\$0.00	--	\$0.00
10	HDPE Pipe for Water Main 2 In Dia	117	LF	\$20.00	\$2,340.00		\$0.00	110	\$2,200.00	110	\$2,200.00	0	\$0.00	0	\$2,200.00
11	HDPE Pipe for Water Main 1 In Dia	141	LF	\$18.00	\$2,538.00		\$0.00	141	\$2,538.00	141	\$2,538.00	0	\$0.00	0	\$2,538.00
12	Conduit Pipe 4" Dia	145	LF	\$25.00	\$3,625.00		\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
13	Conduit Pipe 2" Dia	145	LF	\$20.00	\$2,900.00		\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
14	Gate Valve 1-2" and 2-1"	1	LS	\$500.00	\$500.00		\$0.00	1	\$500.00	1	\$500.00	0	\$0.00	0	\$500.00
15	Yard Hydrant	2	EA	\$250.00	\$500.00	1	\$250.00	1	\$250.00	2	\$500.00	0	\$0.00	1	\$500.00
16	Service Connection 2" Dia. (Paid for under Original Contract)	-	EA	--	\$0.00		\$0.00	--	\$0.00	--	\$0.00	--	\$0.00	--	\$0.00
17	6" PVC Sewer Service Lateral (Paid for under Original Contract)	-	EA	--	\$0.00		\$0.00	--	\$0.00	--	\$0.00	--	\$0.00	--	\$0.00
18	Connect to Existing Sewer Main	1	LS	\$2,000.00	\$2,000.00		\$0.00	50%	\$1,000.00	50%	\$1,000.00	0%	\$0.00	0	\$1,000.00
19	Erosion Control & Water Pollution Prevention	1	LS	\$500.00	\$500.00		\$0.00	1	\$500.00	1	\$500.00	86%	\$3,000.00	1	\$3,500.00
20	Roadside Restoration	1	LS	--	\$0.00		\$0.00	--	\$0.00	0%	\$0.00	--	\$0.00	--	\$0.00
21	Cement Concrete Traffic Curb	370	LF	\$35.00	\$12,950.00		\$0.00	370	\$12,950.00	370	\$12,950.00	0	\$0.00	0	\$12,950.00
22	Wheel Stops	4	EA	\$250.00	\$1,000.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
23	Cement Concrete Sidewalk	40	SY	\$80.00	\$3,200.00		\$0.00	40	\$3,200.00	40	\$3,200.00	0	\$0.00	0	\$3,200.00
24	Cement Concrete Curb Ramp, Type Parallel	1	EA	\$3,000.00	\$3,000.00		\$0.00	1	\$3,000.00	1	\$3,000.00	0	\$0.00	0	\$3,000.00
25	Permanent Signing	1	LS	\$500.00	\$500.00	0	\$0.00	0	\$0.00	0	\$0.00	0%	\$0.00	0	\$0.00
26	Paint Line	315	LF	\$3.25	\$1,023.75	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
27	Painted Access Parking Space Symbol	1	EA	\$750.00	\$750.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
28	Bollard Type 1	5	EA	\$1,420.00	\$7,100.00	5	\$7,100.00	0	\$0.00	5	\$7,100.00	0	\$0.00	5	\$7,100.00
29	Salvaged Ballast (Remove and Stockpile Ex. Gravel Ballast)	750	CY	\$25.00	\$18,750.00		\$0.00	475	\$11,875.00	475	\$11,875.00	0	\$0.00	0	\$11,875.00
30	Demolition of Existing 10'x24' Modular Office Bldg	1	LS	\$6,300.00	\$6,300.00		\$0.00	0	\$0.00	0	\$0.00	0%	\$0.00	0	\$0.00
	Pipe & Structures	1	LS		\$0.00		\$0.00	0%	\$0.00	0%	\$0.00	100%	\$10,000.00	1	\$10,000.00
	Water & Sewer	1	LS		\$0.00		\$0.00	0%	\$0.00	0%	\$0.00	100%	\$16,200.00	1	\$16,200.00
	Seeding	1	LS		\$0.00	0%	\$0.00	0%	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
	Striping	1	LS		\$0.00	0%	\$0.00	0%	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
	Final Clean up	1	LS		\$0.00	0%	\$0.00	0%	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
	Change Order No. 1 - Electrical, Revised no poles	-	LS		\$39,311.12			1	\$39,311.12	1	\$39,311.12				\$39,311.12
	Materials on Hand - Bollards	-	LS		\$0.00	-1	-\$3,707.01	1	\$3,707.01	0	\$0.00				\$0.00
	Change Order No. 2 - HMA Price Increase	550	Ton	\$5.00	\$2,750.00	498.47	\$2,492.35				\$2,492.35				\$2,492.35
	Change Order No. 3 - Electrical Supply				\$1,926.40		\$1,926.40				\$1,926.40				\$1,926.40
	Change Order No. 4 - Additional Excavation and Rock				\$15,960.00		\$15,960.00				\$15,960.00				\$15,960.00
	Change Order No. 5 - Delete BI 22, 25-27 from Contract				-\$3,273.75		\$0.00				\$0.00				\$0.00
	Change Order No. 6 - Delete Items 3 & 4 from CO #1				-\$3,751.00		-\$3,751.00				-\$3,751.00				-\$3,751.00
	Subtotal				\$301,141.52		\$95,430.39		\$240,931.13		\$336,361.52		\$59,200.00		\$395,561.52
	Sales Tax @ 8.2%				\$24,693.60		\$7,825.29		\$19,756.35		\$27,581.64		\$4,854.40		\$32,436.04
	Total Schedule A				\$325,835.12		\$103,255.68		\$260,687.48		\$363,943.16		\$64,054.40		\$427,997.56
	Interest Due for PE #2, July & August						\$5,213.75				\$5,213.75				\$5,213.75
	Total Schedule A, Incl. Interest				\$325,835.12		\$108,469.43		\$260,687.48		\$369,156.91		\$64,054.40		\$433,211.31

Item No.	Item Description	Bid Qty	Bid Prices		This Estimate		PE #2		Total Revised Bid		PE #1		Total to Date		
			Unit Price	Total	Qty	Total	Qty	Total	Qty	Total	Qty	Total	Qty	Total	
Schedule B															
1	Roadway Surveying	1	LS	\$5,000.00	\$0.00		\$0.00	0%	\$0.00	0%	\$0.00	0%	\$0.00	0%	\$0.00
2	Mobilization and Bonding	1	LS	\$10,000.00	\$0.00		\$0.00	0%	\$0.00	0%	\$0.00	50%	\$5,000.00	50%	\$5,000.00
3	Clearing & Grubbing	1	LS	\$0.00	\$0.00		\$0.00	0%	\$0.00	0%	\$0.00	50%	\$2,500.00	50%	\$2,500.00
5	Roadway Excavation Inc. Haul	200	CY	\$30.00	\$6,000.00		\$0.00	197	\$5,910.00	197	\$5,910.00	0	\$0.00	197	\$5,910.00
6	Construction Geotextile for Separation	780	SY	\$2.10	\$1,638.00		\$0.00	780	\$1,638.00	780	\$1,638.00			780	\$1,638.00
7	Crushed Surfacing Base Course	510	Ton	\$40.00	\$20,400.00		\$0.00	510	\$20,400.00	510	\$20,400.00	0	\$0.00	510	\$20,400.00
8	HMA CI 1/2" PG 58H-22	180	Ton	\$145.00	\$26,100.00	183.01	\$26,536.45	0	\$0.00	183.01	\$26,536.45	0	\$0.00	183.01	\$26,536.45
9	Ductile Iron Storm Sewer Pipe 12" Dia	37	LF	\$100.00	\$3,700.00		\$0.00	17	\$1,700.00	17	\$1,700.00			17	\$1,700.00
10	Catch Basin Type 1	2	EA	\$1,000.00	\$2,000.00		\$0.00	1	\$1,000.00	1	\$1,000.00			1	\$1,000.00
	<i>Pipe & Structures</i>	1	LS		\$0.00				\$0.00	0%	\$0.00	86%	\$3,000.00	86%	\$3,000.00
11	Connection to Drainage Structure	2	EA	\$200.00	\$400.00		\$0.00	0	\$0.00	0	\$0.00			0	\$0.00
12	Shoring or Extra Excavation	1	LS	\$1.00	\$1.00		\$0.00	100%	\$1.00	100%	\$1.00			1	\$1.00
13	Erosion Control and Water Pollution Prevention	1	LS	\$0.00	\$0.00		\$0.00	100%	\$0.00	100%	\$0.00	50%	\$500.00	150%	\$500.00
14	Roadside Restoration	1	LS	\$3,000.00	\$3,000.00	100%	\$3,000.00	0%	\$0.00	100%	\$3,000.00			1	\$3,000.00
15	Cement Concrete Traffic Curb and Gutter	220	LF	\$35.00	\$7,700.00		\$0.00	220	\$7,700.00	220	\$7,700.00			220	\$7,700.00
16	Cement Concrete Traffic Curb	60	LF	\$35.00	\$2,100.00		\$0.00	60	\$2,100.00	60	\$2,100.00			60	\$2,100.00
14	Obstructions	1	LS	\$5,000.00	\$0.00		\$0.00	0%	\$0.00	0%	\$0.00	50%	\$2,500.00	50%	\$2,500.00
	Change Order No. 2 - HMA Price Increase	180		\$5.00	\$900.00	183.01	\$915.05				\$915.05			0	\$915.05
Total Schedule B					\$73,939.00		\$30,451.50		\$40,449.00		\$70,900.50		\$13,500.00		\$84,400.50
Interest Due for PE #2, July & August							\$808.98				\$808.98				\$808.98
Total Schedule B, Incl Interest					\$73,939.00		\$31,260.48		\$40,449.00		\$71,709.48		\$13,500.00		\$85,209.48
Total Schedule A + Schedule B					\$399,774.12		\$139,729.91		\$301,136.48		\$440,866.39		\$77,554.40		\$518,420.79

Total Due Revised Pay Estimate PE #3 \$139,729.91

Bid Summary	Original Bid Awarded 11/23/2020	Revised Bid Paid Thru Final Pay App #3	Change from Orig. to Final Rebid	Original Bid Paid PE#1	Total Paid Orig. + Rebid
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Schedule A					
Revised Bid	\$ 142,068.55	\$ 280,422.65	\$ 138,354.10	\$ 59,200.00	\$ 339,622.65
Change Orders	\$ -	\$ 55,938.87	\$ 55,938.87	\$ -	\$ 55,938.87
Total Schedule A	\$ 142,068.55	\$ 336,361.52	\$ 194,292.97	\$ 59,200.00	\$ 395,561.52
Sales Tax for Bid @8.2%	\$ 11,649.62	\$ 22,994.66	\$ 11,345.04	\$ 4,854.40	\$ 27,849.06
Sales Tax for Change Order @8.2%	\$ -	\$ 4,586.99	\$ 4,586.99	\$ -	\$ 4,586.99
Total Schedule A, with Tax	\$ 153,718.17	\$ 363,943.16	\$ 210,224.99	\$ 64,054.40	\$ 427,997.56
Late Payment Interest		\$ 5,213.75	\$ 5,213.75		\$ 5,213.75
Total Schedule A, Incl. Interest	\$ 153,718.17	\$ 369,156.91	\$ 215,438.74	\$ 64,054.40	\$ 433,211.31

Schedule B					
Revised Bid	\$ 70,000.00	\$ 69,985.45	\$ (14.55)	\$ 13,500.00	\$ 83,485.45
Change Orders	\$ -	\$ 915.05	\$ 915.05	\$ -	\$ 915.05
Total Schedule B	\$ 70,000.00	\$ 70,900.50	\$ 900.50	\$ 13,500.00	\$ 84,400.50
Late Payment Interest	\$ -	\$ 808.98	\$ 808.98	\$ -	\$ 808.98
Total Schedule B, Incl. Interest	\$ 70,000.00	\$ 71,709.48	\$ 1,709.48	\$ 13,500.00	\$ 85,209.48

Total Schedule A + Schedule B	\$ 223,718.18	\$ 440,866.39	\$ 217,148.21	\$ 77,554.40	\$ 518,420.79
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Total Schedule A + Schedule B

Bid Price	\$ 212,068.55	\$ 350,408.10	\$ 138,339.55	\$ 72,700.00	\$ 423,108.10
Change Orders	\$ -	\$ 56,853.92	\$ 56,853.92	\$ -	\$ 56,853.92
Total	\$ 212,068.55	\$ 407,262.02	\$ 195,193.47	\$ 72,700.00	\$ 479,962.02
Sales Tax for Bid @8.2%	\$ 11,649.62	\$ 22,994.66	\$ 11,345.04	\$ 4,854.40	\$ 27,849.06
Sales Tax for Change Order @8.2%	\$ -	\$ 4,586.99	\$ 4,586.99	\$ -	\$ 4,586.99
Total Schedule A + B, with tax	\$ 223,718.17	\$ 434,843.66	\$ 211,125.49	\$ 77,554.40	\$ 512,398.06
Interest	\$ -	\$ 6,022.73	\$ 6,022.73	\$ -	\$ 6,022.73
Total Schedule A + Schedule B	\$ 223,718.17	\$ 440,866.39	\$ 217,148.22	\$ 77,554.40	\$ 518,420.79

Original Bid with Sales Tax	\$ 223,718.17
Bid Increase with Sales Tax	\$ 149,684.59
Chage Orders with Sales Tax	\$ 61,440.91
Total Bid & Change Orders with Sales Tax	\$ 434,843.66
Interest Paid	\$ 6,022.73
Total Re-bid, COs, Sales Tax & Interest	\$ 440,866.39
Original bid work paid	\$ 77,554.40
Total Paid	\$ 518,420.79

Site Preparation Work by Barcott Construction	Schedule A Amount Paid	Schedule B Amount Paid	Total Schedule A & B
Original bid with sales tax	\$64,054.40	\$13,500.00	\$77,554.40
Re-bid with sales tax	\$303,417.31	\$69,985.45	\$373,402.76
Change orders with sales tax	\$60,525.86	\$915.05	\$61,440.91
Interest for PE#2 late payment	\$5,213.75	\$808.98	\$6,022.73
Total Project Cost	\$433,211.31	\$85,209.48	\$518,420.79

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Lilly Wall, Parks and Recreation Manager

MEETING OF: April 25, 2022

SUBJECT: Resolution No. 4-2022, First and Final Reading – Authorizing Application and Administration for State and Federal Grant Funding for the Construction of a Parking Lot at Recreation Park

ISSUE

Resolution No. 4-2022 is presented for City Council adoption authorizing staff to submit applications and administer state and federal grant funding in support of constructing a parking lot at Recreation Park.

DISCUSSION

The outstanding facilities at Recreation Park are attracting so many users it has created a need for additional parking. Using Recreation Park property, staff desires to construct a 55-stall parking lot to accommodate parking deficiencies. A preliminary design and cost estimate has been completed by RB Engineering. The estimated cost is approximately \$580,000.00, including 7% inflation cost, the project will not begin until early 2023 (See attachment).

The project also addresses a major safety concern. Due to a lack of parking, participants are choosing to park in unsafe locations surrounding the park that do not have proper surfacing, sidewalks, or designated crossings. One of the main concerns is children running across and darting into traffic while crossing SW Parkland Drive.

Park users are frustrated with the lack of parking. To the best of our ability, we want to keep them safe, happy, and wanting to return to our tournaments, aquatics center and Penny Playground to participate in activities that bring tourism dollars to our community.

The neighboring businesses and homes that surround the park will also appreciate the added parking, as park visitors regularly park in their business parking lots and/or private parking spaces.

The City of Chehalis approved the comprehensive Parks, Recreation and Open Space Plan (adopted by the Council via resolution number 1-2018) that includes renovation projects at Recreation Park.

The adoption of this resolutions authorizes the City Manager to sign formal grant agreement(s), assign authorized representative(s) to submit grant applications, act as the project contact responsible for the day-to-day administration of a grant and to provide requested property and real estate documents.

The City of Chehalis would assume the responsibility for the matching share of an awarded grant. Some grants require up to a 50% match and others do not require a match. The grant match could be supported by the General Fund, American Rescue Act Funds, other awarded grants, and community donations.

It is understood that property owned by the City that is developed with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy. Recreation Park is currently dedicated in perpetuity for public outdoor recreational purposes by previous Recreation Conservation Office Project Agreements.

FISCAL IMPACT

Undetermined. The City of Chehalis would assume the responsibility for the matching share of an awarded grant.

RECOMMENDATION

It is recommended that the City Council adopt Resolution No. 4-2022 on first and final reading.

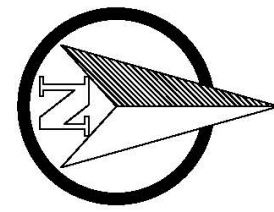
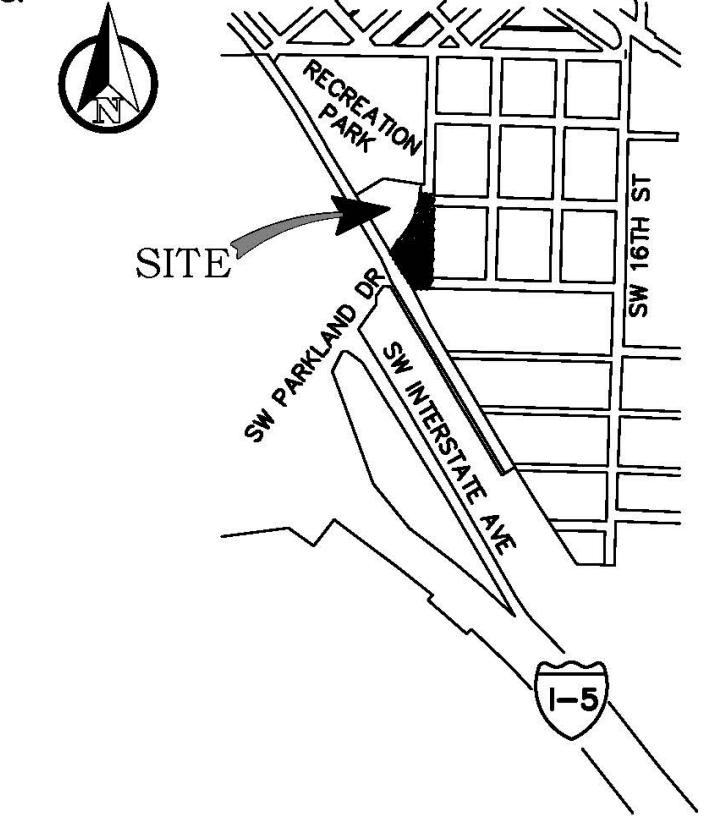
SUGGESTED MOTION

I move that the City Council adopt Resolution No. 4-2022 on first and final reading.

PHASE 3 - RECREATION PARK PARKING ADDITION

SECTION 32, TOWNSHIP 14 NORTH, RANGE 2 WEST, W.M.
"CHEHALIS", WASHINGTON

VICINITY MAP
N.T.S.



SCALE: 1"=20 FEET
0 10 20 40

PROJECT INFORMATION

APPLICANT: CITY OF CHEHALIS
C/O LILLY WALL
1321 S MARKET BLVD
CHEHALIS, WA 98532
(360)748-0271
LWALL@CI.CHEHALIS.WA.US

PARCEL NO: 005864001000

SITE ADDRESS: 401 SW PARKLAND DR
CHEHALIS, WA 98532

ZONING: EPF-P

SITE AREA: 0.41 ACRES

FIRE DISTRICT: CHEHALIS FIRE DISTRICT

SCHOOL DISTRICT: CHEHALIS SCHOOL DISTRICT

UTILITIES:
POWER: LEWIS COUNTY PUD
PHONE: RAINIER CONNECT
GAS: PUGET SOUND ENERGY
WATER: CITY OF CHEHALIS
SEWER: CITY OF CHEHALIS

NO.	DATE	REVISION

DESIGNED BY: ARP
DRAWN BY: ARP
CHECKED BY: RWB
DATE: 12.20.21
SCALE: 1" = 20'

PHASE 3 - RECREATION PARK
PARKING ADDITION

CHEHALIS WA.

PRELIMINARY SITE PLAN



RB Engineering
DESIGN → PERMIT → MANAGE

P.O. Box 923
CHEHALIS, WA 98532

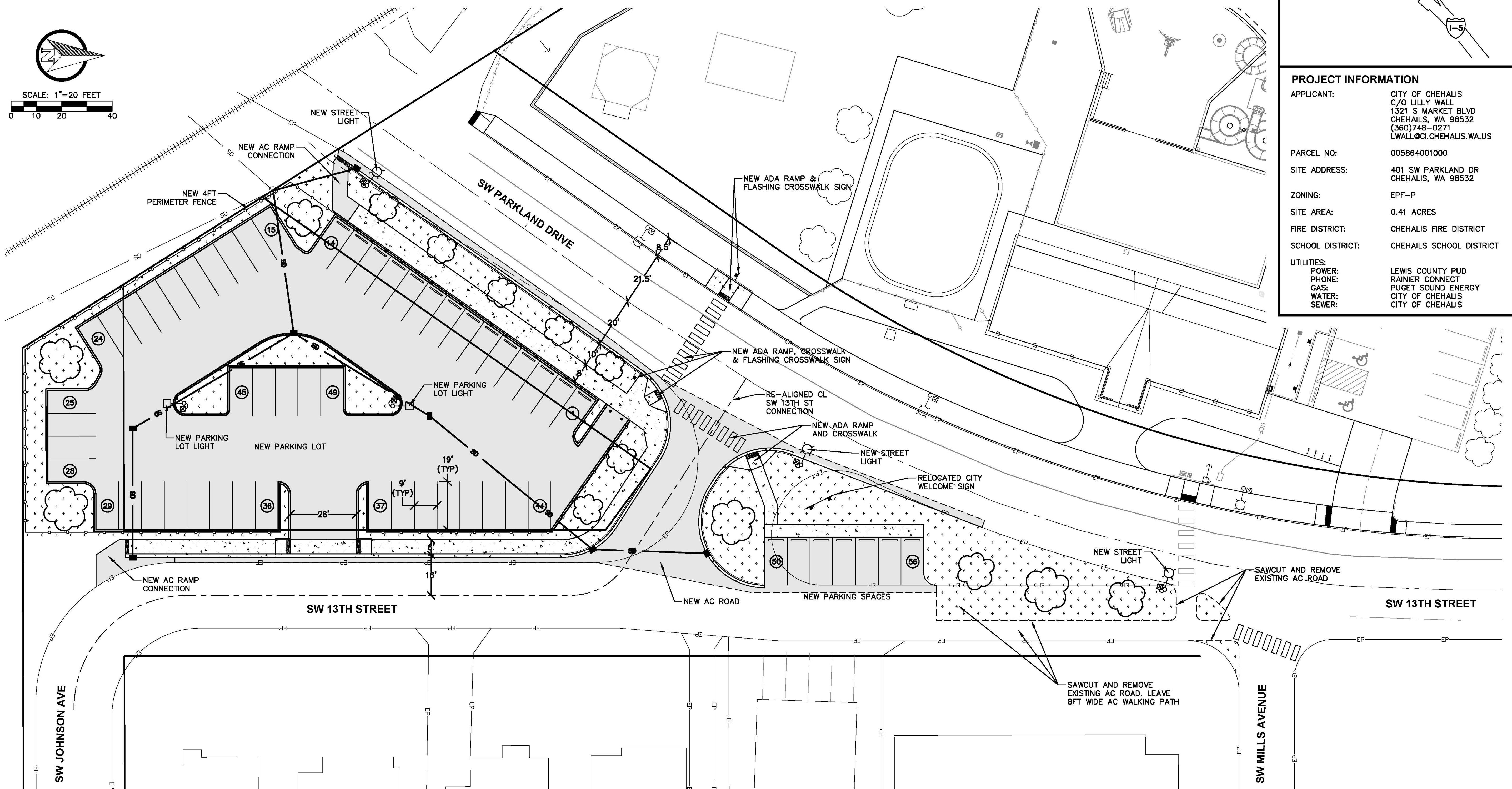
OFF: (360) 740-8819
EMAIL: Carl@RBCEngineers.com

811 Know what's below. Call 811 before you dig.

JOB NUMBER
21124

DRAWING NAME
21124_CO.1_CVR

C0.1
1 OF 1



No.	Description	Units	Quantity	Unit Price	Cost
General Provisions					
	Mobilization, utility work	LS	1	15000.00	\$ 15,000
	Temporary traffic control	LS	1	2000.00	\$ 2,000
	Survey, Engineering, Soils, Const. Management, MTC	LS	1	35000.00	\$ 35,000
	Protect Existing Facilities	LS		2000.00	—
General Provisions subtotals:					\$ 52,000
Parking Lot and Parkland Ave					
	TESC, inlet sediment protection, silt fencing	LS	1	4000	\$ 4,000
	4 Ft Fencing - Black	LF	605	24.00	\$ 14,520
	Clearing	LS	1	5000.00	\$ 5,000
	Excavation and Grading	CY	1500	15.00	\$ 22,500
	Demolition, other	LS	1	15000.00	\$ 15,000
	Catch Basin Type 1	EA	7	1500.00	\$ 10,500
	Corrugated PE storm sewer pipe, 12" dia.	LF	380	60.00	\$ 22,800
	Stormtech Vortex Vault	EA	1	8500.00	\$ 8,500
	CSBC placed	TON	2000	28.00	\$ 56,000
	CSTC, placed	TON	250	28.00	\$ 7,000
	Concrete Driveway	EA	1	3500.00	\$ 3,500
	Concrete sidewalk (on-site)	SF	328	55.00	\$ 18,040
	Concrete Curb and Gutter	LF	515	50.00	\$ 25,750
	HMA CL.1, 3" depth (on-site)	TON	180	150.00	\$ 27,000
	Extruded Concrete curb	LF	819	35.00	\$ 28,665
	ADA Ramps	EA	3	2400.00	\$ 7,200
	Striping (on-site and street)	LS	1	6500.00	\$ 6,500
	Cross walk blinking light - Solar	EA	2	9000.00	\$ 18,000
	Landscaping	LS	1	15000.00	\$ 15,000

No.	Description	Units	Quantity	Unit Price	Cost
	Parking Lot Lighting and Disconnect	LS	1	6000.00	\$ 6,000
	Parkland Drive Street Lighting	LS	1	15000.00	\$ 15,000
					—
	Parking Lot and Parkland Ave subtotals:				\$ 336,475
	Bid Itemization Subtotal				\$ 388,475
	Construction Cost				
	Construction Cost				\$ 388,475
	Construction Contingency @ 15%				\$ 58,271
	WA State Retail Sales Tax @ 8.2%				\$ 36,633
				Construction Cost:	\$ 483,379
	<i>7% inflation</i>				<i>\$ 33,836.53</i>
					<i>\$ 577,214</i>

RESOLUTION NO. 4-2022

**A RESOLUTION OF THE CITY OF
CHEHALIS, WASHINGTON, AUTHORIZING
APPLICATION AND ADMINISTRATION FOR
STATE AND FEDERAL FUNDING FOR THE
CONSTRUCTION OF A PARKING LOT AT
RECREATION PARK**

WHEREAS, This Resolution authorizes submitting applications for state and federal grant funding assistance; and

WHEREAS, the City of Chehalis has approved a comprehensive Parks, Recreation and Open Space Plan (adopted by the Council via resolution number 1-2018) that includes this project; and

WHEREAS, under the provisions of grant requirements, state and federal assistance is requested to aid in financing the cost of constructing a parking lot to accommodate park users at Recreation Park; and

WHEREAS, the City of Chehalis considers it in the best public interest to seek funding to build a parking lot to accommodate the need for additional parking and mitigate safety concerns; now, therefore,

Section 1. The City Manager is authorized to sign formal grant agreement(s) with the Recreation Conservation Office as well as other State and Federal entities for grant assistance.

Section 3. The City Manager is authorized to appoint “authorized representative(s)” to submit grant applications and act as the project contact responsible for the day-to-day administration of a grant and to provide requested property and real estate documents.

Section 4. Any grant assistance received will be used for direct eligible and allowable costs and necessary to implement of the project referenced above.

Section 5. The City of Chehalis hereby certifies the responsibility for the matching share of project. In addition, the city understands we are responsible for supporting all non-cash commitments to this project should they not materialize.

Section 6. We acknowledge that the grant assistance, if approved, will be paid on a reimbursement basis, meaning we will only request payment from the Recreation Conservation Office and/or other State and Federal grantors (if applicable) after eligible and allowable costs have been incurred and payment remitted to vendors, and retainage will be held until the project is deemed complete.

Section 7. We acknowledge that property owned by the City that is developed with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy or Office in writing and per the Agreement or an amendment thereto.

ADOPTED by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this _____ day of _____, 2022.

Anthony Ketchum Sr., Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Chun Saul, Finance Director

MEETING DATE: April 25, 2022

SUBJECT: Ordinance No. 1028-B, Second and Final Reading – Amending the 2022 Budget

ISSUE

Ordinance No. 1028-B amending the 2022 Budget, is hereby submitted to reflect the changes in estimates and actual activities of the City since the adoption of the 2022 Budget. The first reading of this Ordinance was conducted on April 11, 2022. There have been no changes since the first reading.

Throughout the year, adjustments to the budget become necessary because of City Council actions; changes in estimates; activity levels that were not anticipated during budget development; and grant awards or other receipts of outside funding. Historically, the budget has been amended two or three times per year prior to the conclusion of the fiscal year on December 31st.

DISCUSSION

This proposed amendment to the 2022 Budget includes the following key items:

- 1) Updates the estimated 2022 beginning fund balances for all funds to reflect the actual ending fund balances at the close of fiscal year 2021. This action has no impact on the 2022 revenues and expenditures budget but changes the estimated 2022 ending fund balances for all city funds.
- 2) Requests to carry over the remaining 2021 budget to 2022 for certain capital improvement projects that were approved in 2021 but are to be completed in 2022.
- 3) Requests for additional revenues and appropriations that were not included in the 2022 Adopted Budget.

The 2022 Budget Summary for the proposed amendment, including updated beginning fund balances; revenues; transfers-in; expenditures; transfers-out; estimated ending fund balances; and a detailed list of proposed budget amendment items are attached to the proposed Ordinance No. 1028-B as Exhibit “A” and Exhibit “A-1”.

The proposed budget amendments by fund are summarized as follows:

General Fund

The proposed budget amendment increases the General Fund's revenues by \$336,616, increases appropriations by \$454,520, and increases transfers-out by \$735,000, resulting in a net decrease in fund balance by \$852,904.

Total revenue budget increase of \$336,616 includes the following:

- \$233,425 for State Recreation and Conservation Office grant reimbursement for Flood Storage Master Plan expenditure
- \$72,324 payment received for vacated right of way buy/sell agreement ORD No. 1021-B
- \$10,000 WCIA insurance reimbursement
- \$4,500 additional public defense grant received
- \$16,367 for confiscation and forfeiture (drug seizure) receipts exceeding the budget amount

Total additional appropriation request of \$454,520 includes the following:

- \$21,000 for actual WCIA insurance premiums that exceeded the budget estimation.
- \$14,250 for converting a Court Judicial Assistant/Sentence Monitoring position from 0.73 FTE to 1.0 FTE position approved by the City Council on February 28, 2022.
- \$10,300 for wages and benefits for a temporary part-time staff in City Manager's Office due to the full-time Administrative Assistant serving as Interim City Clerk.
- \$20,000 for MOU with Lewis County Economic Development Council for infrastructure analysis and grant assistance services, which was approved by the City Council on October 25, 2021.
- \$47,300 for leases of mobile trailers and the Airport site for an emergency fire station through August 2022
- \$44,000 for additional uniforms (4th set of turn outs) for the firefighters
- \$33,270 for uniforms and small equipment for the firefighters (2021 back orders received in 2022)
- \$20,000 for replacing a Swiftwater boat (fire rescue) that failed during the 2022 flood
- \$20,000 for outside lighting for fire station at Sitka Street
- \$186,520 for the remaining professional services agreement to complete the Flood Storage Master Plan project which is 100% funded by state RCO grant.
- \$32,880 increase for converting a temporary part-time Records Assistance position to a full-time Records Specialist position approved by the City Council on February 28, 2022.
- \$5,000 increase for Music-in-the-Park professional services agreement that was approved on February 28, 2022.

Total transfers-out of \$735,000 reflects the 2021 year-end Fund Balance Commitment Ordinance No. 1027-B. At the 2/28/2022 Council meeting, the City Council approved a portion of the 2021 ending fund balance as Committed for the following specific purpose and use. These were not in the 2022 original adopted budget:

- \$100,000 for general facilities improvement reserves
- \$80,000 for police evidence garage
- \$50,000 for interior remodeling for Recreation/Finance department building
- \$55,000 for temporary fire station project
- \$300,000 for vehicle replacement reserves
- \$150,000 for financial software system upgrade reserves

A summary of changes from the 2022 Adopted Budget to the 2022 Proposed Amended Budget for the General Fund as provided below:

General Fund	2022 Original Adopted Budget	2022 Proposed Amended Budget	Amendment #1 Incr. (Decr.)	Change %
Revenues	\$ 10,989,670	\$ 11,326,286	\$ 336,616	3.1%
Transfers-In	457,340	\$ 457,340	-	0.0%
Expenditures	10,693,001	\$ 11,147,521	454,520	4.3%
Transfers- out	1,216,219	\$ 1,951,219	735,000	60.4%
Net Revenues Over (Under) Expenditures	\$ (462,210)	\$ (1,315,114)	\$ (852,904)	184.5%
Beginning Fund Balance ^	1,832,460	2,719,202	886,742	48.4%
Estimated Ending Fund Balance	\$ 1,370,250	\$ 1,404,088	\$ 33,838	2.5%
Estimated Ending Fund Balance % of Revenue	12.5%	12.4%		

^Updated to reflect actual ending fund balance at the close of fiscal year 2021 for 2022 Amended Budget

Public Facilities Reserve Fund

The proposed budget amendment increases the Public Facilities Reserve Fund's transfers-in by \$285,000 and increases the appropriations by \$295,000, resulting in a net decrease in fund balance by \$10,000.

The \$285,000 transfers-in is for the following purposes:

- \$80,000 for a police evidence garage
- \$50,000 for an interior remodeling of the Recreation/Finance building
- \$55,000 for additional funds for the temporary fire station project at Sitka Street property.
- \$100,000 to set aside for future improvements and/or major repairs of general facilities

The \$295,000 additional appropriation requested is to complete the temporary fire station project and includes a \$234,585 of 2021 budget carry over to 2022. The project is anticipated to be completed in 2022, which includes relocation of a mobile home purchased, completion of a metal apparatus bay building for fire equipment, and project engineering services.

A summary of changes from the 2022 Adopted Budget to the 2022 Proposed Amended Budget for the Public Facilities Reserve Fund is provided below:

Public Facilities Reserve Fund	2022 Original Adopted Budget	2022 Proposed Amended Budget	Amendment #1 Incr. (Decr.)	Change %
Revenues	\$ 250	\$ 250	\$ -	0.0%
Transfers-In	200,000	485,000	285,000	142.5%
Expenditures	130,000	425,000	295,000	226.9%
Transfers-out	180,000	180,000	-	0.0%
Net Revenues Over (Under) Expenditures	\$ (109,750)	\$ (119,750)	\$ (10,000)	9.1%
Beginning Fund Balance^	410,271	477,066	66,795	16.3%
Estimated Ending Fund Balance	\$ 300,521	\$ 357,316	\$ 56,795	18.9%

^Updated to reflect actual ending fund balance at the close of fiscal year 2021 for 2022 Amended Budget

The estimated ending fund balance at the end of 2022 is \$357,316 which is comprised of the following:

- \$200,000 for Architectural and Engineering for a permanent fire station building and related costs.
- \$157,316 for other general facilities improvements and/or major repairs

Automotive/Equipment Reserve Fund

The proposed budget amendment increases the Automotive/Equipment Reserve Fund's transfers-in by \$450,000, which includes \$300,000 for vehicle and equipment replacement and \$150,000 for financial software system upgrades. The funds are transferred in from the General Fund as approved by the City Council in the 2021 year-end fund balance commitment Ordinance No. 1027-B.

There are no other expenditures budgeted in 2022. The estimated fund balance at the end of 2022 is \$733,353, which includes \$250,000 for financial software system upgrades and the remaining \$483,353 for vehicle and equipment replacements.

Park Improvement Fund

The proposed budget amendment increases the Park Improvement Fund's appropriations by \$55,000. This is a new fund created with the adoption of the 2022 Budget to accumulate and provide funds for capital improvements to the City's park and recreation facilities. The requested appropriation includes:

- \$10,000 for the asphalt sealing for a walking path at the recreation park
- \$45,000 for 2021 budget carry over for field equipment for the recreation park

Wastewater Fund

The proposed budget amendment increases the Water Fund's appropriations by \$4,300 for the Wastewater Fund share of the WCIA annual insurance premium exceeding the budgeted amount.

Water Fund

The proposed budget amendment increases the Water Fund's appropriations by \$3,900 for the Water Fund share of the WCIA annual insurance premium exceeding the budgeted amount.

Airport Fund and Airport Capital Fund

The proposed budget amendment increases the Airport Fund's appropriations by \$5,500 due to unexpected equipment repairs.

The proposed budget amendment increases the Airport Capital Fund's revenues by \$1,053,776 and increases appropriations by \$605,710.

The revenue budget increase of \$1,053,776 includes the following:

- \$147,163 CARB loan proceeds remaining for the Above Ground Fuel Storage project.

On 1/8/2020, the City entered a Community Aviation Revitalization Loan Agreement with Washington State Department of Transportation for an Above Ground Fuel Storage Project at the Chehalis-Centralia Airport for a loan amount not to exceed \$750,000 with an interest rate of 2% for a 20-year term. The City is reimbursed on a loan basis for actual net project costs for allowable expenses incurred in completing the project described in the agreement. The loan is to be repaid annually by the City and commences one (1) year after the month in which the project is completed. The project is still in progress and is expected to be completed in 2022. The loan will be repaid by the City's Airport Fund.

- \$906,613 FAA/AIP grant reimbursement for the Airfield Pavement Rehabilitation project. The project was substantially completed in 2021 and anticipated to be closed out in 2022. Total project cost is to be reimbursed by FAA grant.

Total appropriations increase of \$605,710 requested includes the following:

- \$587,216 carry over of 2021 budget for the Above Ground Fuel Storage project. The project is expected to be completed in 2022.
- \$ 18,494 for final payments for the Airfield Pavement Rehabilitation project.

City-Wide Summary

The proposed budget amendment revises the budgeted amount by a combined net total decrease in fund balance by \$8,538 and a total estimated ending fund balance to \$26,914,443 as provided below:

City-wide (All Funds)	2022 Original Adopted Budget	2022 Proposed Amended Budget	Amendment #1 Incr. (Decr.)	Change %
Revenues	\$ 28,374,422	\$ 29,789,814	\$ 1,415,392	5.0%
Transfers-In	13,448,484	14,183,484	735,000	5.5%
Expenditures	28,166,738	29,590,668	1,423,930	5.1%
Transfers-out	13,448,484	14,183,484	735,000	5.5%
Net Revenues Over (Under) Expenditures	\$ 207,684	\$ 199,146	\$ (8,538)	-4.1%
Beginning Fund Balance [^]	24,554,668	26,715,297	2,160,629	8.8%
Estimated Ending Fund Balance	\$ 24,762,352	\$ 26,914,443	\$ 2,152,091	8.7%

[^]Updated to reflect actual ending fund balance at the close of fiscal year 2021 for 2022 Amended Budget

RECOMMENDATION

It is recommended that the City Council pass Ordinance No. 1028-B on second and final reading.

SUGGESTED MOTION

I move that the City Council pass Ordinance No. 1028-B on second and final reading.

ORDINANCE NO. 1028-B

AN ORDINANCE OF THE CITY OF CHEHALIS, WASHINGTON, AMENDING THE 2022 FISCAL YEAR BUDGET ADOPTED BY ORDINANCE NO. 1025-B BY REVISING THE BUDGETED AMOUNTS BY A COMBINED TOTAL OF EIGHT THOUSAND AND FIVE HUNDRED THIRTY-EIGHT (\$8,538) FOR THE GENERAL FUND, PUBLIC FACILITIES RESERVE FUND, AUTOMOTIVE/EQUIPMENT RESERVE FUND, PARK IMPROVEMENT FUND, WASTEWATER FUND, WATER FUND, AIRPORT FUND, AND AIRPORT CAPITAL FUND AND DIRECTING THE FINANCE DIRECTOR TO AFFECT THE BUDGET AMENDMENTS HEREIN PROVIDED.

THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the General Fund's revenues by \$336,616, increase transfers- out by \$735,000, and increase appropriations by \$454,520.

Section 2. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the Public Facilities Reserve Fund's transfers-in by \$285,000 and increase appropriations by \$295,000.

Section 3. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the Automotive/Equipment Reserve Fund's transfers-in by \$450,000.

Section 4. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the Parks Improvement Fund's appropriations by \$55,000.

Section 5. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the Wastewater Fund's appropriations by \$4,300.

Section 6. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the Water Fund's revenues by \$25,000 and increase appropriations by \$3,900.

Section 7. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the Airport Fund's appropriations by \$5,500.

Section 8. The annual budget of the city for the calendar year 2022 shall be, and the same hereby is, amended so as to increase the Airport Capital Fund's revenues by \$1,053,776 and increase appropriations by \$605,710.

Section 9. Attached hereto and identified as Exhibit A, in summary form, is the total of

estimated revenues, transfers-in, expenditures, and transfers-out for each separate fund and the aggregate totals for all such funds combined for the city for the amended 2022 budget which shows a total estimated ending fund balance of \$26,914,443.

PASSED by the City Council of the City of Chehalis, Washington, and **APPROVED** on its first reading at a regularly scheduled open public meeting thereof this ____ day of _____, 2022.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

MEETING OF: April 25, 2022

SUBJECT: Water Rights Purchase from Marwood Farms, LLC

ISSUE

The City does not have enough water to meet the future demand forecasted in the 50-year growth model. If additional water cannot be accessed, economic growth will be constrained by the projected lack of water. There is an opportunity to purchase water rights on the Chehalis River from Marwood Farms, LLC. This item has been scheduled to present a proposal to purchase up to 160 acre feet of water per year (afy) (consumptive use) at a cost of \$2,800 per acre foot for total purchase price of up to \$448,000 plus fees and taxes.

BACKGROUND

Representatives for the owners of Marwood Farms contacted the City last year regarding the potential availability of water rights because the farm property was going to be sold to the State for recreational purposes and the water rights would not be needed for the intended use. The City expressed interest in discussing the possible purchase; however, there was a need for an analysis of the water rights, including any applicable restrictions, etc. That work was done by Aspect Consulting for Marwood Farms and is provided as an attachment to the proposed Purchase and Sale Agreement.

As more information became available, it became apparent that the water rights could help the City meet future water demands even with the applicable limitations, most notably that the water can only be used during the irrigation season of April 15 to October 1; however, that is the time of highest demand.

KEY TERMS OF THE PURCHASE AND SALE AGREEMENT (PSA)

The City's legal representative in this matter is Tom McDonald of Cascadia Law Group, an expert in water rights, was contacted to assist the City through this process. A draft purchase and sale agreement (PSA), which is attached, has been prepared for consideration by the City Council.

The Agreement sets forth the terms associated with the purchase of up to 160 afy of consumptive water, the final amount which will be determined by a decision by the Department of Ecology (DOE). In addition, it sets forth the process and timelines associated with obtaining the final decision by DOE. These include requirements for the City and the sellers

to jointly file applications to change the Seller's water rights to allow the water to be used by the City for municipal purposes within the City's service area, with diversion (withdrawal) occurring at the City's point of diversion on the Chehalis River. These applications would be filed with the Lewis County Water Conservancy Board ("LCWCB").

The LCWCB would make the initial decision to approve or deny the applications. DOE then reviews the Board's decision and has the authority to approve, reverse, or modify the decision(s). If the City does not concur with DOE's decision, it can consider appealing the final decision. Absent any appeals, the process is expected to take up to a year to conclude.

Financial Terms

The City would be required to pay earnest money in the amount of \$25,000 within 15 days after the agreement is approved and signed by all parties. The money will be credited against the purchase price; however, it is non-refundable except as provided for in the PSA (Section 14. Termination). The conditions related to the Seller being able to terminate the agreement and retain the earnest money relate to timelines for the filing of the change applications and if the closing does not occur within two years due to delays caused by the City.

As noted above, the cost per acre foot is \$2,800. The City would be obligated to buy up to 160 afy, depending on the final decision by DOE. Therefore, the City can expect to invest up to \$448,000 for the purchase of the water rights. The City will also be responsible for real estate excise tax and recording costs.

The payment for the water rights would be due after DOE's final decision on the applications to make the changes needed to allow the City to use the water for municipal purposes. Absent any need for appeals, the decision is expected to be made in the first half of 2023. At this time, it is proposed that the City will pay the amount due from the Water System Capital Improvement Fund, which is adequately funded to make this investment. It is expected that the system will be reimbursed over the next several decades through additional water connection charges associated with new development.

INFRASTRUCTURE LIMITS

The water line that transports water from the Chehalis River to the City's water treatment plant was constructed in 1961 and is showing signs of its age. Water pressure in the line must be limited to prevent failures in the line. The project is on the Capital Improvement Plan for replacement and the City has applied for federal assistance; however, it is a major project and will likely take at least 5 to 7 years to replace, due to the complexity of the project. Therefore, if the Marwood water rights are purchased by the City, they will not be able to be used until the infrastructure can accommodate the additional water pressure.

The purchase of the water rights would be an investment for the future, adding the potential to serve more customers in the Chehalis Water system as growth in the City's Urban Growth Area continues.

FISCAL IMPACT ON CITY BUDGET

The cost to purchase water rights is not included in the City's 2022 Budget. If approved, the earnest money and ultimately, the purchase of the water rights would be paid from the City's Water Capital fund. The estimated 2022 ending balance of the City's Water Capital Fund is \$5,916,000. It is expected that the payment for the water rights would be required approximately 9 to 12 months from the application date. Assuming the application is filed by June 1, 2022 the payment would likely be required in first half of 2023, absent any need for appeals.

It is proposed that the City pay for the water rights from the Water Fund Balance due to the uncertainty of the timing of the payment and the costs associated with using bond funds for a relatively small amount of money.

If DOE approves the transfer of all 160 afy, the cost to purchase the water would be \$448,000 plus approximately \$7,700 in excise taxes, as well as applicable fees and closing costs associated with the purchase.

If DOE does not approve the transfer of all 160 afy, the cost will go down accordingly. For example, if DOE approves only 120 afy, the cost to the City would be \$336,000 (120 x \$2,800 per afy) plus applicable fees and taxes.

LIMITED AVAILABILITY OF WATER RIGHTS

Water rights are increasing in value to the limited supply, so opportunities to purchase them must be carefully considered. This is why the City is also working with the City of Centralia to purchase up to 3000 afy of water rights from Trans Alta. While the process is moving forward, the water that could become available through the Trans Alta transaction will require significant infrastructure investments by the City of Centralia, as well as the City of Chehalis. In addition, there is a complex administrative process related to obtaining DOE's approval of the change in use of the Trans Alta water with an outcome that cannot be guaranteed.

RECOMMENDATION

It is recommended that the City Council approve the Water Rights Purchase and Sale Agreement and Joint Escrow Instructions and authorize the City Manager to:

- 1) Execute the Agreement and related documents associated with fulfilling the terms of the Agreement
- 2) Authorize the payment of the Earnest Money in the amount of \$25,000 within 15 days of signature
- 3) Authorize payment for water rights and applicable fees and taxes consistent with the Agreement upon performance of the applicable terms and conditions.

SUGGESTED MOTION

I move that the City Council approve the Water Rights Purchase and Sale Agreement and Joint Escrow Instructions and authorize the City Manager to:

- 1) Execute the Agreement and related documents associated with fulfilling the terms of the Agreement
- 2) Authorize the payment of the Earnest Money in the amount of \$25,000 within 15 days of signature
- 3) Authorize payment for water rights and applicable fees and taxes consistent with the Agreement upon performance of the applicable terms and conditions.

WATER RIGHTS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This Water Rights Purchase and Sale Agreement (“Agreement”) is made by and between the City of Chehalis (“City” or “Buyer”), and Marwood Farms LLC, (“Seller”) (occasionally each referred to herein as a “Party,” or collectively the “Parties”), as of the _____ day of _____, 2022 (the “Effective Date”).

RECITALS

Seller is the owner of a portion of surface water rights identified by Water Right Certificates No. S2-SWC1862(A) and No. S2-SWC9995(A) (collectively “Water Rights”).

Water Right No. S2-SWC1862(A) authorizes 0.21 cubic feet per second (cfs) and not specified acre feet per year (afy), attached as Exhibit A, which is appurtenant to real property in Lewis County, Washington.

Water Right No. S2-SWC9995(A) authorizes 0.7938 cfs and 167.58 afy, attached as Exhibit B.

Seller owns the property to which the Water Rights are appurtenant.

Buyer desires to purchase the Water Rights and change and transfer said rights to the City for municipal purposes within the City’s service area with the diversion at the City’s current point of diversion on the Chehalis River, and Seller desires to transfer and change the Water Rights to Buyer for said purpose.

A Water Right Assessment was completed for the Water Rights in May 2021 (Assessment). The findings in the Assessment included a determination that the Seller irrigates 102 acres and uses 213 afy, of which 160 afy is the consumptive quantity of the Water Rights. Assessment attached as Exhibit C.

NOW THEREFORE, in consideration of the mutual promises, covenants, and agreements hereinafter set forth, and for other good and valuable consideration, the Parties hereby agree as follows:

AGREEMENT

1. Purchase and Sale. Subject to and in accordance with the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees purchase from Seller the Seller’s Water Rights in the amount that is subsequently approved in a Final Decision by Ecology issued in connection with the Change Applications, as defined below.

2. Change Applications. The Seller and Buyer shall jointly file applications to change the Seller's Water Rights to the City for municipal purposes within the City's service area and from the City's Chehalis River diversion ("Change Applications").

a. Buyer shall deliver the Change Applications to the Seller within 30 days of the execution of this Agreement by both Parties.

b. Within 10 days after Buyer delivers to Seller the Change Applications, Seller will (i) duly sign the Change Applications; and (ii) deliver to Buyer the original signed Change Applications, acceptable to Seller.

c. Within 15 days after Seller delivers the duly signed Change Applications to Buyer, Buyer shall submit the Change Applications to the Lewis County Water Conservancy Board ("LCWCB") or Ecology, in Buyer's discretion.

d. Buyer shall bear all costs associated with the Change Applications. However, Seller will cooperate with Buyer and provide support in all aspects of the Change Applications process, including any objections, appeals, or other legal proceedings relating to the Change Applications.

e. Seller is not obligated to pay any of the costs relating to the objections, appeals, or other legal proceedings, unless the objections, appeals, or other legal proceeding is based on (i) an action taken by Seller without Buyer's written consent, after the Effective Date of this Agreement; or (ii) a breach by Seller of any of its representations or warranties contained in this Agreement. In either of such cases, Seller will pay all costs to the extent that such objections, appeals, or other legal proceedings is related to the actions of Seller.

f. Prior to Closing, if the Seller is not exercising and putting to beneficial use the Water Rights, the Buyer, upon Buyer's request, shall donate the Water Rights to the State Trust Water Rights Program to preserve the Water Rights from potential relinquishment.

3. Consideration. The Buyer agrees to the following consideration for the purchase of the Seller's Water Rights:

a. Purchase Price. The purchase price for the Water Rights shall be Two Thousand Eight Hundred and no/100 Dollars (\$2,800.00) per acre-foot of the consumptive portion of the Seller's Water Rights approved in a Final Decision by Ecology for transfer and change to the City ("Purchase Price"). The Parties recognize that the Assessment determined 160 afy is the consumptive portion of the Seller's Water Rights; however, this is not binding on Ecology and the final consumptive quantity of water will be determined by Ecology.

b. Final Decision. The Final Decision shall be Ecology's final appealable decision on the Change Applications and, if appealed, any appeals are

finally resolved to Buyer's satisfaction, subject only to such variations that are acceptable to Buyer ("Final Decision").

4. Escrow. Closing of the purchase and sale shall occur through an escrow agent approved by Buyer and Seller (the "Escrow" or "Closing Agent"). Seller and Buyer shall each deposit with Escrow all funds, documents, and instruments required hereby for delivery to the other.

5. Earnest Money Deposit. Within fifteen (15) business days after this Agreement has been signed by the Parties and the Parties agree on an Escrow, Buyer shall deposit earnest money of Twenty-Five Thousand and no/100 Dollars (\$25,000.00) with the Closing Agent, which amount shall be credited against the Purchase Price at Closing. The Earnest Money is otherwise non-refundable except as provided in this Agreement (the "Earnest Money").

6. Closing. The term "Closing" means the transfer and conveyance of the Seller's Water Rights from Seller to Buyer. Closing shall occur ("Closing Date") no later than 60 days after the date of the Final Decision approving the transfer and change of the Water Rights to the City. Buyer shall provide Seller with 15 days' advance written notice of intent to close.

7. Buyer's Contingencies. Buyer's obligations to purchase the Seller's Water Rights are made subject to and contingent upon Buyer's determination, in its sole and exclusive discretion, of satisfactory resolution of the following matters (collectively, the "Contingent Matters" and each, singularly, a "Contingent Matter"), satisfactory resolution of which shall be a condition precedent to Buyer's obligations to purchase under this Agreement:

a. Approval of Change Applications. The Final Decision approves the Change Applications for change and transfer of the Seller's Water Rights filed with Ecology. If the Change Applications are denied in full by Ecology, the Earnest Money shall be refunded in full to Buyer.

b. No Adverse Changes. Between the Effective Date and the Closing Date, there are no material adverse changes to the Seller's Water Rights such to impact the validity of the Seller's Water Rights.

8. Cooperation; Future Covenants. Seller shall cooperate with and assist Buyer with the Change Applications and shall sign any documents requested by the LCWCB or Ecology to authorize the Buyer to file the Change Applications or to authorize the LCWCB or Ecology to review and approve the Change Applications. Seller agrees to execute affidavit(s) or provide testimony attesting to historical use of water to provide evidence regarding the nature, extent, and validity of the Water Rights. If Buyer or a third party appeals Ecology's decision, Buyer shall be responsible for all costs and expenses associated with the appeals; except, Buyer shall not be responsible for attorney's fees or costs incurred by Seller in such appeals. Neither Buyer nor Seller is obligated under this Agreement to appeal or defend Ecology's decision.

9. Seller's Right to Irrigate. The Parties agree that the Seller shall have the right to exercise the Water Rights and irrigate under the Water Rights in 2022 without compensation to the Buyer. This term shall survive Closing if Closing occurs prior to the end of the irrigation season, which is no later than October 1, 2022.

10. Closing Costs. The Buyer shall pay the real estate excise tax, on the conveyance to the extent required, if any, the applicable escrow fee, and the recording costs, if any. Each party shall bear its own attorneys' fees and costs incurred in connection with the negotiations leading up to the execution of this Agreement, performance under this Agreement, the sale of the Water Rights, and the drafting of documents in connection with the sale. All real property taxes, if any, allocated by any taxing authority to the Water Rights will be prorated between Buyer and Seller as of the Closing Date.

11. Condition of Title. At Closing, Seller will deliver good, marketable, and indefeasible fee simple title to each of the Seller's Water Rights and the same will be free and clear of all liens, claims, encumbrances, and defects of title, of any nature whatsoever, and Seller will defend the same against the claims of all parties or persons. To the best of Seller's knowledge, there are no leases, rental agreements, service contracts, option agreements, mortgages, deeds of trust, or other written or oral commitments, arrangements, agreements, or obligations of any kind affecting the Seller's Water Rights except as provided in paragraph 9.

12. Deliveries to Escrow Agent.

a. By Seller. Seller shall deliver or cause to be delivered to Escrow on or before the Closing Date the following items:

(i) Deed. A statutory warranty deed, duly executed and acknowledged by Seller, in a form approved by Buyer, conveying to Buyer, good, marketable, and indefeasible fee simple title to each of the Seller's Water Rights, free and clear of all liens, encumbrances, and restrictions, together with a real estate excise tax affidavit.

(ii) FIRPTA Affidavit. A certificate duly executed by Seller, evidencing that Seller is exempt from the withholding requirements of Section 1445 of the Internal Revenue Code.

(iii) Other Documents. Other documents or instruments necessary to close this transaction.

b. By Buyer. Buyer shall deliver or cause to be delivered to Escrow Agent on or before the Closing Date the following items:

(i) Funds. Cash by federal funds, wire transfer or cashier's check in the amount necessary to pay the balance of the Purchase Price and Buyer's share of closing costs and prorations.

(ii) Excise Tax Affidavit. Buyer will also execute the real estate excise tax affidavit.

(iii) Other Documents. Other documents or instruments necessary to close this transaction.

c. Close of Escrow. When (a) all documents and funds have been deposited with Escrow Agent, and (b) Buyer and Seller have provided approval to close this transaction, Escrow Agent shall immediately close escrow as provided for below.

d. Procedure for Close of Escrow. Escrow Agent shall close escrow as follows:

(i) Pay applicable real estate transfer excise taxes and record the deeds;

(ii) Complete the prorations;

(iii) Deliver any other documents deposited by Seller into Escrow to Buyer;

(iv) Deliver the Purchase Price, less Seller's closing costs and prorations, to Seller; and

(v) Forward to Buyer and Seller, in duplicate, a separate accounting of all funds received and disbursed for each party and copies of all recorded documents deposited into Escrow, with such recording date endorsed thereon.

e. Incorporation of Escrow Instructions. This Agreement shall serve as escrow instructions, and an executed copy of this Agreement shall be deposited by Buyer with Escrow Agent following its execution. The Parties may issue additional escrow instructions provided that such additional escrow instructions shall not change the terms of this Agreement.

13. Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer as of the date of this Agreement and again as of the Closing Date:

a. As of the date of this Agreement, there is no suit, action, or arbitration, or legal or other proceeding or governmental investigation pending or threatened against the Water Rights or the Seller that could affect the Seller's Water Rights or Seller's title to said Water Rights.

b. Seller owns and has good title to the Seller's Water Rights, free and clear of all liens, encumbrances and exceptions, except as to any Permitted Exceptions. Seller has full power to convey the said Water Rights to Buyer.

c. There are no leases, licenses, permits or other agreements granting any person or persons the right to use the Seller's Water Rights or any portion thereof, or any agreements or instruments affecting said Water Rights which will be breached, or under which an event of default would occur, by Seller's execution of this Agreement or by the fulfillment of the terms of this Agreement. Seller has not granted any options, right of first refusal or entered into any other agreement that would commit or obligate Seller in any manner whatsoever to sell or lease the Seller's Water Rights, or any portion thereof, to any party other than Buyer, except as provided in paragraph 9.

d. Seller represents to Buyer that it has not engaged any brokers in connection with the transaction contemplated by this Agreement.

Each of the above representations and warranties set forth in this Section is material and has been relied upon by Buyer in making its decision to enter into this Agreement, and shall survive the Closing of the purchase of the Seller's Water Rights contemplated by this Agreement and will not merge with the transfer of the deeds of the Water Rights at Closing.

14. Termination.

a. In the event despite the best efforts of the Seller, the Buyer has not filed the Change Applications within 60 days of the date of this Agreement, Seller shall be entitled to terminate this Agreement with written notice to the Buyer prior to the Change Applications being filed, and with no further obligation to Buyer and retain the Earnest Money.

b. In the event despite the best efforts of the Seller, Closing does not occur within two (2) years of execution of this Agreement, Seller shall have the right to terminate this Agreement upon written notice to the Buyer with no further obligation to Seller and retain Earnest Money. Termination shall not occur under this term if the Closing is delayed beyond the two years resulting from actions or lack of actions beyond the Buyer's control including Ecology's processing of the Change Applications, and if the Final Decision is appealed.

15. Remedies. If the transaction contemplated by this Agreement fails to close because of a breach by a party:

a. Seller's Remedies. If the transaction fails to close due to a breach of the Agreement by Buyer, Seller's sole and exclusive remedy shall be to receive the Earnest Money as liquidated damages.

b. Buyer's Remedies. If the transaction fails to close due to a breach of the Agreement by Seller, Buyer's sole and exclusive remedies shall be the right to specifically enforce this Agreement or receive, immediately upon demand, the Earnest Money and any other payments made by Buyer to Seller under this Agreement.

16. Attorneys' Fees. If any legal action is brought by either party to enforce any provision of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and court costs in such amounts as shall be allowed by the court.

17. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between Buyer and Seller pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations, and understandings. No modification, termination, or amendment of this Agreement may be made except by written agreement signed by both Parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. All terms, provisions, and conditions of this Agreement shall inure to the benefit of and be enforceable by Seller, Buyer, and their respective heirs, successors, and permitted assigns.

18. Notices. All Notices to be given to either party under this Agreement shall be in writing and shall be delivered to each respective party at the addresses set forth below. Notices shall be deemed to have been given upon the date of actual receipt.

To Buyer: City of Chehalis
 Attn: Jill Anderson, City Manager
 350 N. Market Blvd.
 Chehalis, WA 98532
 360-345-1042

With copy to: Tom McDonald
 Cascadia Law Group PLLC
 606 Columbia Street NW Suite 212
 Olympia, WA 98501
 360-786-5039

To Seller: Marwood Farms LLC
 Attn: Gary Marshall
 1200 Alki Ave SW Unit 1
 Seattle, WA 98116-4483

With copy to: Confluence Law, PLLC
Attn: Jamie Morin
21 Avenue A, Suite 4
Snohomish, WA 98290
(206) 502-4405

19. Counterparts; Facsimile. This Agreement may be executed in counterparts, each of which, when combined, shall constitute one single binding agreement. Facsimile signatures shall be as effective as original signatures.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

BUYER:

SELLER:

CITY OF CHEHALIS

MARWOOD FARMS LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A

(Description of Water Right S2-SWC1862(A))



MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

**DOCUMENT TITLE SUPERSEDING CERTIFICATE OF WATER RIGHT
REFERENCE NUMBER:**

GRANTOR

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
ECOLOGY SOUTHWEST REGIONAL OFFICE (ECY
SWRO)
PO BOX 47775
OLYMPIA, WASHINGTON 98504-7775
(360) 407-6300

GRANTEE

MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

LEGAL DESCRIPTION

Source Name	Parcel	Township	Range	Sec	QQ Q
South Fork Chehalis River	019478007000	13N	04W	24	NE NW

AUTHORIZED PLACE OF USE

That portion of the NW ¼ of Section 24 lying both northwest and southeast of the Chehalis River and that portion of the NE ¼ NE ¼ Section 23 lying west of the Chehalis River, in T13N and R4W in Lewis County, Washington.

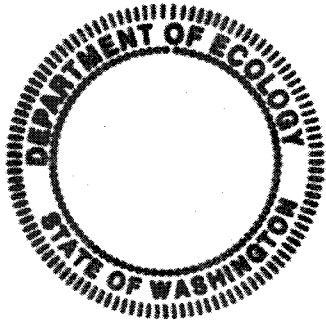
PARCELS: 19478001000

ADDITIONAL LEGAL IS ON PAGE ____ OF ATTACHED DOCUMENT

The amounts provided on the superseding portion of said water right reflect agreement among the owners of the described place of use, but are not confirmed by Ecology in this recording of the division of said right. The actual amounts authorized by the superseding certificates are subject to the historic beneficial use of Certificate S2-SWC1862.

This certificate of water right is specifically subject to relinquishment for non-use of water as provided in Chapter 90.14 RCW.

Given under my hand and the seal of this office at Olympia, Washington, this 2nd day of February 2022.



Laura Watson, Director
Department of Ecology

A handwritten signature in black ink that reads "Michael J. Gallagher". The signature is written in a cursive style and is positioned above a horizontal line.

DATA REVIEW
OK/TH

Michael J. Gallagher, Section Manager
Southwest Regional Office
Water Resources Program

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

EXHIBIT B

(Description of Water Right S2-SWC9995(A))

MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

**DOCUMENT TITLE SUPERSEDING CERTIFICATE OF WATER RIGHT
REFERENCE NUMBER:**

GRANTOR

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
ECOLOGY SOUTHWEST REGIONAL OFFICE (ECY
SWRO)
PO BOX 47775
OLYMPIA, WASHINGTON 98504-7775
(360) 407-6300

GRANTEE

MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

LEGAL DESCRIPTION

Source Name	Parcel	Township	Range	Sec	QQ Q
Chehalis River	019478005000	13N	04W	24	SW NE
South Fork Chehalis River	019478007000	13N	04W	24	NE NW

AUTHORIZED PLACE OF USE

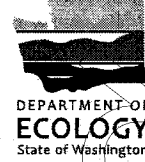
That portion of the S 1/2 of Section 13 lying south of the abandoned railroad right of way (Willapa Hills Trail) and that portion of the N 1/2 NW 1/4 Section 24 lying north of the Chehalis River, in T13N and R4W and in Lewis County, Washington.

PARCELS: 019336001000, 019478001001

ADDITIONAL LEGAL IS ON PAGE ____ OF ATTACHED DOCUMENT



State of Washington
Department of Ecology
SUPERSEDING
CERTIFICATE OF WATER RIGHT



This certificate supersedes Superseding Water Right Certificate issued on June 28, 1967 and is subject to the following provisions.

PRIORITY DATE 3/17/1966	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER S2-SWC9995(A)
MAILING ADDRESS MARWOOD FARMS LLC 1200 ALKI AVE SW, UNIT 1 SEATTLE, WA 98115-4883		SITE ADDRESS (IF DIFFERENT)	

REMARKS: This Superseding Certificate is being issued to reflect an Administrative Division of a water right.

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE 0.7938	UNITS CFS	ANNUAL QUANTITY (AF/YR) 167.58
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Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Irrigation of 84 acres	0.7938		CFS	167.58		04/15 - 10/01

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Lewis	Chehalis River	Grays Harbor	23-Chehalis River
Lewis	South Fork Chehalis River	Chehalis River	23-Chehalis River

SOURCE FACILITY/DEVICE	TWP	RNG	SEC	QQ Q
Chehalis River	13N	04W	24	SW NE
South Fork Chehalis River	13N	04W	24	NE NW

CERTIFICATE OF WATER RIGHT

1

S2-SWC9995(A)

Place of Use

PARCELS:

019336001000, 019478001001

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

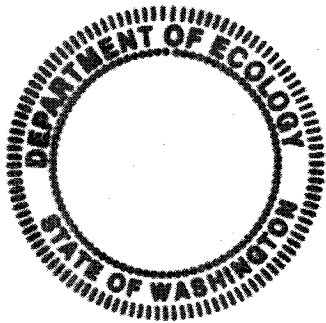
That portion of the S ½ of Section 13 lying south of the abandoned railroad right of way (Willapa Hills Trail) and that portion of the N ½ NW ¼ Section 24 lying north of the Chehalis River, in T13N and R4W and in Lewis County, Washington.

The division of Certificate S2-SWC9995 into Superseding Certificates S2-SWC9995(A), S2-SWC9995(B), and S2-SWC9995(C) shall not be construed as validation as to the extent of Certificate S2-SWC9995 as originally authorized. The amounts provided on the superseding portion of said water right reflect agreement among the owners of the described place of use, but are not confirmed by Ecology in this recording of the division of said right. The actual amounts authorized by the superseding certificates are subject to the historic beneficial use of Certificate S2-SWC9995.

This certificate of water right is specifically subject to relinquishment for non-use of water as provided in Chapter 90.14 RCW.

Given under my hand and the seal of this office at Olympia, Washington, this 2nd day of February 2022.

Laura Watson, Director
Department of Ecology



Michael J. Gallagher, Section Manager
Southwest Regional Office
Water Resources Program

DATA REVIEW
OK /TH

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

EXHIBIT C

(Water Right Assessment dated May 2021)

EXHIBIT C - WATER RIGHTS PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS

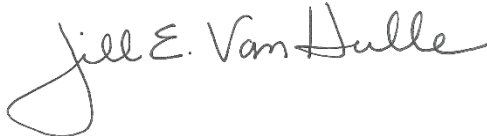
MEMORANDUM

Project No. 190540

May 21, 2021

To: Ken Graham, Washington State Parks

From:



Jill Van Hulle, CWRE
Sr. Associate Water Right Specialist
jvanhulle@aspectconsulting.com

Re: Water Right Assessment: Marwood Farms

Aspect Consulting, LLC (Aspect) prepared this memorandum for Washington State Parks to present the findings of a due diligence evaluation of water rights associated with the Marwood Farms property. Washington State Parks is acquiring this property as part of their Willapa Foothills Rails-to-Trails project and wants to understand the extent and presumed validity of the associated water rights.

Our analysis was conducted by cross-referencing the Marwood operation parcels and property-asset information with the Washington State Department of Ecology's (Ecology) online water right database. A visit to the site was made on April 12, 2021, and interviews conducted with the property owners and farm operator.

Findings

- The Marwood property includes approximately 180 acres situated north of the Chehalis River, of which 102 acres have been consistently irrigated.
- There are two surface water certificates that authorize irrigation of this property and allow for the withdrawal of water from the Chehalis River, as well as the South Fork of the Chehalis River.
- The two surface water rights allow for the irrigation of 176 acres, within a larger place of use that includes both areas where water has never been used for irrigation and areas that likely have been irrigated.
- Irrigation of the Marwood property is well-documented and it appears that the full Qi of 1.73 cfs and approximately 213 acre-feet (of the potential 352 ac-ft/yr) has been perfected.

Next Steps

- An Administrative Division form should be filed with Ecology to divide the water rights prior to any sales or acquisitions.

Marwood Farms

Marwood Farms is located in Lewis County, Washington, within the Chehalis River watershed. The property is owned by Gary Marshall and has been leased by a series of local dairy operators. The property is being actively farmed – including irrigation – and appears to have been in agricultural production since issuance of the associated water rights.

The site is situated within Section 13 and 24, Township 13 North, Range 4 W.W.M. and includes the Lewis County Parcels listed in Table 1 below.

Table 1. Marwood Source Summary

Parcels	Planted Acres	Total Acres	Field	Source
01947800100	18	40	1	Chehalis River
01933600100	84	137	2 - 5	Chehalis River
Total	102	177		

Marwood Farms is situated north of the Chehalis River and includes approximately 102 irrigated acres that are arranged from west to east into five distinct fields. The farm operator has both a diesel and an electric pump, and Table 2 indicates which were used on which on the fields.

Table 2

Field	Planted Acres	Crop Type	Water Right	Pump
1	18	Mixed Orchard Grass, Alfalfa, and Clover	SWC 1862 SWC 9995	Electric
2	34	Orchard Grass	SWC 9995	Electric
3	36	Orchard Grass	SWC 9995	Diesel
4	8	Orchard Grass	SWC 9995	Diesel
5	6	Pasture	SWC 9995	Diesel
Total	102			

Water Right Summary

There are two water rights associated with the Marwood site. Water-right files are included as Exhibit 1:

Surface Water Certificate (SWC) No. 1862 (Ecology Control No. S2-*05629CWRIS) was issued to Fay A. Joy in the amount of 0.5 cfs for the irrigation of 43 acres during the irrigation

season. The priority date of this surface water certificate is December 31, 1941, and the source of supply is the Chehalis River.

The Place of Use for SWC 1862 includes portions of the NW ¼ of Section 24, T. 13 N., R. 4 W.W.M., which encompasses the location of the 18-acre Marwood Field #1. The balance of the 43 acres place of use is situated south of the Chehalis River on property that is not owned by Marwood LLC.

SWC Certificate No. 9995 (Ecology Control No. S2-*19528AWCWRIS) was issued to Melvin Stulken in the amount of 1.26 cfs and 266 acre-feet per year for the irrigation of 133 acres. The priority date of this surface water certificate is March 17, 1966, and the source of the supply is the Chehalis River and the South Fork of the Chehalis River.

The place of use for SWC 9995 includes the property previously described by SWC 1862, and additional portions for the SW ¼ of Section 13. Fields #2 – 5 comprise 84 acres within the place of use for SWC 9995. The record specifies the applicant’s intent to include an additional 133 acres for a total authorization of 176 irrigated acres.

Additional Documents: There are three claims appurtenant to the Marwood Farm property that list the purpose as domestic supply and stockwater from a well:

- G2-088336CL
- G2-023308CL
- G3-023309CL

Historical Water Use and Farming Practices Summary

The Marwood property was acquired by the current owners in 2010 from David Fenn, of Fenn Farms. Owner Gary Marshall leases the site to area dairies that use it to grow food for their cows.

Irrigation History

- The Proof of Appropriation was filed for the Joy certificate on September 22, 1942, with the permit holder attesting that he had 43 acres under irrigation. This certificate was originally issued for the irrigation of 97 acres but reduced to allow for 43 acres based on what the permit holder was able to develop.
- As of March 17, 1966, then property owner Melvin Stulken had at least 43 irrigated acres and filed for additional water. The Proof of Appropriation for the Stulken Certificate was filed on June 19, 1967, attesting to the irrigation of 133 acres, or 176 acres between the two appurtenant certificates.
- 1968 to 2010 – Prior to Marwood ownership, the property was owned and farmed by the Fenn family (most recently Dave Fenn, DBA Fenn Farms.) The Fenn family are long-time Chehalis valley farmers and are heavily involved in area agriculture; three generations of the Fenn family have produced vegetables in the Curtis-area property for local processors for 65 years. The Marwood property was used predominantly to produce peas and corn.

- 2011 to 2014 – Fabian Almeida operated a dairy under the name of ECUAFARM and leased the property. Randy Kunde was the manager for the dairy and also did all the planting of rye, alfalfa, clover, and mixed grasses that is still being produced today.
- 2015 to 2017 – Jerry Foster operated under the name of Southbank Dairy.
- 2018 – Anton Schilter operated a dairy operation under the name of Sunny Farms. During the Schilter’s lease, the fields were certified as organic, but according to Gary Marshall the fields were not irrigated.
- 2019 to 2021 – Randy Kunde and Samantha Benson lease the property under the name of Kunde Golden Dairy.

Irrigation Operation

Mr. Kunde is the current operator of the farming activities on the project site, and has past experience operating the irrigation system for the time period between 2011 to 2014, when he operated the system on behalf of ECUAFARM. Kunde employs two pumps, an electric Baldor Reliance Industrial pump, and a second diesel-fueled Greenline pump from Daritech. The Baldor pump is a 20-hp and uses 3-Phase power. Both pumps are capable of producing approximately 400 gallons per minute¹ and are generally used at the same time, placing the total withdrawal rate at 1.78 cfs, which slightly exceeds the authorized rate of 1.73 cfs. The diversions are not metered, but Mr. Kunde noted that he irrigated to encourage maximum production; from a review of aerial imagery fields #1 through 4 appear well irrigated. Field #5, which is not used for cut grass products, is irrigated sporadically.

The system includes two Ernst irrigation reels with Big Guns and a stationary spinner that is used for the corners. Kunde generally irrigates two of the fields at a time, one with each pump. Each set is left in position for about 24 hours, and the traveling guns are capable of irrigating a 75-foot path. Irrigation generally starts in mid-May and runs into November, depending on the weather, and Mr. Kunde reports that he is able to get four to five cuttings from Fields #1 through 4. Field #5 is not mowed but has been used in the past to pasture animals. Kunde reports that he did not irrigate Field #5 in 2019 or 2020 but it was sporadically irrigated in previous years.

Aerial images from 1990, 2009, 2014, and 2018 have been included as Exhibit 2. This imagery shows consistent agricultural activity on the project site that is consistent with irrigation.

Water Use and Crop Requirements

Water rights are only good to the extent that the water allocated for the specific purpose has actually been developed. As is the case with many older surface water rights, Ecology did not assign annual quantities to the Joy water right authorizations – only a rate of withdrawal – but did so for the Stulken water right. Since the two water rights are used interchangeable and comanged, this assessment does not distinguish between the two.

In this section we provide a discussion of the likely extent of these rights. For the purposes of this estimate, we have assumed that a total of 102 acres is being irrigated by Marwood Farms using a Big Gun sprinkler system.

¹ Discharge Estimated by farm operator

In situations where metering data is not available, Ecology uses various estimation methods such as the Washington Irrigation Guide (WIG) and Ecology Water Resources Program Guidance 1210² to estimate the crop irrigation requirement (CIR). The WIG provides the CIR needed to calculate the total and consumptive use associated with irrigated agriculture, and Guidance 1210 provides typical irrigation efficiencies that Ecology uses when determining total irrigation requirements (TIR). Guidance 1210 indicates the average irrigation efficiency (Ea) for a Big Gun sprinkler of 65 percent. The amount of water that is consumptively used includes CIR and water evaporated during irrigation application (evapotranspiration).

Table 2 depicts the water duty associated with grass-type crops based on climatic conditions near Centralia, Washington. The water duty (CIR) for the irrigation of an acre of grass-based hay is 16.28 inches or 1.36 acre-feet. For the irrigation of 102 acres, a properly irrigated crop would need about 138 acre-feet applied between May and September. This initial figure reflects only what the crop actually needs. No irrigation system is completely efficient, however. Estimates of total water demand generally include consideration of the additional water that is pumped and either evaporates or simply soaks back into the ground as return flow. A second value, referred to as the Total Irrigation Requirement (TIR), reflects the total amount of water that would have been needed to successfully irrigate 102 acres. For this site, that value is 213 acre-feet.

For the purposes of establishing the extent of beneficial use of water for under these water rights for the Marwood property, only the amount of water that is valid amounts to 213 acre-feet. Table 2 includes the breakdown of total water use, which factors in the inefficiencies.

Table 2. Total Irrigation Requirement for 102 Acres Based on Big Guns and Grass-Based Crops

Acres	CIR/inches (WIG)	CIR (afy)	TIR (afy)	App. Efficiency (%)	% Total Evaporated	Total Consumed (afy)	Return Flow (afy)
102	116.28	138	213	65	10	160	53

While 102 acres are being irrigated north of the river, these rights allow for the irrigation of 176 acres in total. There is additional irrigation occurring within the authorized place of use on properties located to the south of the Chehalis River that are not owned by the Marwood LLC. These areas have not been specifically assessed; however, it is possible that upwards of 70 acres are under irrigation. Prior to acquisition of the Marwood property and water rights, we recommend the appurtenant water rights should be divided via an Administrative Division request.

Administrative Divisions of Water Rights

In situations where multiple property owners own a portion of land to which a water right is appurtenant, the property owners may apply to Ecology and receive a superseding document describing their share of the original water right. Ecology has a form specifically intended for this request, attached as Exhibit 3.

² <https://fortress.wa.gov/ecy/wrdocs/WaterRights/wrwebpdf/guid1210.pdf>

Ecology’s issuance of superseding documents – which in the case of the Marwood rights will be superseding certificates – are based on an agreement by those who own the subject property within the authorized place of use of the original right. Ecology's confirmation of the division of a water right is administrative in nature and will not include an evaluation of the extent and validity of the subject water right. Ecology includes a “disclaimer” on administratively divided water rights stating that the quantities have not been verified.

It is important to note that in addition to splitting the acre-feet allocated by the original water right between parties, Ecology will request information regarding how the withdrawal rate will be divided between parties. Divisions of water rights are generally based on proportional shares of the property covered by the water right. In situations where the place of use includes areas which were never irrigated – such as the forested hillside area north of the Marwood fields – the number of irrigated acres can be apportioned differently to reflect the actual extent of the irrigated areas.

In total, the two surface water rights allow for the irrigation of 176 acres, with a place of use that includes forested parcels immediately to the north of the irrigated areas, and property that is located south of the river. The northernmost parcels are owned by John and Sandra Shultz and are forested and largely too steep to have been farmed. This approximately 60-acre area has never been irrigated. There is an additional 80 acres situated within the place of use, and south of the Chehalis River and Marwood property, that likely has been irrigated but are not owned by Marwood.

The parcels located south of the Chehalis River are listed in Table 3, and it is noted that SWC 9995 also includes a diversion point on the South Fork of the Chehalis River which is located within the NE ¼ of the NW ¼ of Section 24, T. 13, R. 4 W.W.M., accordingly it is likely that irrigation is occurring on property located within the place of use that is not owned by Marwood Farms. Table 3 includes the larger parcels located within the place of use, but there are other smaller parcels that could also potentially be using water.

Table 3. Parcels within Place of Use (Not Owned by Marwood)

Parcel	Total Acreage	Owner	Includes Irrigation
01947800500	44.9	Terry Lawton	Yes
01948001000	3	Chn Farms, LLC	Yes
01948007000	2.43	Chn Farms, LLC	Yes
01948006000	36.54	Chn Farms, LLC	Yes
019335002001	15.3	John Schulz	No
019335002002	7.5	John Schulz	No
019335002003	7.5	John Schulz	No
019335002004	15	John Schulz	No
019335002005	15	John Schulz	No
019335002006	15.25	John Schulz	No

We suggest that prior to acquisition of the Marwood property that the appurtenant water rights to administratively divided based on property ownership.

Reliability of Source

“Reliability” relates the potential for regulation during the irrigation season, usually in response to the establishment of instream flows. The Joy water right authorization has no operational restrictions, but the Stulken water right is provisioned such that diversions must cease when flows fall below 25 cfs at the point of diversion, and for the South Fork diversion when flows fall below 15 cfs.

Both of these water rights predate the establishment of formal rule development (pursuant to Washington Administrative Code (WAC) 173-522), and the curtailment trigger on the Stulken water right is based on recommendation from the Departments of Fisheries and Game (now WDFW). Thus, while the Stulken water right is technically subject to instream flows, as a practical matter it is not regulated as part of Ecology’s efforts to manage provisioned water rights. As a practical matter, flows are unlikely to fall to less than 25 cfs at the mainstem, making it highly unlikely that the use of water under this authorization would ever be curtained.

Limitations

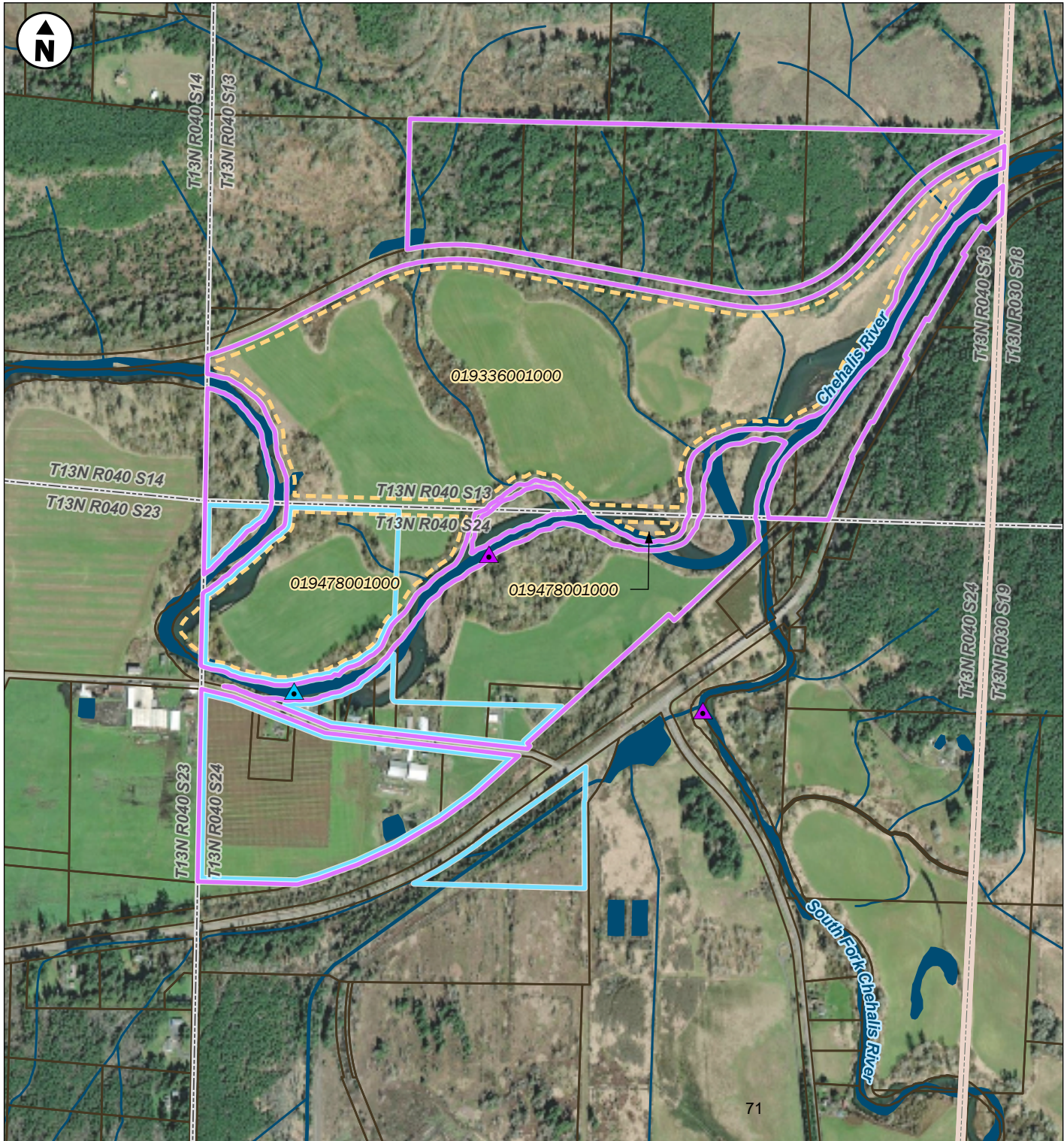
Work for this project was performed for Washington State Parks (Client), and this memorandum was prepared in accordance with generally accepted professional practices for the nature and conditions of work completed in the same or similar localities, at the time the work was performed. This memorandum does not represent a legal opinion. No other warranty, expressed or implied, is made.

All reports prepared by Aspect Consulting for the Client apply only to the services described in the Agreement(s) with the Client. Any use or reuse by any party other than the Client is at the sole risk of that party, and without liability to Aspect Consulting. Aspect Consulting’s original files/reports shall govern in the event of any dispute regarding the content of electronic documents furnished to others.

- Attachments: Figure 1 – Marwood Farms Water Rights with Vicinity Map
 Figure 2 – Marwood Farms Fields
 Exhibit 1 – Water Right Files
 Exhibit 2 – Select Aerial Photographs
 Exhibit 3 – Ecology Administrative Division Form

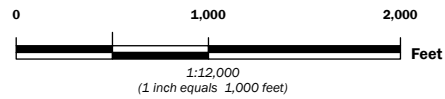
FIGURES

AC05 Proj: C:\projects\WashingtonState\190540\WashingtonState\190540.dwg | No Projected Coordinate System | Date Sheet: 2021-05-05 | Exported 2021-05-05 16:38 by hmlen



Comments: Places of use and points of diversion are defined on the cover sheets under the heading "LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED."

- | | |
|--------------------------------------|---------------------|
| Authorized Point of Diversion | Parcels of Interest |
| S2-*05629CWRIS | Township/Range |
| S2-*19528AWCWRIS | Section |
| Authorized Place of Use | Water Body |
| S2-*05629CWRIS | Road |
| S2-*19528AWCWRIS | Tax Parcel |



Marwood Farms Water Rights with Vicinity Map

Marwood Farms Due Dilligence
Chehalis, Washington

	MAY-2021	BY: RAP / TDR	FIGURE NO. 1
	PROJECT NO. 190540-E-01	REVISED BY: - / - / -	

EXHIBIT 1

Water Right Files

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
Division of Hydraulics



APPLICATION FOR A PERMIT
To Appropriate Public Waters of the State of Washington

(Read directions on last page carefully before filling out this form)

Application No. 5629

I, Fay C. Joy (Name of applicant),
of R#1, Chehalis (Postoffice), County of Lewis,
State of Washington, do hereby make application for a permit to appropriate

the following described public waters of the State of Washington subject to existing rights:

If the applicant is a corporation, give date and place of incorporation.....

1. The source of the proposed appropriation is Chehalis River (Name of stream)
tributary of..... (Allowed) 1.00 c.f.s.

2. The amount of water which the applicant intends to apply to beneficial use is 2
cubic feet per second.

3. The use to which the water is to be applied is Irrigation
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)

4. Time during which water will be required each year March 1st to Nov. 1st
April 15 to Oct. 1

5. The approximate point of diversion is located 600 feet east of the Southwest
corner of the Northwest Quarter of the Northwest Quarter
(Give distance and bearing to section corner)

being within the NW⁴ NW⁴ of Sec. 24, Tp. 13 N., R. 4 W. W. M.,
(Give smallest legal subdivision) (E. or W.)
in the county of Lewis

6. The to be ft. or miles in length, terminating
(Main ditch, canal, or pipe line)
in the of Sec., Tp. N., R. W. M.,
(Smallest legal subdivision) (E. or W.)
the proposed location being shown on the accompanying map.

7. The name of the ditch, canal or other works is.....

8. Estimated cost of development necessary to utilize fully the appropriation herein asked for
\$ 3000⁰⁰

9. Does the stream from which you wish to appropriate water flow through the tract of land on
which the water is to be used? yes

10. Do you own the required right-of-way for the proposed works?.....

DESCRIPTION OF WORKS

DIVERSION WORKS—

11. (a) Height of diversion dam..... feet; length on top..... feet;
length at bottom..... feet; material to be used and character of construction
(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

(b) Description of headgate.....
(Timber, concrete, etc.; number and size of openings)

When storage works are contemplated a storage permit must be filed in addition to the above. These forms can be secured, together with instructions, by addressing the State Supervisor of Hydraulics, Olympia, Washington.

CANAL SYSTEM—

12. (a) Give approximate dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: Width on top (at water line).....feet; width on bottom.....feet; depth of water.....feet; grade.....feet fall per one thousand feet.

(b) At.....miles from headgate: Width on top (at water line).....feet; width on bottom.....feet; depth of water.....feet; grade.....feet fall per one thousand feet.

SUPPLY THE FOLLOWING INFORMATION ACCORDING TO USE PROPOSED:

IRRIGATION—

13. The land to be irrigated has a total area of 97 acres, described as follows: N.W. 1/4 - N.W. 1/4 Sec. 24, Twp. 13 N., R. 4 W. W. M. (Give legal subdivision by section, township and range) Part of S 1/2 - N.W. 1/4 Sec. 24, Twp. 13 N., R. 4 W. W. M.

(If more space is required, attach separate sheet)

14. Give the legal description of land when water is to be used for purposes other than irrigation, power and municipal supply..... Sec....., Tp..... N., Rge..... W. M. (Legal subdivisions) (E. or W.)

(a) To what stream is water returned.....

(b) Locate the point of return..... Sec....., Tp..... N., Rge..... W. M. (Smallest legal subdivision) (E. or W.)

POWER—

15. (a) Total amount of power to be developed..... H. P. (Theoretical horsepower)

(b) Total fall to be utilized..... feet. (Head)

(c) The nature of the works by means of which the power is to be developed.....

(d) Such works to be located in..... of Sec....., Tp..... N., Rge..... W. M. (Legal subdivision) (E. or W.)

(e) To what stream is the water to be returned.....

(f) Locate point of return..... Sec....., Tp..... N., Rge..... W. M. (E. or W.)

(g) The use to which power is to be applied is.....

MUNICIPAL SUPPLY—

16. To supply the city of _____ (Name) _____ County, having a present population of _____ and an estimated population of _____ in 19_____

- (a) Estimated present requirement _____
(b) Estimated future requirement _____

17. Construction work will begin on or before _____

18. Construction work will be completed on or before _____

Duplicate maps of the proposed ditch or other works, prepared in accordance with the rules of the State Supervisor of Hydraulics, accompany this application.

Fay C. Joy (Name of applicant)

Signed in the presence of us as witnesses:

- (1) Chester Twining (Name), R 4 Box 33 Lecheville (Address of witness)
(2) E. Johnson (Name), 1004 Roosevelt Ave, Centralia, Wn. (Address of witness)

Remarks: _____

STATE OF WASHINGTON, }
COUNTY OF THURSTON. } ss.

This is to certify that I have examined the foregoing application together with the accompanying maps and data, and return the same for correction or completion, as follows: _____

In order to retain its priority, this application must be returned to the State Supervisor of Hydraulics, with corrections, on or before _____, 19_____

WITNESS my hand this _____ day of _____, 19_____

State Supervisor of Hydraulics.

STATE OF WASHINGTON, COUNTY OF Lewis

CERTIFICATE OF WATER RIGHT

(For rights perfected under original, enlargement or secondary permits.)

(In accordance with the provisions of Chapter 117, Laws of Washington for 1917, and the regulations of the State Supervisor of Hydraulics thereunder.)

This is to certify, that Fay A. Joy of Chehalis, State of Washington, has made proof to the satisfaction of the State Supervisor of Hydraulics of Washington, of a right to the use of the waters of Chehalis River, a tributary of _____, for the purposes of Irrigation under Appropriation Permit No. 3497 issued by the State Supervisor of Hydraulics, and that said right to the use of said waters has been perfected in accordance with the laws of Washington, and is hereby confirmed by the State Supervisor of Hydraulics of Washington and entered of record in Volume 4, at Page 1862, on the 25th day of September, 1942; that the right hereby confirmed dates from December 31, 1941; that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.5 of a cubic foot per second.

A description of the lands under such right to which the water hereby confirmed is appurtenant, and the place where such water is put to beneficial use, is as follows:

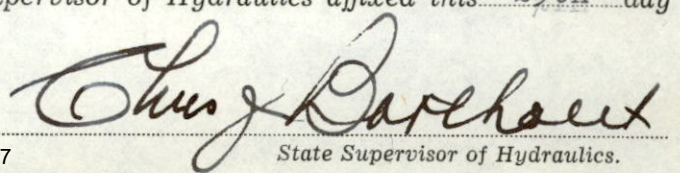
PLACE OF USE			LEGAL SUBDIVISION	FOR IRRIGATION	
Section	Township	Range		No. Acres Described in Permit	No. Acres Actually Irrigated
<u>24</u>	<u>13 N.</u>	<u>4 W.W.M.</u>	<u>NW$\frac{1}{4}$ of NW$\frac{1}{4}$</u>	<u>97</u>	<u>43</u>
<u>24</u>	<u>13 N.</u>	<u>4 W.W.M.</u>	<u>S$\frac{1}{2}$ of NW$\frac{1}{4}$</u>		

LOCATION OF POWER PLANT			LEGAL SUBDIVISION	FOR POWER	
Section	Township	Range		H. P. Described in Permit	H. P. Actually Developed

Section	Township	Range	LEGAL SUBDIVISION	FOR OTHER USES

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 Section 39, Chapter 117, Session Laws 1917.

WITNESS the seal and signature of the State Supervisor of Hydraulics affixed this 25th day of September, 1942.


 State Supervisor of Hydraulics.

Permit No. 3497

Certificate of Water Right

Recorded in the office of State Supervisor
of Hydraulics, Olympia, Washington, in
Book No. 4 of Water Right
Certificates, on Page 1862, on
the 25th day of September,
1942

STATE OF WASHINGTON, }
County of Lewis } ss.

I certify that the within was received
and duly recorded by me in Volume.....
of Book of Water Right Certificates, Page
..... on the..... day of
....., 19.....

STATE PRINTING PLANT

Please send \$10.00 minimum statutory examination fee with application.

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
Division of Water Resources

Priority

Date MARCH 17, 1966
Time 9:00 PM
Accepted N

**APPLICATION FOR A PERMIT
To Appropriate Public Waters of the State of Washington**
(Read directions on last page carefully before filling out this form)

Application No. 19528

I, Melvin Stalker
(Name of applicant)

of P.O. Box 2570 Chelalis, WA
(Complete postoffice address)

do hereby make application for a permit to appropriate the following described public waters of the State of Washington subject to existing rights:

If the applicant is a corporation, give date and place of incorporation

1. The source of the proposed appropriation is South Fork Chelalis River, tributary of Chelalis River and Chelalis River
(Name of stream)

tributary of Grays Harbor

2. The amount of water which the applicant intends to apply to beneficial use is 1.5
cubic feet per second, _____ acre-feet per year. This is an increase over permit # 3497

3. The use to which the water is to be applied is irrigation
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)
(COT 1962)

4. Time during which water will be required each year irrigation season
May - September

5. The approximate point of diversion is located approx. 20' NE of SW corner of NE 1/4 NW 1/4
(Give distance and bearing to section corner)

SEC 24 T22N - 1320' WE 670' S 3/4 NE corner Sec 29
Corner Sec 22 - 1320' WE 880' S
3 approx. 1/4 SE of NW
corner of Sec 24

being within 2 1/2 - 625' E & 1070' N from center Section 24
in the county WASCO P.M.C. 6-7-66 13 N., R. 4 W. W. M.
(E. or W.)

6. The _____ to be _____ ft. or miles in length, terminating
(Main ditch, canal, or pipe line)
in the _____ of Sec. _____, Tp. _____ N., R. _____ W. M.,
(Smallest legal subdivision) (E. or W.)
the proposed location being shown on the accompanying map.

7. Estimated cost of development necessary to utilize fully the appropriation herein asked for \$ _____

8. Does the stream from which you wish to appropriate water flow through the tract of land on which the water is to be used? yes

9. DESCRIPTION OF WORKS:

(a) DIVERSION WORKS—

(1) Height of diversion dam _____; length on top _____ feet; length on bottom _____ feet; material to be used and character of construction _____

(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

(2) Description of headgate _____

(Timber, concrete, etc., number and size of openings)

When storage works are contemplated a storage permit must be filed in addition to the above. These forms can be secured, together with instructions, by addressing the State Supervisor of Water Resources, Olympia, Washington.

Please send \$10.00 minimum statutory examination fee with application.

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
Division of Water Resources

Priority

Date MARCH 17, 1966
Time 9:00 AM
Accepted W.

APPLICATION FOR A PERMIT

To appropriate Public Waters of the State of Washington

(Read directions on last page carefully before filling out this form)

Application No. 19528

I, Melvin Stulken
(Name of applicant)
of Box 257C Chelalis, WA
(Complete postoffice address)

do hereby make application for a permit to appropriate the following described public waters of the State of Washington subject to existing rights:

If the applicant is a corporation, give date and place of incorporation

1. The source of the proposed appropriation is South Fork Chelalis River, tributary of Chelalis River and Grays River
(Name of stream)

tributary of Grays Harbor

2. The amount of water which the applicant intends to apply to beneficial use is 1.5
cubic feet per second, acre-feet per year. This is an increase over present permit # 3497

3. The use to which the water is to be applied is irrigation
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)

4. Time irrigation season throughout

5. SEC 24, T13N, R4W, NE1/4, NW1/4, SW1/4, SE1/4
bearing to section corner

SEC 24, T13N, R4W, NE1/4, NW1/4, SW1/4, SE1/4
being within the NE1/4, NW1/4, SW1/4, SE1/4 of Sec. 24, Tp. 13 N., R. 4 W. W. M.,
(Give smallest legal subdivision) (E. or W.)

in the county of Lewis

6. The _____ to be _____ ft. or miles in length, terminating
(Main ditch, canal, or pipe line)
in the _____ of Sec. _____, Tp. _____ N., R. _____ W. M.,
(Smallest legal subdivision) (E. or W.)

the proposed location being shown on the accompanying map.

7. Estimated cost of development necessary to utilize fully the appropriation herein asked for \$ _____

8. Does the stream from which you wish to appropriate water flow through the tract of land on which the water is to be used? yes

9. DESCRIPTION OF WORKS:

(a) DIVERSION WORKS—
(1) Height of diversion dam _____; length on top _____ feet; length on bottom _____ feet; material to be used and character of construction _____
(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

(2) Description of headgate _____
(Timber, concrete, etc., number and size of openings)

When storage works are contemplated a storage permit must be filed in addition to the above. These forms can be secured, together with instructions, by addressing the State Supervisor of Water Resources, Olympia, Washington.

(b) Description of Ditch or Pipeline System

10. IRRIGATION: Number of acres to be irrigated 133 additional acres
see letter attached

11. MUNICIPAL OR COMMUNITY WATER SUPPLY:

To supply the city or community of _____ County, having a
present population of _____ and an estimated population of _____ in 19____

(a) Estimated present requirement _____

12. LEGAL DESCRIPTION OF PROPERTY on which water is to be used, for all purposes

other than Municipal Supply or Power (Copy legal description from deed) SW 1/4 SW 1/4 E 1/2 SW 1/4,
N 1/2 SE 1/4, SW 1/4 SE 1/4, Part of SE 1/4 SE 1/4, all Section 13, Twp 13,
Range 4 W, N 1/2 NW 1/4 NW 1/4, NE 1/4 NW 1/4, NW 1/4 NE 1/4, SW 1/4 NE 1/4,
all in Sec 24 Twp 13 N R. 4 W; less Railroad R/W & Highways.

and that part of S 1/2 NW 1/4 lying westerly of the right of way of Chehalis
Western Railroad

(a) What interest do you have in the above described property owner operator.

(b) Are there any existing water rights appurtenant to the above described property _____

If so, from what source yes Permit H 3497 - Cert 1867 from Chehalis river
This is a request to increase not change above permit.

13. POWER:

(a) Total amount of power to be developed _____ H. P.
(Theoretical horsepower)

(b) Total fall to be utilized _____ feet.

(c) The nature of the works by means of which the power is to be developed _____

(d) Such works to be located in _____ of Sec. _____, Tp. _____ N., Rge. _____ W. M.
(Legal subdivision) (E. or W.)

(e) To what stream is the water to be returned? _____

(f) Locate point of return _____ Sec. _____, Tp. _____ N., Rge. _____ W. M.
(E. or W.)

(g) The use to which power is to be applied is _____

14. WORK SCHEDULE:

(a) Construction work will begin on or before _____

(b) Construction work will be completed on or before _____

Triplicate maps of the proposed ditch or other work, prepared in accordance with the rules of the State Supervisor of Water Resources, accompany this application.

(SIGN HERE) Melvin Stalder (Applicant) Address P. Box 257 C

Chehalis, wa

(SIGN HERE) Melvin Stalder (Owner of Land in Item 13) Address same

Signed in the presence of us as witnesses:

(1) Carl Pruden (Witness) Rt. Box 191 (Address of witness) Chehalis

(2) _____ (Name) _____ (Address of witness)

Remarks: _____

STATE OF WASHINGTON, }
COUNTY OF THURSTON. } ss.

This is to certify that I have examined the foregoing application together with the accompanying maps and data, and return the same for correction or completion, as follows: _____

In order to retain its priority, this application must be returned to the State Supervisor of Water Resources, with corrections, on or before _____, 19_____

WITNESS my hand this _____ day of _____, 19_____

State Supervisor of Water Resources.

14295

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
Division of Water Resources

Permit to appropriate Public Waters of the State of Washington

Book No. 36 of Permits, on Page 14295 Under Application No. 19528

MELVIN STULKEN

of Chehalis, Washington

is hereby granted a permit to appropriate the following described public waters of the State of Washington, subject to existing rights and to the following limitations and provisions: Permittee shall construct and maintain at his own expense a weir, or other suitable device, for measuring any water granted herein for irrigation purposes and such appropriation shall be subject to a reasonable rotation system if ordered by the State Supervisor of Water Resources. 1) Diversion intake shall be tightly screened at all times with wire having a mesh opening not greater than 0.125 (1/8) inch. 2) No dam shall be constructed in connection with this diversion. 3) All diversion from the Chehalis River shall cease when its flow falls to 25.0 c.f.s. or less, as measured immediately below the point of diversion. 4) All diversion from the South Fork Chehalis River shall cease when its flow falls to 15.0 c.f.s. or less, as measured immediately below the point of diversion.

Priority date of this permit is March 17, 1966

Source of the proposed appropriation is South Fork Chehalis River, tributary of Chehalis River / tributary of Grays Harbor

The quantity of water appropriated shall be limited to the amount which can be beneficially applied and not to exceed 1.26 cubic feet per second, or its equivalent in case of rotation, to be used for the following purposes: Irrigation

as more definitely set out below.

The approximate point of diversion is located #1 - 1920 feet west and 670 feet south; #2 - 1320 feet west and 880 feet south; both from north quarter corner of Sec. 24; #3 - 625 feet east and 1070 feet north from center of Sec. 24.

being within NE1/4 and SW1/4 Sec. 24, Twp. 19 N., Rge. 4 W. W. M., county of Lewis

The use, or uses, to which water is to be applied:

FOR DOMESTIC SUPPLY AND MISCELLANEOUS USES: cubic feet per second during entire year for to be used

within Sec. , Twp. N., Rge. W. M.,

FOR IRRIGATION: 1.26 cubic feet per second, 266 acre-feet per year, during irrigation season

each year, for irrigation of 133 acres, described as follows: SW1/4, S1/2, N1/2, SW1/4, that part of SE1/4 lying westerly of State Highway No. 6 (12), all in Sec. 19, T. 19 N., R. 4 W.W.M.; ALSO, NW1/4, NE1/4, NW1/4, SW1/4, and that part of S1/2 lying westerly of the right of way of Chehalis Western Railroad all in Sec. 24, T. 19 N., R. 4 W.W.M.; 1289 railroad and highway right of way.

14295

FOR POWER: _____ cubic feet per second continuously each year. Total power to be developed _____ theoretical horse power. Total fall to be utilized _____ feet.

Nature of works by means of which power is to be developed _____

Works to be located in _____ Sec. _____, Twp. _____ N., Rge. _____ W. M.

Water to be returned to _____

Point of return _____ Sec. _____, Twp. _____ N., Rge. _____ W. M.

Use to which power is to be applied _____

FOR MUNICIPAL SUPPLY: _____ cubic feet per second during entire year to supply _____

DESCRIPTION OF DIVERSION WORK

Portable pipeline.
Height of dam _____ ft.; Length on top _____ ft.; Length on bottom _____ ft.

Material to be used and character of construction _____

Description of headgate _____

CANAL SYSTEM

AT HEADGATE: Width on top (at water line) _____ ft.; Width on bottom _____ ft.;

Depth of water _____ ft.; Grade _____ ft. fall per one thousand feet.

AT _____ MILES FROM HEADGATE: Width on top (at water line) _____ ft.; Width on

bottom _____ ft.; Depth of water _____ ft.; Grade _____ feet per one thousand feet.

(Please read carefully provisions below)

Construction work shall begin on or before _____ June 1, 1967

and shall thereafter be prosecuted with reasonable diligence and completed on or before _____

June 1, 1968

and complete application of water to proposed uses shall be made on or before _____

June 1, 1969

Given under my hand and the seal of this office at Olympia, Washington, this 19th day of June, 1966

M. Guelpen
State Supervisor of Water Resources

STATE OF WASHINGTON, COUNTY OF Lewis

CERTIFICATE OF SURFACE WATER RIGHT

(In accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the State Supervisor of Water Resources thereunder.)

This is to certify that MELVIN STULKEN

of Chehalis, State of Washington, has made

proof to the satisfaction of the State Supervisor of Water Resources of Washington, of a right to the use of the waters of South Fork Chehalis River, tributary of Chehalis River, and Grays Harbor, a tributary of Chehalis River,

with point or points of diversion within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$

Sec. 24, Twp. 13 N., R. 4 W., W. M., under and subject to provisions contained in

appropriation Permit No. 14295 issued by the State Supervisor of Water Resources, and

that said right to the use of said waters has been perfected in accordance with the laws of Washington,

and is hereby confirmed by the State Supervisor of Water Resources of Washington and entered of

record in Volume 20, at Page 9995, on the 28th day of June, 1967

that the priority date of the right hereby confirmed is March 17, 1966; that the

amount of water under the right hereby confirmed, for the following purposes is limited to an amount

actually beneficially used and shall not exceed 1.26 cubic feet per second, 266 acre-feet

per year, during irrigation season each year, for irrigation of 133 acres.

A description of the lands under such right to which the water right is appurtenant, and the place where such water is put to beneficial use, is as follows:

SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, that part of SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying westerly of State Highway No. 6 (12), all in Sec. 13, T. 13 N., R. 4 W.W.M.; ALSO, NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and that part of S $\frac{1}{2}$ NW $\frac{1}{4}$ lying westerly of the right of way of Chehalis Western Railroad all in Sec. 24, T. 13 N., R. 4 W.W.M; LESS railroad and highway right of way.

Permit No.....

Certificate of Surface Water Right

*Recorded in the office of State Supervisor
of Water Resources, Olympia, Washington,
in Book No..... of Water Right
Certificates, on Page, on
the day of,
19.....*

STATE OF WASHINGTON, } ss.
County of

*I certify that the within was received
and duly recorded by me in Volume
of Book of Water Right Certificates, Page
..... on theday of
....., 19.....*

EXHIBIT 2

Select Aerial Images



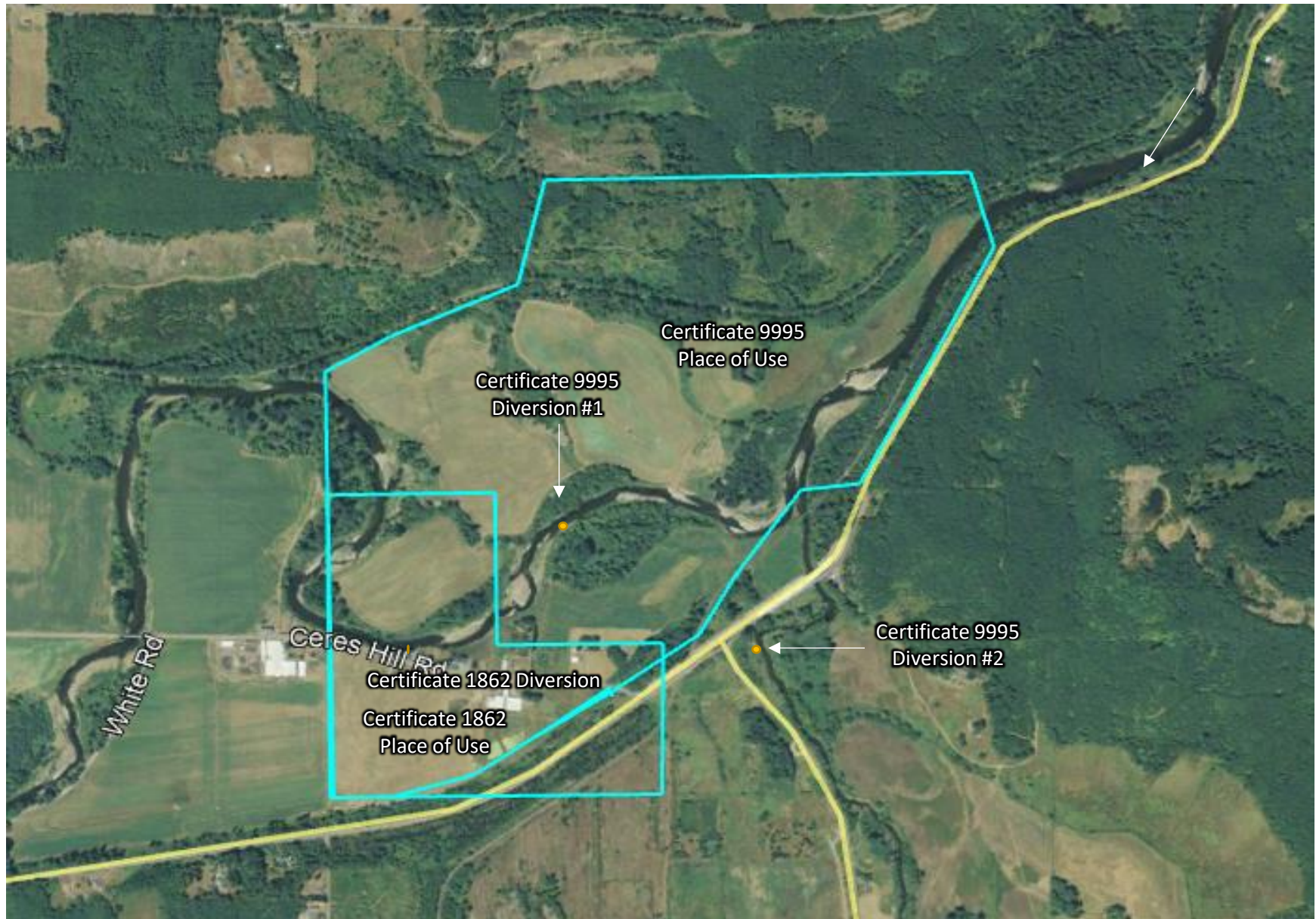
Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\1990 Aerial

1990 Aerial Photograph

Marwood Farm



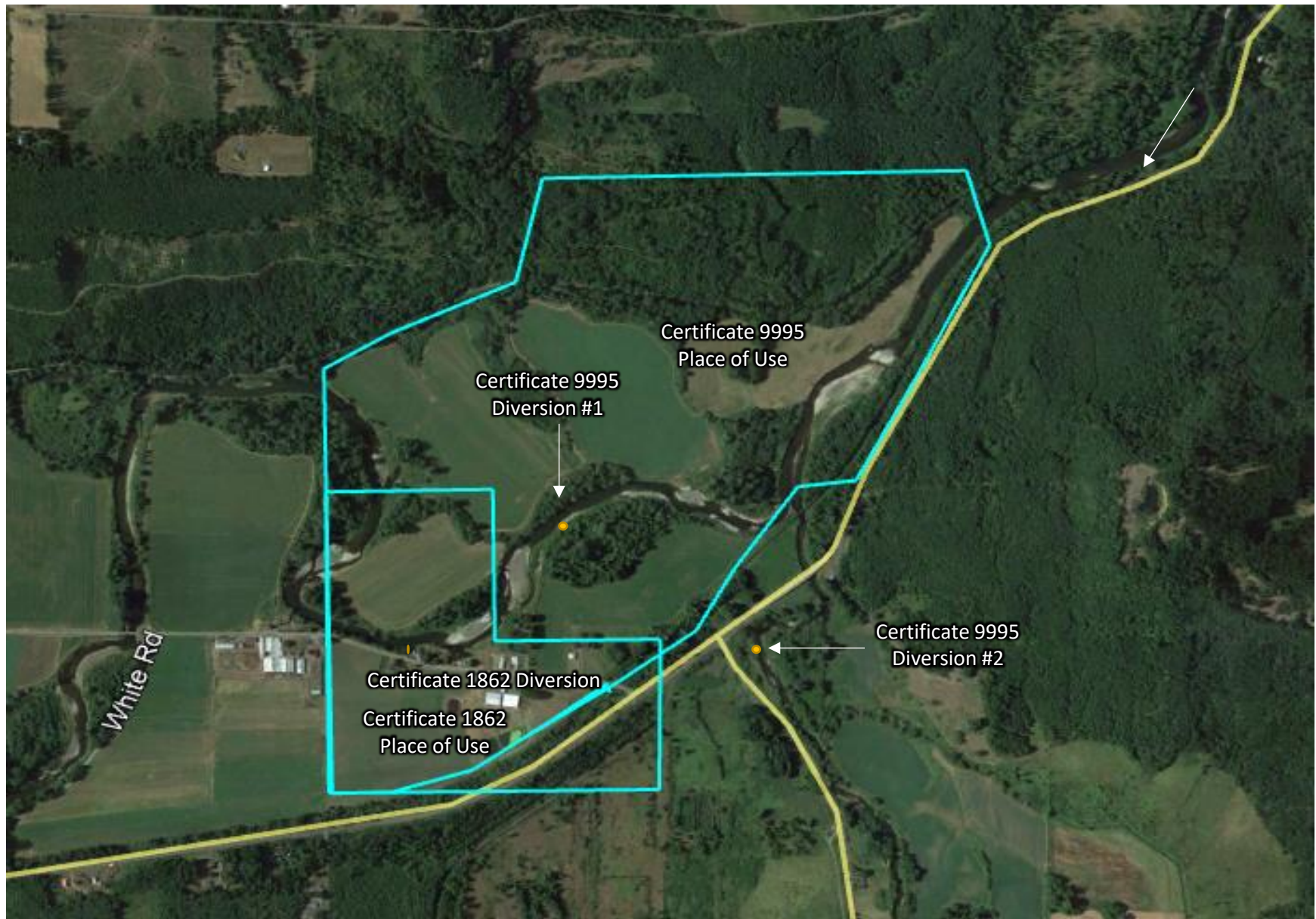
Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\2009 Aerial
90

2009 Aerial Photograph

Marwood Farm



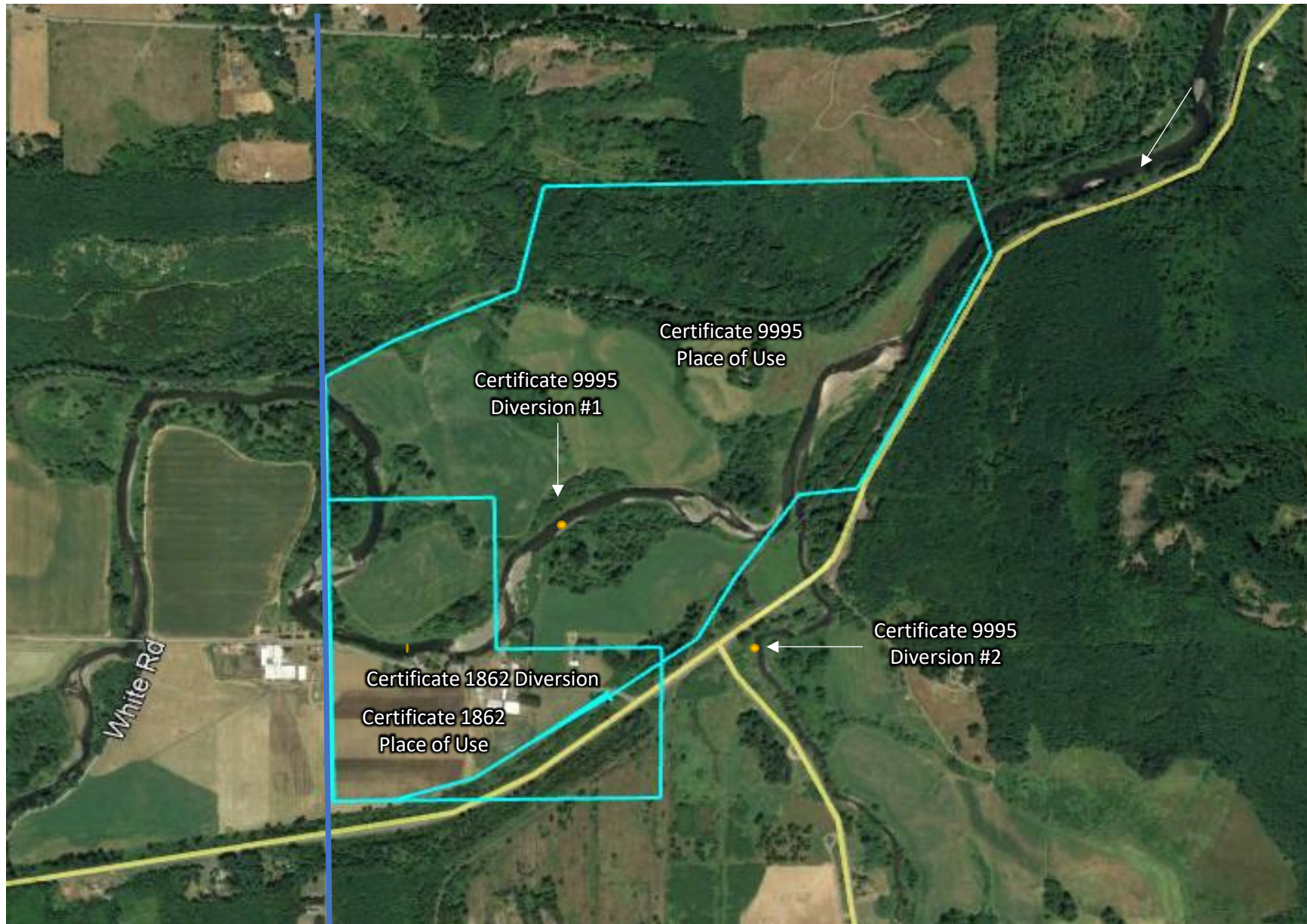
Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\2014 Aerial

2014 Aerial Photograph

Marwood Farm



Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\2018 Aerial

2018 Aerial Photograph

Marwood Farm

EXHIBIT 3

Ecology Administrative Division Form



Water Resources Program

Request for Administrative Confirmation of Division of a Water Right

Complete the information required, attach referenced documents, and forward to the appropriate regional office address shown on the back of this form.

WATER RIGHT INFORMATION:

Water Right Certificate Number: _____

Name on Certificate: _____

- Attach a copy of subject water right certificate.
- Attach a map of the authorized place of use.
- Attach a list of all property owners and property owner contact information, including name, address, and telephone number.
- Provide tax parcel identification numbers and acreages for each property owner within the authorized place of use.
- Attach a copy of property transfer deed, contract, or other documentation indicating division of land and appurtenant water rights.

PROPERTY OWNER AGREEMENT

1. Signatories agree to the division of the subject right consistent with the apportioning presented herein. Agreement of this apportioning reflects the historic beneficial use of water on the property.
2. It is the responsibility of each property owner to verify that his or her "share" of the original right reflects the historic beneficial use of water on his property. If, after a superseding document is issued by Ecology, it is determined that the historic beneficial use of water on that property is less than the quantities agreed to herein, Ecology shall reduce said quantity to the portion put to beneficial use on that property.
3. The division of the original right into superseding documents shall not be construed as validation as to the extent and validity of the original right. The amounts authorized on the superseding portions of said right are not confirmed in this division. The actual amounts authorized on the superseding documents are subject to the historic beneficial use on the appurtenant property.
4. Each property owner shall be responsible for payment of fees associated with the issuance of superseding certificates. All required fees must be received by Ecology prior to issuance of the superseding certificates.

DESCRIPTION OF DIVISION OF THE WATER RIGHT AMONG PROPERTY OWNERS

(Note: For more than 2 property owners, attach additional pages as necessary).

Property Owner No. 1:

Property Owner Name:		Telephone No.:	
Property Owner Address:			
City:		State:	Zip:
Tax Parcel Numbers Owned within Authorized Place of Use:		Authorized Source:	
Share of Quantity Instantaneous (Qi), [gpm or cfs]:		Share of Quantity Annual (Qa), [acre-feet]:	
Share of acreage irrigated:		Authorized purpose(s) of use:	

Check one of the following:

- The authorized point of diversion is on my property and will continue to be used.
- The authorized point of diversion is not on my property, but I have entered into a shared use agreement with the owner of the authorized diversion point.
- The authorized point of diversion is not on my property, and I plan to construct a new diversion point on my property. I plan to file a change application or submit a showing of compliance form to Ecology to cover this change in the point of diversion. I understand that if I plan to use the water for a different purpose or in a different location than described above, I must file a change application with Ecology.

Property Owner Signature _____ *Date:* _____

Property Owner No. 2:

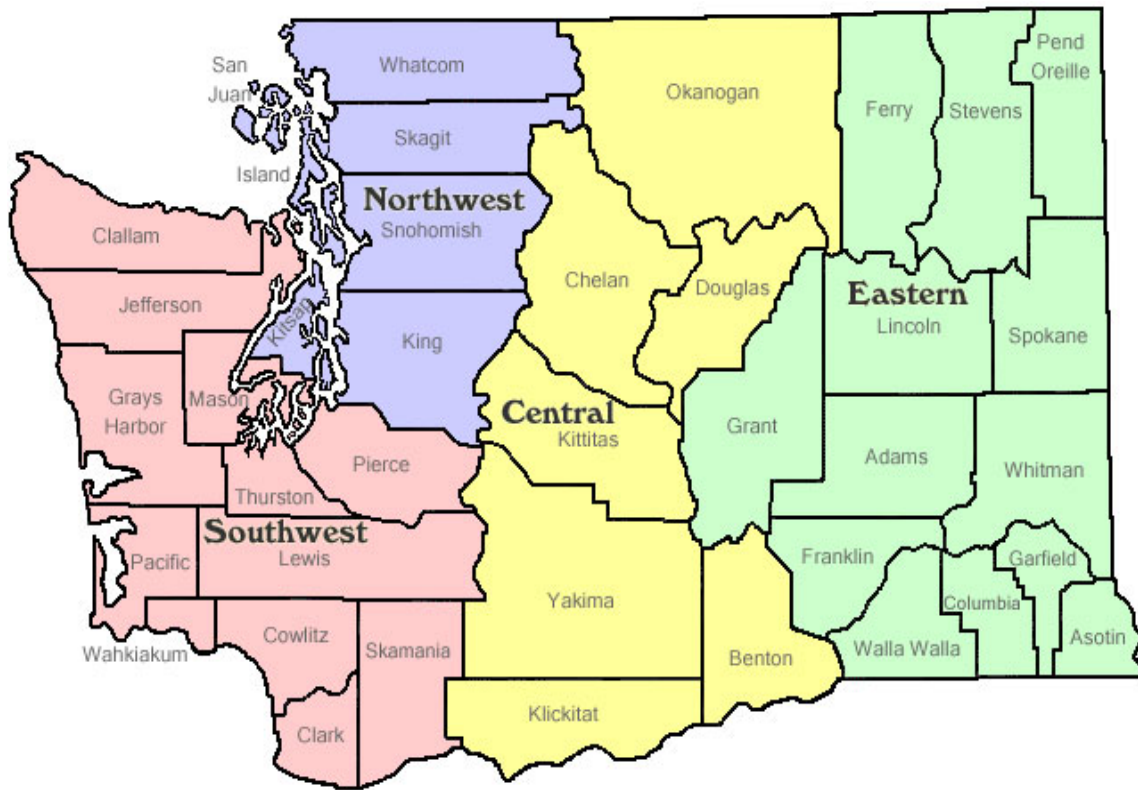
Property Owner Name:		Telephone No.:	
Property Owner Address:			
City:		State:	Zip:
Tax Parcel Numbers Owned within Authorized Place of Use:		Authorized Source:	
Share of Quantity Instantaneous (Qi), [gpm or cfs]:		Share of Quantity Annual (Qa), [acre-feet]:	
Share of acreage irrigated:		Authorized purpose(s) of use:	

Check one of the following:

- The authorized point of diversion is on my property and will continue to be used.
- The authorized point of diversion is not on my property, but I have entered into a shared use agreement with the owner of the authorized diversion point.
- The authorized point of diversion is not on my property, and I plan to construct a new diversion point on my property. I plan to file a change application or submit a showing of compliance form to Ecology to cover this change in the point of diversion. I understand that if I plan to use the water for a different purpose or in a different location than described above, I must file a change application with Ecology.

Property Owner Signature _____ *Date:* _____

<p>Northwest Regional Office 3190 – 160th Ave SE Bellevue, WA 98008-5452 (425) 649-7000</p>	<p>Southwest Regional Office PO Box 47775 Olympia, WA 98504-7775 (360) 407-6300</p>
<p>Eastern Regional Office 4601 N Monroe Street Spokane, WA 99205-1295 (509) 329-3400</p>	<p>Central Regional Office 1250 W Alder Street Union Gap, WA 98903-0009 (509) 575-2490</p>



Marwood Farms Water Rights Summary of Proposed Purchase by the City of Chehalis April 11, 2022

Introduction

This summary has been prepared to provide an overview of the issues and opportunities associated with the purchase of water rights from Marwood Farms, LLC. This document has been prepared based on Information Provided by Tom McDonald, Esq. of the Cascadia Law Group, who is representing the City of Chehalis in this purchase.

Background

There are two water rights that are available for purchase. These are Water Right Certificates No. S2-SWC1862(A) and No. S2-SWC9995(A) (Water Rights). Based on an analysis by Aspect Consulting, the expectation is that Ecology will approve up to 160 acre feet per year for the City's use. This is an additional 52 million gallons per year or an average of 310,334 gallons per day for the period of time the Water Rights are available. *The Water Rights are for only available during the irrigation season, which is from April 15 to October 1 annually.* Therefore, the City of Chehalis would only be able to use the water for municipal purposes during the irrigation season.

The Water Rights pre-date the establishment of minimum instreams flows in the state regulations, WAC 173-522, and, therefore, the water use will not be regulated when the flows in the Chehalis River drop below the minimum flows. However, Water Right S2-SWC9995(A) has a specific minimum flow condition based upon a recommendation of Department of Fish and Wildlife when the Water Right was first issued. The Water Right authorizes the diversion of water on both the Chehalis River and the South Fork of the Chehalis River. The water cannot be diverted when the flows in the Chehalis River drop below 25 cubic feet per second (cfs) and 15 cfs in the South Fork. The Water Right has never been curtailed. It is unlikely that flows will drop below these levels, making it highly unlikely that the use of water under this Water Right would be curtailed.

Process for Changing the Water Rights

The process is to file the applications with the Lewis County Conservancy Board to change the Water Rights. The applications will request to change the Water Rights in three ways.

- 1) The Water Rights would be changed from the point of diversion on the Chehalis River and South Fork downstream to the City's existing diversion on the Chehalis River.
- 2) The place of use would be changed from the Marwood farm to the City of Chehalis's service area.
- 3) The purpose of use would be changed from irrigation to municipal water supply.

The Conservancy Board will make the initial decision to approve or deny the applications. Ecology will review the Board's decisions and can approve them, reverse them, or modify them. The entire process could take a year. There is an opportunity for the City to appeal the final decisions if the decisions are adverse to the City. Any party that has legal standing in the issue may also appeal.

A final decision approving the applications will have a schedule for developing the use of the water for municipal purposes. The City can request a period of time consistent with its growth projections. Ecology generally likes to follow the dates for updating the water system plan. If the deadline for using the water cannot be met, the City can apply for an extension of the development schedule for good cause.

Purchase and Sale Agreement

A Purchase and Sale Agreement has been drafted. It includes boilerplate language. The purchase price is \$2,800 for every acre foot of water Ecology approves for transfer in its final decision. If 160 acre feet is approved, the purchase price will be \$448,000.00. If for example only 100 acre feet is approved, the purchase price will be \$280,000.00. The payment will not be made until Ecology's final decision on the applications to change, and resolution of any appeals.

At the time of executing the Agreement, the City will put into an escrow account \$25,000. This is to be refunded if Ecology's final decision is not an approval in full of the applications for change. The escrow is not refundable if the City breaches the terms of the Agreement; the applications for change are not filed within 60 days of the execution of the Agreement; or if Marwood elects to terminate the Agreement because closing on the sale is not done within two years from the Agreement. Provided, Marwood cannot terminate the Agreement if the delay beyond two years is caused by actions beyond the control of the City, including Ecology's processing of the applications.

At closing, the City will be responsible for real estate excise tax and recording costs.

ANALYSIS

The Water Rights appear to be strong candidates for transfer to the City. They will assist in meeting the City's 50-year growth projection. The purchase price of \$2,800 an acre foot is a good price.

The Agreement has timeframes that should be met, but there is always a risk of not meeting them with the result of Marwood electing to terminate the Agreement and the City losing the \$25,000 earnest money.

In regard to the final decision, there is the unknown of the development schedule that the Conservancy Board and Ecology will approve. With the need for significant infrastructure updates, the development of these rights may not occur for a significant period of time, which may require the City to apply for extensions of the development schedule in the future. If that occurs the City could seek to suspend the development schedule by applying to donate the water rights into the State Trust Water Rights Program.

Although it will very likely not occur, there is also the unknown of the enforcement of instream flows on Water Right No S2-SWC9995(A).

###

WATER RIGHTS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This Water Rights Purchase and Sale Agreement (“Agreement”) is made by and between the City of Chehalis (“City” or “Buyer”), and Marwood Farms LLC, (“Seller”) (occasionally each referred to herein as a “Party,” or collectively the “Parties”), as of the _____ day of _____, 2022 (the “Effective Date”).

RECITALS

Seller is the owner of a portion of surface water rights identified by Water Right Certificates No. S2-SWC1862(A) and No. S2-SWC9995(A) (collectively “Water Rights”).

Water Right No. S2-SWC1862(A) authorizes 0.21 cubic feet per second (cfs) and not specified acre feet per year (afy), attached as Exhibit A, which is appurtenant to real property in Lewis County, Washington.

Water Right No. S2-SWC9995(A) authorizes 0.7938 cfs and 167.58 afy, attached as Exhibit B.

Seller owns the property to which the Water Rights are appurtenant.

Buyer desires to purchase the Water Rights and change and transfer said rights to the City for municipal purposes within the City’s service area with the diversion at the City’s current point of diversion on the Chehalis River, and Seller desires to transfer and change the Water Rights to Buyer for said purpose.

A Water Right Assessment was completed for the Water Rights in May 2021 (Assessment). The findings in the Assessment included a determination that the Seller irrigates 102 acres and uses 213 afy, of which 160 afy is the consumptive quantity of the Water Rights. Assessment attached as Exhibit C.

NOW THEREFORE, in consideration of the mutual promises, covenants, and agreements hereinafter set forth, and for other good and valuable consideration, the Parties hereby agree as follows:

AGREEMENT

1. Purchase and Sale. Subject to and in accordance with the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees purchase from Seller the Seller’s Water Rights in the amount that is subsequently approved in a Final Decision by Ecology issued in connection with the Change Applications, as defined below.

2. Change Applications. The Seller and Buyer shall jointly file applications to change the Seller's Water Rights to the City for municipal purposes within the City's service area and from the City's Chehalis River diversion ("Change Applications").

a. Buyer shall deliver the Change Applications to the Seller within 30 days of the execution of this Agreement by both Parties.

b. Within 10 days after Buyer delivers to Seller the Change Applications, Seller will (i) duly sign the Change Applications; and (ii) deliver to Buyer the original signed Change Applications, acceptable to Seller.

c. Within 15 days after Seller delivers the duly signed Change Applications to Buyer, Buyer shall submit the Change Applications to the Lewis County Water Conservancy Board ("LCWCB") or Ecology, in Buyer's discretion.

d. Buyer shall bear all costs associated with the Change Applications. However, Seller will cooperate with Buyer and provide support in all aspects of the Change Applications process, including any objections, appeals, or other legal proceedings relating to the Change Applications.

e. Seller is not obligated to pay any of the costs relating to the objections, appeals, or other legal proceedings, unless the objections, appeals, or other legal proceeding is based on (i) an action taken by Seller without Buyer's written consent, after the Effective Date of this Agreement; or (ii) a breach by Seller of any of its representations or warranties contained in this Agreement. In either of such cases, Seller will pay all costs to the extent that such objections, appeals, or other legal proceedings is related to the actions of Seller.

f. Prior to Closing, if the Seller is not exercising and putting to beneficial use the Water Rights, the Buyer, upon Buyer's request, shall donate the Water Rights to the State Trust Water Rights Program to preserve the Water Rights from potential relinquishment.

3. Consideration. The Buyer agrees to the following consideration for the purchase of the Seller's Water Rights:

a. Purchase Price. The purchase price for the Water Rights shall be Two Thousand Eight Hundred and no/100 Dollars (\$2,800.00) per acre-foot of the consumptive portion of the Seller's Water Rights approved in a Final Decision by Ecology for transfer and change to the City ("Purchase Price"). The Parties recognize that the Assessment determined 160 afy is the consumptive portion of the Seller's Water Rights; however, this is not binding on Ecology and the final consumptive quantity of water will be determined by Ecology.

b. Final Decision. The Final Decision shall be Ecology's final appealable decision on the Change Applications and, if appealed, any appeals are

finally resolved to Buyer's satisfaction, subject only to such variations that are acceptable to Buyer ("Final Decision").

4. Escrow. Closing of the purchase and sale shall occur through an escrow agent approved by Buyer and Seller (the "Escrow" or "Closing Agent"). Seller and Buyer shall each deposit with Escrow all funds, documents, and instruments required hereby for delivery to the other.

5. Earnest Money Deposit. Within fifteen (15) business days after this Agreement has been signed by the Parties and the Parties agree on an Escrow, Buyer shall deposit earnest money of Twenty-Five Thousand and no/100 Dollars (\$25,000.00) with the Closing Agent, which amount shall be credited against the Purchase Price at Closing. The Earnest Money is otherwise non-refundable except as provided in this Agreement (the "Earnest Money").

6. Closing. The term "Closing" means the transfer and conveyance of the Seller's Water Rights from Seller to Buyer. Closing shall occur ("Closing Date") no later than 60 days after the date of the Final Decision approving the transfer and change of the Water Rights to the City. Buyer shall provide Seller with 15 days' advance written notice of intent to close.

7. Buyer's Contingencies. Buyer's obligations to purchase the Seller's Water Rights are made subject to and contingent upon Buyer's determination, in its sole and exclusive discretion, of satisfactory resolution of the following matters (collectively, the "Contingent Matters" and each, singularly, a "Contingent Matter"), satisfactory resolution of which shall be a condition precedent to Buyer's obligations to purchase under this Agreement:

a. Approval of Change Applications. The Final Decision approves the Change Applications for change and transfer of the Seller's Water Rights filed with Ecology. If the Change Applications are denied in full by Ecology, the Earnest Money shall be refunded in full to Buyer.

b. No Adverse Changes. Between the Effective Date and the Closing Date, there are no material adverse changes to the Seller's Water Rights such to impact the validity of the Seller's Water Rights.

8. Cooperation; Future Covenants. Seller shall cooperate with and assist Buyer with the Change Applications and shall sign any documents requested by the LCWCB or Ecology to authorize the Buyer to file the Change Applications or to authorize the LCWCB or Ecology to review and approve the Change Applications. Seller agrees to execute affidavit(s) or provide testimony attesting to historical use of water to provide evidence regarding the nature, extent, and validity of the Water Rights. If Buyer or a third party appeals Ecology's decision, Buyer shall be responsible for all costs and expenses associated with the appeals; except, Buyer shall not be responsible for attorney's fees or costs incurred by Seller in such appeals. Neither Buyer nor Seller is obligated under this Agreement to appeal or defend Ecology's decision.

9. Seller's Right to Irrigate. The Parties agree that the Seller shall have the right to exercise the Water Rights and irrigate under the Water Rights in 2022 without compensation to the Buyer. This term shall survive Closing if Closing occurs prior to the end of the irrigation season, which is no later than October 1, 2022.

10. Closing Costs. The Buyer shall pay the real estate excise tax, on the conveyance to the extent required, if any, the applicable escrow fee, and the recording costs, if any. Each party shall bear its own attorneys' fees and costs incurred in connection with the negotiations leading up to the execution of this Agreement, performance under this Agreement, the sale of the Water Rights, and the drafting of documents in connection with the sale. All real property taxes, if any, allocated by any taxing authority to the Water Rights will be prorated between Buyer and Seller as of the Closing Date.

11. Condition of Title. At Closing, Seller will deliver good, marketable, and indefeasible fee simple title to each of the Seller's Water Rights and the same will be free and clear of all liens, claims, encumbrances, and defects of title, of any nature whatsoever, and Seller will defend the same against the claims of all parties or persons. To the best of Seller's knowledge, there are no leases, rental agreements, service contracts, option agreements, mortgages, deeds of trust, or other written or oral commitments, arrangements, agreements, or obligations of any kind affecting the Seller's Water Rights except as provided in paragraph 9.

12. Deliveries to Escrow Agent.

a. By Seller. Seller shall deliver or cause to be delivered to Escrow on or before the Closing Date the following items:

(i) Deed. A statutory warranty deed, duly executed and acknowledged by Seller, in a form approved by Buyer, conveying to Buyer, good, marketable, and indefeasible fee simple title to each of the Seller's Water Rights, free and clear of all liens, encumbrances, and restrictions, together with a real estate excise tax affidavit.

(ii) FIRPTA Affidavit. A certificate duly executed by Seller, evidencing that Seller is exempt from the withholding requirements of Section 1445 of the Internal Revenue Code.

(iii) Other Documents. Other documents or instruments necessary to close this transaction.

b. By Buyer. Buyer shall deliver or cause to be delivered to Escrow Agent on or before the Closing Date the following items:

(i) Funds. Cash by federal funds, wire transfer or cashier's check in the amount necessary to pay the balance of the Purchase Price and Buyer's share of closing costs and prorations.

(ii) Excise Tax Affidavit. Buyer will also execute the real estate excise tax affidavit.

(iii) Other Documents. Other documents or instruments necessary to close this transaction.

c. Close of Escrow. When (a) all documents and funds have been deposited with Escrow Agent, and (b) Buyer and Seller have provided approval to close this transaction, Escrow Agent shall immediately close escrow as provided for below.

d. Procedure for Close of Escrow. Escrow Agent shall close escrow as follows:

(i) Pay applicable real estate transfer excise taxes and record the deeds;

(ii) Complete the prorations;

(iii) Deliver any other documents deposited by Seller into Escrow to Buyer;

(iv) Deliver the Purchase Price, less Seller's closing costs and prorations, to Seller; and

(v) Forward to Buyer and Seller, in duplicate, a separate accounting of all funds received and disbursed for each party and copies of all recorded documents deposited into Escrow, with such recording date endorsed thereon.

e. Incorporation of Escrow Instructions. This Agreement shall serve as escrow instructions, and an executed copy of this Agreement shall be deposited by Buyer with Escrow Agent following its execution. The Parties may issue additional escrow instructions provided that such additional escrow instructions shall not change the terms of this Agreement.

13. Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer as of the date of this Agreement and again as of the Closing Date:

a. As of the date of this Agreement, there is no suit, action, or arbitration, or legal or other proceeding or governmental investigation pending or threatened against the Water Rights or the Seller that could affect the Seller's Water Rights or Seller's title to said Water Rights.

b. Seller owns and has good title to the Seller's Water Rights, free and clear of all liens, encumbrances and exceptions, except as to any Permitted Exceptions. Seller has full power to convey the said Water Rights to Buyer.

c. There are no leases, licenses, permits or other agreements granting any person or persons the right to use the Seller's Water Rights or any portion thereof, or any agreements or instruments affecting said Water Rights which will be breached, or under which an event of default would occur, by Seller's execution of this Agreement or by the fulfillment of the terms of this Agreement. Seller has not granted any options, right of first refusal or entered into any other agreement that would commit or obligate Seller in any manner whatsoever to sell or lease the Seller's Water Rights, or any portion thereof, to any party other than Buyer, except as provided in paragraph 9.

d. Seller represents to Buyer that it has not engaged any brokers in connection with the transaction contemplated by this Agreement.

Each of the above representations and warranties set forth in this Section is material and has been relied upon by Buyer in making its decision to enter into this Agreement, and shall survive the Closing of the purchase of the Seller's Water Rights contemplated by this Agreement and will not merge with the transfer of the deeds of the Water Rights at Closing.

14. Termination.

a. In the event despite the best efforts of the Seller, the Buyer has not filed the Change Applications within 60 days of the date of this Agreement, Seller shall be entitled to terminate this Agreement with written notice to the Buyer prior to the Change Applications being filed, and with no further obligation to Buyer and retain the Earnest Money.

b. In the event despite the best efforts of the Seller, Closing does not occur within two (2) years of execution of this Agreement, Seller shall have the right to terminate this Agreement upon written notice to the Buyer with no further obligation to Seller and retain Earnest Money. Termination shall not occur under this term if the Closing is delayed beyond the two years resulting from actions or lack of actions beyond the Buyer's control including Ecology's processing of the Change Applications, and if the Final Decision is appealed.

15. Remedies. If the transaction contemplated by this Agreement fails to close because of a breach by a party:

a. Seller's Remedies. If the transaction fails to close due to a breach of the Agreement by Buyer, Seller's sole and exclusive remedy shall be to receive the Earnest Money as liquidated damages.

b. Buyer's Remedies. If the transaction fails to close due to a breach of the Agreement by Seller, Buyer's sole and exclusive remedies shall be the right to specifically enforce this Agreement or receive, immediately upon demand, the Earnest Money and any other payments made by Buyer to Seller under this Agreement.

16. Attorneys' Fees. If any legal action is brought by either party to enforce any provision of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and court costs in such amounts as shall be allowed by the court.

17. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between Buyer and Seller pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations, and understandings. No modification, termination, or amendment of this Agreement may be made except by written agreement signed by both Parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. All terms, provisions, and conditions of this Agreement shall inure to the benefit of and be enforceable by Seller, Buyer, and their respective heirs, successors, and permitted assigns.

18. Notices. All Notices to be given to either party under this Agreement shall be in writing and shall be delivered to each respective party at the addresses set forth below. Notices shall be deemed to have been given upon the date of actual receipt.

To Buyer: City of Chehalis
 Attn: Jill Anderson, City Manager
 350 N. Market Blvd.
 Chehalis, WA 98532
 360-345-1042

With copy to: Tom McDonald
 Cascadia Law Group PLLC
 606 Columbia Street NW Suite 212
 Olympia, WA 98501
 360-786-5039

To Seller: Marwood Farms LLC
 Attn: Gary Marshall
 1200 Alki Ave SW Unit 1
 Seattle, WA 98116-4483

With copy to: Confluence Law, PLLC
Attn: Jamie Morin
21 Avenue A, Suite 4
Snohomish, WA 98290
(206) 502-4405

19. Counterparts; Facsimile. This Agreement may be executed in counterparts, each of which, when combined, shall constitute one single binding agreement. Facsimile signatures shall be as effective as original signatures.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

BUYER:

SELLER:

CITY OF CHEHALIS

MARWOOD FARMS LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A

(Description of Water Right S2-SWC1862(A))



MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

**DOCUMENT TITLE SUPERSEDING CERTIFICATE OF WATER RIGHT
REFERENCE NUMBER:**

GRANTOR

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
ECOLOGY SOUTHWEST REGIONAL OFFICE (ECY
SWRO)
PO BOX 47775
OLYMPIA, WASHINGTON 98504-7775
(360) 407-6300

GRANTEE

MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

LEGAL DESCRIPTION

Source Name	Parcel	Township	Range	Sec	QQ Q
South Fork Chehalis River	019478007000	13N	04W	24	NE NW

AUTHORIZED PLACE OF USE

That portion of the NW ¼ of Section 24 lying both northwest and southeast of the Chehalis River and that portion of the NE ¼ NE ¼ Section 23 lying west of the Chehalis River, in T13N and R4W in Lewis County, Washington.

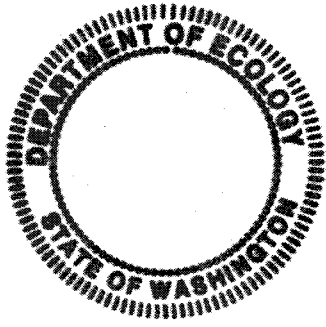
PARCELS: 19478001000

ADDITIONAL LEGAL IS ON PAGE ____ OF ATTACHED DOCUMENT

The amounts provided on the superseding portion of said water right reflect agreement among the owners of the described place of use, but are not confirmed by Ecology in this recording of the division of said right. The actual amounts authorized by the superseding certificates are subject to the historic beneficial use of Certificate S2-SWC1862.

This certificate of water right is specifically subject to relinquishment for non-use of water as provided in Chapter 90.14 RCW.

Given under my hand and the seal of this office at Olympia, Washington, this 2nd day of February 2022.



Laura Watson, Director
Department of Ecology

A handwritten signature in black ink that reads "Michael J. Gallagher". The signature is written in a cursive style and is positioned above a horizontal line.

DATA REVIEW
OK/TH

Michael J. Gallagher, Section Manager
Southwest Regional Office
Water Resources Program

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

EXHIBIT B

(Description of Water Right S2-SWC9995(A))

MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

**DOCUMENT TITLE SUPERSEDING CERTIFICATE OF WATER RIGHT
REFERENCE NUMBER:**

GRANTOR

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
ECOLOGY SOUTHWEST REGIONAL OFFICE (ECY
SWRO)
PO BOX 47775
OLYMPIA, WASHINGTON 98504-7775
(360) 407-6300

GRANTEE

MARWOOD FARMS LLC
1200 ALKI AVE SW, UNIT 1
SEATTLE, WA 98115-4883

LEGAL DESCRIPTION

Source Name	Parcel	Township	Range	Sec	QQ Q
Chehalis River	019478005000	13N	04W	24	SW NE
South Fork Chehalis River	019478007000	13N	04W	24	NE NW

AUTHORIZED PLACE OF USE

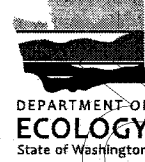
That portion of the S 1/2 of Section 13 lying south of the abandoned railroad right of way (Willapa Hills Trail) and that portion of the N 1/2 NW 1/4 Section 24 lying north of the Chehalis River, in T13N and R4W and in Lewis County, Washington.

PARCELS: 019336001000, 019478001001

ADDITIONAL LEGAL IS ON PAGE ____ OF ATTACHED DOCUMENT



State of Washington
Department of Ecology
SUPERSEDING
CERTIFICATE OF WATER RIGHT



This certificate supersedes Superseding Water Right Certificate issued on June 28, 1967 and is subject to the following provisions.

PRIORITY DATE 3/17/1966	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER S2-SWC9995(A)
MAILING ADDRESS MARWOOD FARMS LLC 1200 ALKI AVE SW, UNIT 1 SEATTLE, WA 98115-4883		SITE ADDRESS (IF DIFFERENT)	

REMARKS: This Superseding Certificate is being issued to reflect an Administrative Division of a water right.

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE 0.7938	UNITS CFS	ANNUAL QUANTITY (AF/YR) 167.58
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Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Irrigation of 84 acres	0.7938		CFS	167.58		04/15 - 10/01

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Lewis	Chehalis River	Grays Harbor	23-Chehalis River
Lewis	South Fork Chehalis River	Chehalis River	23-Chehalis River

SOURCE FACILITY/DEVICE	TWP	RNG	SEC	QQ Q
Chehalis River	13N	04W	24	SW NE
South Fork Chehalis River	13N	04W	24	NE NW

CERTIFICATE OF WATER RIGHT 1 S2-SWC9995(A)

Place of Use

PARCELS:

019336001000, 019478001001

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

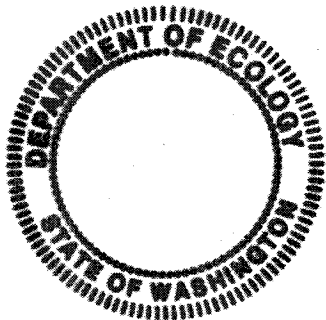
That portion of the S ½ of Section 13 lying south of the abandoned railroad right of way (Willapa Hills Trail) and that portion of the N ½ NW ¼ Section 24 lying north of the Chehalis River, in T13N and R4W and in Lewis County, Washington.

The division of Certificate S2-SWC9995 into Superseding Certificates S2-SWC9995(A), S2-SWC9995(B), and S2-SWC9995(C) shall not be construed as validation as to the extent of Certificate S2-SWC9995 as originally authorized. The amounts provided on the superseding portion of said water right reflect agreement among the owners of the described place of use, but are not confirmed by Ecology in this recording of the division of said right. The actual amounts authorized by the superseding certificates are subject to the historic beneficial use of Certificate S2-SWC9995.

This certificate of water right is specifically subject to relinquishment for non-use of water as provided in Chapter 90.14 RCW.

Given under my hand and the seal of this office at Olympia, Washington, this 2nd day of February 2022.

Laura Watson, Director
Department of Ecology



Michael J. Gallagher, Section Manager
Southwest Regional Office
Water Resources Program

DATA REVIEW
OK /TH

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

EXHIBIT C

(Water Right Assessment dated May 2021)

EXHIBIT C - WATER RIGHTS PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS

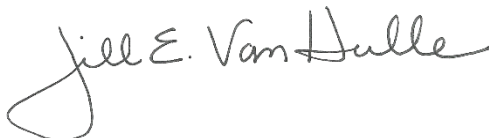
MEMORANDUM

Project No. 190540

May 21, 2021

To: Ken Graham, Washington State Parks

From:



Jill Van Hulle, CWRE
Sr. Associate Water Right Specialist
jvanhulle@aspectconsulting.com

Re: Water Right Assessment: Marwood Farms

Aspect Consulting, LLC (Aspect) prepared this memorandum for Washington State Parks to present the findings of a due diligence evaluation of water rights associated with the Marwood Farms property. Washington State Parks is acquiring this property as part of their Willapa Foothills Rails-to-Trails project and wants to understand the extent and presumed validity of the associated water rights.

Our analysis was conducted by cross-referencing the Marwood operation parcels and property-asset information with the Washington State Department of Ecology's (Ecology) online water right database. A visit to the site was made on April 12, 2021, and interviews conducted with the property owners and farm operator.

Findings

- The Marwood property includes approximately 180 acres situated north of the Chehalis River, of which 102 acres have been consistently irrigated.
- There are two surface water certificates that authorize irrigation of this property and allow for the withdrawal of water from the Chehalis River, as well as the South Fork of the Chehalis River.
- The two surface water rights allow for the irrigation of 176 acres, within a larger place of use that includes both areas where water has never been used for irrigation and areas that likely have been irrigated.
- Irrigation of the Marwood property is well-documented and it appears that the full Qi of 1.73 cfs and approximately 213 acre-feet (of the potential 352 ac-ft/yr) has been perfected.

Next Steps

- An Administrative Division form should be filed with Ecology to divide the water rights prior to any sales or acquisitions.

Marwood Farms

Marwood Farms is located in Lewis County, Washington, within the Chehalis River watershed. The property is owned by Gary Marshall and has been leased by a series of local dairy operators. The property is being actively farmed – including irrigation – and appears to have been in agricultural production since issuance of the associated water rights.

The site is situated within Section 13 and 24, Township 13 North, Range 4 W.W.M. and includes the Lewis County Parcels listed in Table 1 below.

Table 1. Marwood Source Summary

Parcels	Planted Acres	Total Acres	Field	Source
01947800100	18	40	1	Chehalis River
01933600100	84	137	2 - 5	Chehalis River
Total	102	177		

Marwood Farms is situated north of the Chehalis River and includes approximately 102 irrigated acres that are arranged from west to east into five distinct fields. The farm operator has both a diesel and an electric pump, and Table 2 indicates which were used on which on the fields.

Table 2

Field	Planted Acres	Crop Type	Water Right	Pump
1	18	Mixed Orchard Grass, Alfalfa, and Clover	SWC 1862 SWC 9995	Electric
2	34	Orchard Grass	SWC 9995	Electric
3	36	Orchard Grass	SWC 9995	Diesel
4	8	Orchard Grass	SWC 9995	Diesel
5	6	Pasture	SWC 9995	Diesel
Total	102			

Water Right Summary

There are two water rights associated with the Marwood site. Water-right files are included as Exhibit 1:

Surface Water Certificate (SWC) No. 1862 (Ecology Control No. S2-*05629CWRIS) was issued to Fay A. Joy in the amount of 0.5 cfs for the irrigation of 43 acres during the irrigation

season. The priority date of this surface water certificate is December 31, 1941, and the source of supply is the Chehalis River.

The Place of Use for SWC 1862 includes portions of the NW ¼ of Section 24, T. 13 N., R. 4 W.W.M., which encompasses the location of the 18-acre Marwood Field #1. The balance of the 43 acres place of use is situated south of the Chehalis River on property that is not owned by Marwood LLC.

SWC Certificate No. 9995 (Ecology Control No. S2-*19528AWCWRIS) was issued to Melvin Stulken in the amount of 1.26 cfs and 266 acre-feet per year for the irrigation of 133 acres. The priority date of this surface water certificate is March 17, 1966, and the source of the supply is the Chehalis River and the South Fork of the Chehalis River.

The place of use for SWC 9995 includes the property previously described by SWC 1862, and additional portions for the SW ¼ of Section 13. Fields #2 – 5 comprise 84 acres within the place of use for SWC 9995. The record specifies the applicant’s intent to include an additional 133 acres for a total authorization of 176 irrigated acres.

Additional Documents: There are three claims appurtenant to the Marwood Farm property that list the purpose as domestic supply and stockwater from a well:

- G2-088336CL
- G2-023308CL
- G3-023309CL

Historical Water Use and Farming Practices Summary

The Marwood property was acquired by the current owners in 2010 from David Fenn, of Fenn Farms. Owner Gary Marshall leases the site to area dairies that use it to grow food for their cows.

Irrigation History

- The Proof of Appropriation was filed for the Joy certificate on September 22, 1942, with the permit holder attesting that he had 43 acres under irrigation. This certificate was originally issued for the irrigation of 97 acres but reduced to allow for 43 acres based on what the permit holder was able to develop.
- As of March 17, 1966, then property owner Melvin Stulken had at least 43 irrigated acres and filed for additional water. The Proof of Appropriation for the Stulken Certificate was filed on June 19, 1967, attesting to the irrigation of 133 acres, or 176 acres between the two appurtenant certificates.
- 1968 to 2010 – Prior to Marwood ownership, the property was owned and farmed by the Fenn family (most recently Dave Fenn, DBA Fenn Farms.) The Fenn family are long-time Chehalis valley farmers and are heavily involved in area agriculture; three generations of the Fenn family have produced vegetables in the Curtis-area property for local processors for 65 years. The Marwood property was used predominantly to produce peas and corn.

- 2011 to 2014 – Fabian Almeida operated a dairy under the name of ECUAFARM and leased the property. Randy Kunde was the manager for the dairy and also did all the planting of rye, alfalfa, clover, and mixed grasses that is still being produced today.
- 2015 to 2017 – Jerry Foster operated under the name of Southbank Dairy.
- 2018 – Anton Schilter operated a dairy operation under the name of Sunny Farms. During the Schilter’s lease, the fields were certified as organic, but according to Gary Marshall the fields were not irrigated.
- 2019 to 2021 – Randy Kunde and Samantha Benson lease the property under the name of Kunde Golden Dairy.

Irrigation Operation

Mr. Kunde is the current operator of the farming activities on the project site, and has past experience operating the irrigation system for the time period between 2011 to 2014, when he operated the system on behalf of ECUAFARM. Kunde employs two pumps, an electric Baldor Reliance Industrial pump, and a second diesel-fueled Greenline pump from Daritech. The Baldor pump is a 20-hp and uses 3-Phase power. Both pumps are capable of producing approximately 400 gallons per minute¹ and are generally used at the same time, placing the total withdrawal rate at 1.78 cfs, which slightly exceeds the authorized rate of 1.73 cfs. The diversions are not metered, but Mr. Kunde noted that he irrigated to encourage maximum production; from a review of aerial imagery fields #1 through 4 appear well irrigated. Field #5, which is not used for cut grass products, is irrigated sporadically.

The system includes two Ernst irrigation reels with Big Guns and a stationary spinner that is used for the corners. Kunde generally irrigates two of the fields at a time, one with each pump. Each set is left in position for about 24 hours, and the traveling guns are capable of irrigating a 75-foot path. Irrigation generally starts in mid-May and runs into November, depending on the weather, and Mr. Kunde reports that he is able to get four to five cuttings from Fields #1 through 4. Field #5 is not mowed but has been used in the past to pasture animals. Kunde reports that he did not irrigate Field #5 in 2019 or 2020 but it was sporadically irrigated in previous years.

Aerial images from 1990, 2009, 2014, and 2018 have been included as Exhibit 2. This imagery shows consistent agricultural activity on the project site that is consistent with irrigation.

Water Use and Crop Requirements

Water rights are only good to the extent that the water allocated for the specific purpose has actually been developed. As is the case with many older surface water rights, Ecology did not assign annual quantities to the Joy water right authorizations – only a rate of withdrawal – but did so for the Stulken water right. Since the two water rights are used interchangeable and comanged, this assessment does not distinguish between the two.

In this section we provide a discussion of the likely extent of these rights. For the purposes of this estimate, we have assumed that a total of 102 acres is being irrigated by Marwood Farms using a Big Gun sprinkler system.

¹ Discharge Estimated by farm operator

In situations where metering data is not available, Ecology uses various estimation methods such as the Washington Irrigation Guide (WIG) and Ecology Water Resources Program Guidance 1210² to estimate the crop irrigation requirement (CIR). The WIG provides the CIR needed to calculate the total and consumptive use associated with irrigated agriculture, and Guidance 1210 provides typical irrigation efficiencies that Ecology uses when determining total irrigation requirements (TIR). Guidance 1210 indicates the average irrigation efficiency (Ea) for a Big Gun sprinkler of 65 percent. The amount of water that is consumptively used includes CIR and water evaporated during irrigation application (evapotranspiration).

Table 2 depicts the water duty associated with grass-type crops based on climatic conditions near Centralia, Washington. The water duty (CIR) for the irrigation of an acre of grass-based hay is 16.28 inches or 1.36 acre-feet. For the irrigation of 102 acres, a properly irrigated crop would need about 138 acre-feet applied between May and September. This initial figure reflects only what the crop actually needs. No irrigation system is completely efficient, however. Estimates of total water demand generally include consideration of the additional water that is pumped and either evaporates or simply soaks back into the ground as return flow. A second value, referred to as the Total Irrigation Requirement (TIR), reflects the total amount of water that would have been needed to successfully irrigate 102 acres. For this site, that value is 213 acre-feet.

For the purposes of establishing the extent of beneficial use of water for under these water rights for the Marwood property, only the amount of water that is valid amounts to 213 acre-feet. Table 2 includes the breakdown of total water use, which factors in the inefficiencies.

Table 2. Total Irrigation Requirement for 102 Acres Based on Big Guns and Grass-Based Crops

Acres	CIR/inches (WIG)	CIR (afy)	TIR (afy)	App. Efficiency (%)	% Total Evaporated	Total Consumed (afy)	Return Flow (afy)
102	116.28	138	213	65	10	160	53

While 102 acres are being irrigated north of the river, these rights allow for the irrigation of 176 acres in total. There is additional irrigation occurring within the authorized place of use on properties located to the south of the Chehalis River that are not owned by the Marwood LLC. These areas have not been specifically assessed; however, it is possible that upwards of 70 acres are under irrigation. Prior to acquisition of the Marwood property and water rights, we recommend the appurtenant water rights should be divided via an Administrative Division request.

Administrative Divisions of Water Rights

In situations where multiple property owners own a portion of land to which a water right is appurtenant, the property owners may apply to Ecology and receive a superseding document describing their share of the original water right. Ecology has a form specifically intended for this request, attached as Exhibit 3.

² <https://fortress.wa.gov/ecy/wrdocs/WaterRights/wrwebpdf/guid1210.pdf>

Ecology’s issuance of superseding documents – which in the case of the Marwood rights will be superseding certificates – are based on an agreement by those who own the subject property within the authorized place of use of the original right. Ecology's confirmation of the division of a water right is administrative in nature and will not include an evaluation of the extent and validity of the subject water right. Ecology includes a “disclaimer” on administratively divided water rights stating that the quantities have not been verified.

It is important to note that in addition to splitting the acre-feet allocated by the original water right between parties, Ecology will request information regarding how the withdrawal rate will be divided between parties. Divisions of water rights are generally based on proportional shares of the property covered by the water right. In situations where the place of use includes areas which were never irrigated – such as the forested hillside area north of the Marwood fields – the number of irrigated acres can be apportioned differently to reflect the actual extent of the irrigated areas.

In total, the two surface water rights allow for the irrigation of 176 acres, with a place of use that includes forested parcels immediately to the north of the irrigated areas, and property that is located south of the river. The northernmost parcels are owned by John and Sandra Shultz and are forested and largely too steep to have been farmed. This approximately 60-acre area has never been irrigated. There is an additional 80 acres situated within the place of use, and south of the Chehalis River and Marwood property, that likely has been irrigated but are not owned by Marwood.

The parcels located south of the Chehalis River are listed in Table 3, and it is noted that SWC 9995 also includes a diversion point on the South Fork of the Chehalis River which is located within the NE ¼ of the NW ¼ of Section 24, T. 13, R. 4 W.W.M., accordingly it is likely that irrigation is occurring on property located within the place of use that is not owned by Marwood Farms. Table 3 includes the larger parcels located within the place of use, but there are other smaller parcels that could also potentially be using water.

Table 3. Parcels within Place of Use (Not Owned by Marwood)

Parcel	Total Acreage	Owner	Includes Irrigation
01947800500	44.9	Terry Lawton	Yes
01948001000	3	Chn Farms, LLC	Yes
01948007000	2.43	Chn Farms, LLC	Yes
01948006000	36.54	Chn Farms, LLC	Yes
019335002001	15.3	John Schulz	No
019335002002	7.5	John Schulz	No
019335002003	7.5	John Schulz	No
019335002004	15	John Schulz	No
019335002005	15	John Schulz	No
019335002006	15.25	John Schulz	No

We suggest that prior to acquisition of the Marwood property that the appurtenant water rights to administratively divided based on property ownership.

Reliability of Source

“Reliability” relates the potential for regulation during the irrigation season, usually in response to the establishment of instream flows. The Joy water right authorization has no operational restrictions, but the Stulken water right is provisioned such that diversions must cease when flows fall below 25 cfs at the point of diversion, and for the South Fork diversion when flows fall below 15 cfs.

Both of these water rights predate the establishment of formal rule development (pursuant to Washington Administrative Code (WAC) 173-522), and the curtailment trigger on the Stulken water right is based on recommendation from the Departments of Fisheries and Game (now WDFW). Thus, while the Stulken water right is technically subject to instream flows, as a practical matter it is not regulated as part of Ecology’s efforts to manage provisioned water rights. As a practical matter, flows are unlikely to fall to less than 25 cfs at the mainstem, making it highly unlikely that the use of water under this authorization would ever be curtained.

Limitations

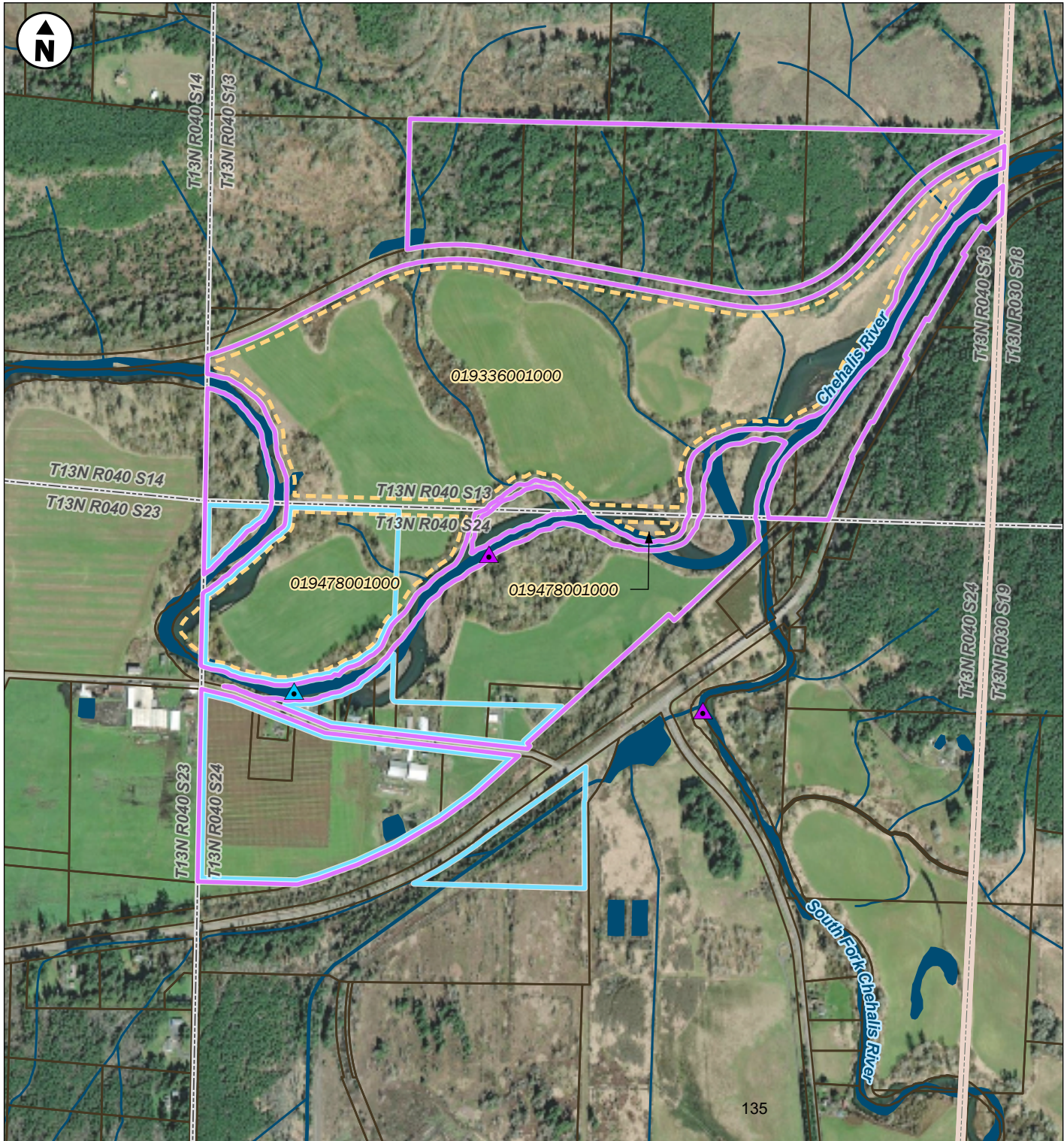
Work for this project was performed for Washington State Parks (Client), and this memorandum was prepared in accordance with generally accepted professional practices for the nature and conditions of work completed in the same or similar localities, at the time the work was performed. This memorandum does not represent a legal opinion. No other warranty, expressed or implied, is made.

All reports prepared by Aspect Consulting for the Client apply only to the services described in the Agreement(s) with the Client. Any use or reuse by any party other than the Client is at the sole risk of that party, and without liability to Aspect Consulting. Aspect Consulting’s original files/reports shall govern in the event of any dispute regarding the content of electronic documents furnished to others.

- Attachments: Figure 1 – Marwood Farms Water Rights with Vicinity Map
 Figure 2 – Marwood Farms Fields
 Exhibit 1 – Water Right Files
 Exhibit 2 – Select Aerial Photographs
 Exhibit 3 – Ecology Administrative Division Form

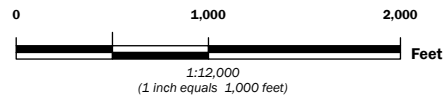
FIGURES

AC05 Proj: C:\projects\WashingtonState\190540\WashingtonState\190540.dwg | No Projected Coordinate System | Date Sheet: 2021-05-05 | Exported 2021-05-05 16:38 by hmlen



Comments: Places of use and points of diversion are defined on the cover sheets under the heading "LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED."

- | | |
|--------------------------------------|---------------------|
| Authorized Point of Diversion | Parcels of Interest |
| S2-*05629CWRIS | Township/Range |
| S2-*19528AWCWRIS | Section |
| Authorized Place of Use | Water Body |
| S2-*05629CWRIS | Road |
| S2-*19528AWCWRIS | Tax Parcel |



Marwood Farms Water Rights with Vicinity Map

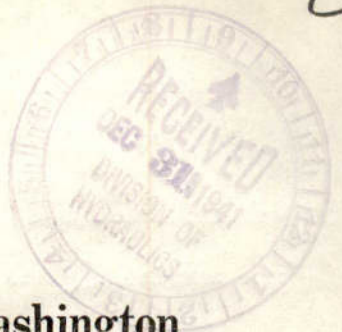
Marwood Farms Due Dilligence
Chehalis, Washington

	MAY-2021	BY: RAP / TDR	FIGURE NO. 1
	PROJECT NO. 190540-E-01	REVISED BY: - / - / -	

EXHIBIT 1

Water Right Files

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
Division of Hydraulics



APPLICATION FOR A PERMIT
To Appropriate Public Waters of the State of Washington

(Read directions on last page carefully before filling out this form)

Application No. 5629

I, Fay C. Joy (Name of applicant),
of R#1, Chehalis (Postoffice), County of Lewis,
State of Washington, do hereby make application for a permit to appropriate

the following described public waters of the State of Washington subject to existing rights:

If the applicant is a corporation, give date and place of incorporation.....

1. The source of the proposed appropriation is Chehalis River (Name of stream)
tributary of..... (Allowed) 1.00 c.f.s.

2. The amount of water which the applicant intends to apply to beneficial use is 2
cubic feet per second.

3. The use to which the water is to be applied is Irrigation
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)

4. Time during which water will be required each year March 1st to Nov. 1st
April 15 to Oct. 1

5. The approximate point of diversion is located 600 feet east of the Southwest
corner of the Northwest Quarter of the Northwest Quarter
(Give distance and bearing to section corner)

being within the NW⁴ NW⁴ of Sec. 24, Tp. 13 N., R. 4 W. W. M.,
(Give smallest legal subdivision) (E. or W.)
in the county of Lewis

6. The to be ft. or miles in length, terminating
(Main ditch, canal, or pipe line)
in the of Sec., Tp. N., R. W. M.,
(Smallest legal subdivision) (E. or W.)
the proposed location being shown on the accompanying map.

7. The name of the ditch, canal or other works is.....

8. Estimated cost of development necessary to utilize fully the appropriation herein asked for
\$ 3000⁰⁰

9. Does the stream from which you wish to appropriate water flow through the tract of land on
which the water is to be used? yes

10. Do you own the required right-of-way for the proposed works?.....

DESCRIPTION OF WORKS

DIVERSION WORKS—

11. (a) Height of diversion dam..... feet; length on top..... feet;
length at bottom..... feet; material to be used and character of construction
(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

(b) Description of headgate.....
(Timber, concrete, etc.; number and size of openings)

When storage works are contemplated a storage permit must be filed in addition to the above. These forms can be secured, together with instructions, by addressing the State Supervisor of Hydraulics, Olympia, Washington.

CANAL SYSTEM—

12. (a) Give approximate dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: Width on top (at water line).....feet; width on bottom.....feet; depth of water.....feet; grade.....feet fall per one thousand feet.

(b) At.....miles from headgate: Width on top (at water line).....feet; width on bottom.....feet; depth of water.....feet; grade.....feet fall per one thousand feet.

SUPPLY THE FOLLOWING INFORMATION ACCORDING TO USE PROPOSED:

IRRIGATION—

13. The land to be irrigated has a total area of 97 acres, described as follows: N.W. 1/4 - N.W. 1/4 Sec. 24, Twp. 13 N., R. 4 W. W. M. (Give legal subdivision by section, township and range) Part of S 1/2 - N.W. 1/4 Sec. 24, Twp. 13 N., R. 4 W. W. M.

(If more space is required, attach separate sheet)

14. Give the legal description of land when water is to be used for purposes other than irrigation, power and municipal supply..... Sec....., Tp..... N., Rge..... W. M. (Legal subdivisions) (E. or W.)

(a) To what stream is water returned.....

(b) Locate the point of return..... Sec....., Tp..... N., Rge..... W. M. (Smallest legal subdivision) (E. or W.)

POWER—

15. (a) Total amount of power to be developed..... H. P. (Theoretical horsepower)

(b) Total fall to be utilized..... feet. (Head)

(c) The nature of the works by means of which the power is to be developed.....

(d) Such works to be located in..... of Sec....., Tp..... N., Rge..... W. M. (Legal subdivision) (E. or W.)

(e) To what stream is the water to be returned.....

(f) Locate point of return..... Sec....., Tp..... N., Rge..... W. M. (E. or W.)

(g) The use to which power is to be applied is.....

MUNICIPAL SUPPLY—

16. To supply the city of _____ (Name) _____ County, having a present population of _____ and an estimated population of _____ in 19_____

- (a) Estimated present requirement _____
(b) Estimated future requirement _____

17. Construction work will begin on or before _____

18. Construction work will be completed on or before _____

Duplicate maps of the proposed ditch or other works, prepared in accordance with the rules of the State Supervisor of Hydraulics, accompany this application.

Fay C. Joy (Name of applicant)

Signed in the presence of us as witnesses:

- (1) Chester Twining (Name), R 4 Box 33 Lecheville (Address of witness)
(2) E. Johnson (Name), 1004 Roosevelt Ave, Centralia, Wn. (Address of witness)

Remarks: _____

STATE OF WASHINGTON, }
COUNTY OF THURSTON. } ss.

This is to certify that I have examined the foregoing application together with the accompanying maps and data, and return the same for correction or completion, as follows: _____

In order to retain its priority, this application must be returned to the State Supervisor of Hydraulics, with corrections, on or before _____, 19_____

WITNESS my hand this _____ day of _____, 19_____

State Supervisor of Hydraulics.

STATE OF WASHINGTON, COUNTY OF Lewis

CERTIFICATE OF WATER RIGHT

(For rights perfected under original, enlargement or secondary permits.)

(In accordance with the provisions of Chapter 117, Laws of Washington for 1917, and the regulations of the State Supervisor of Hydraulics thereunder.)

This is to certify, that Fay A. Joy of Chehalis, State of Washington, has made proof to the satisfaction of the State Supervisor of Hydraulics of Washington, of a right to the use of the waters of Chehalis River, a tributary of _____, for the purposes of Irrigation under Appropriation Permit No. 3497 issued by the State Supervisor of Hydraulics, and that said right to the use of said waters has been perfected in accordance with the laws of Washington, and is hereby confirmed by the State Supervisor of Hydraulics of Washington and entered of record in Volume 4, at Page 1862, on the 25th day of September, 1942; that the right hereby confirmed dates from December 31, 1941; that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.5 of a cubic foot per second.

A description of the lands under such right to which the water hereby confirmed is appurtenant, and the place where such water is put to beneficial use, is as follows:

PLACE OF USE			LEGAL SUBDIVISION	FOR IRRIGATION	
Section	Township	Range		No. Acres Described in Permit	No. Acres Actually Irrigated
<u>24</u>	<u>13 N.</u>	<u>4 W.W.M.</u>	<u>NW$\frac{1}{4}$ of NW$\frac{1}{4}$</u>	<u>97</u>	<u>43</u>
<u>24</u>	<u>13 N.</u>	<u>4 W.W.M.</u>	<u>S$\frac{1}{2}$ of NW$\frac{1}{4}$</u>		

LOCATION OF POWER PLANT			LEGAL SUBDIVISION	FOR POWER	
Section	Township	Range		H. P. Described in Permit	H. P. Actually Developed

Section	Township	Range	LEGAL SUBDIVISION	FOR OTHER USES

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 Section 39, Chapter 117, Session Laws 1917.

WITNESS the seal and signature of the State Supervisor of Hydraulics affixed this 25th day of September, 1942.

Chas. R. Borchert
State Supervisor of Hydraulics.

Permit No. 3497

Certificate of Water Right

Recorded in the office of State Supervisor
of Hydraulics, Olympia, Washington, in
Book No. 4 of Water Right
Certificates, on Page 1862, on
the 25th day of September,
1942

STATE OF WASHINGTON, }
County of Lewis } ss.

I certify that the within was received
and duly recorded by me in Volume.....
of Book of Water Right Certificates, Page
..... on the..... day of
....., 19.....

STATE PRINTING PLANT

Please send \$10.00 minimum statutory examination fee with application.

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
Division of Water Resources

Priority

Date MARCH 17, 1966

Time 9:00 PM

Accepted X

**APPLICATION FOR A PERMIT
To Appropriate Public Waters of the State of Washington**

(Read directions on last page carefully before filling out this form)

Application No. 19528

I, Melvin Stalker
(Name of applicant)

of P.O. Box 2570 Chelalis, WA
(Complete postoffice address)

do hereby make application for a permit to appropriate the following described public waters of the State of Washington subject to existing rights:

If the applicant is a corporation, give date and place of incorporation

1. The source of the proposed appropriation is South Fork Chelalis River, tributary of Chelalis River and Chelalis River
(Name of stream)

tributary of Grays Harbor

2. The amount of water which the applicant intends to apply to beneficial use is 1.5
cubic feet per second, _____ acre-feet per year. This is an increase over permit # 3497

3. The use to which the water is to be applied is irrigation
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)
(COT 1962)

4. Time during which water will be required each year irrigation season

5. The approximate point of diversion is located approx. 20' NE of SW corner of NE 1/4 NW 1/4 Sec 24
(Give distance and bearing to section corner)

SEC 24 T21N - 1320' W 670' S 3/4 NE corner Sec 24
Corner Sec 24 - 1320' W 880' S
3' approx. 1/4 SE of NW
corner of Sec 24

being within 2 1/2 - 625' E & 1070' N from center Section 24
in the county WASCO P.M.C. 6-7-66 13 N., R. 4 W. W. M.
(E. or W.)

6. The _____ to be _____ ft. or miles in length, terminating
(Main ditch, canal, or pipe line)
in the _____ of Sec. _____, Tp. _____ N., R. _____ W. M.,
(Smallest legal subdivision) (E. or W.)
the proposed location being shown on the accompanying map.

7. Estimated cost of development necessary to utilize fully the appropriation herein asked for \$ _____

8. Does the stream from which you wish to appropriate water flow through the tract of land on which the water is to be used? yes

9. DESCRIPTION OF WORKS:

(a) DIVERSION WORKS—

(1) Height of diversion dam _____; length on top _____ feet; length on bottom _____ feet; material to be used and character of construction _____

(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

(2) Description of headgate _____

(Timber, concrete, etc., number and size of openings)

When storage works are contemplated a storage permit must be filed in addition to the above. These forms can be secured, together with instructions, by addressing the State Supervisor of Water Resources, Olympia, Washington.

Please send \$10.00 minimum statutory examination fee with application.

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
Division of Water Resources

Priority

Date MARCH 17, 1966
Time 9:00 AM
Accepted W.

APPLICATION FOR A PERMIT

To appropriate Public Waters of the State of Washington

(Read directions on last page carefully before filling out this form)

Application No. 19528

I, Melvin Stulken
(Name of applicant)
of PO Box 2570 Chelalis wa
(Complete postoffice address)

do hereby make application for a permit to appropriate the following described public waters of the State of Washington subject to existing rights:

If the applicant is a corporation, give date and place of incorporation _____

1. The source of the proposed appropriation is South Fork Chelalis River, tributary of Chelalis River and Grays River
(Name of stream)
tributary of Grays Harbor

2. The amount of water which the applicant intends to apply to beneficial use is 1.5
cubic feet per second, _____ acre-feet per year. This is an increase over present permit # 3497

3. The use to which the water is to be applied is irrigation
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)
irrigation season throughout

4. Time _____

5. SEC 24 NE 1/4 NW 1/4 SW 1/4 NE 1/4 Sec. 24, Tp. 13 N., R. 4 W. W. M., (E. or W.)
Center of Sec. 24

being within the NE 1/4, NW 1/4, SW 1/4 NE 1/4 Sec. 24, Tp. 13 N., R. 4 W. W. M.,
(Give smallest legal subdivision) (E. or W.)
in the county of Lewis

6. The _____ to be _____ ft. or miles in length, terminating
(Main ditch, canal, or pipe line)
in the _____ of Sec. _____, Tp. _____ N., R. _____ W. M.,
(Smallest legal subdivision) (E. or W.)
the proposed location being shown on the accompanying map.

7. Estimated cost of development necessary to utilize fully the appropriation herein asked for \$ _____

8. Does the stream from which you wish to appropriate water flow through the tract of land on which the water is to be used? yes

9. DESCRIPTION OF WORKS:

(a) DIVERSION WORKS—
(1) Height of diversion dam _____; length on top _____ feet; length on bottom _____ feet; material to be used and character of construction _____

(2) Description of headgate _____
(Timber, concrete, etc., number and size of openings)

When storage works are contemplated a storage permit must be filed in addition to the above. These forms can be secured, together with instructions, by addressing the State Supervisor of Water Resources, Olympia, Washington.

(b) Description of Ditch or Pipeline System

10. IRRIGATION: Number of acres to be irrigated 133 additional acres
see letter attached

11. MUNICIPAL OR COMMUNITY WATER SUPPLY:

To supply the city or community of _____ County, having a
present population of _____ and an estimated population of _____ in 19____

(a) Estimated present requirement _____

12. LEGAL DESCRIPTION OF PROPERTY on which water is to be used, for all purposes

other than Municipal Supply or Power (Copy legal description from deed) SW 1/4 SW 1/4 E 1/2 SW 1/4,
N 1/2 SE 1/4, SW 1/4 SE 1/4, Part of SE 1/4 SE 1/4, all Section 13, Twp 13,
Range 4 W, N 1/2 NW 1/4 NW 1/4, NE 1/4 NW 1/4, NW 1/4 NE 1/4, SW 1/4 NE 1/4,
all in Sec 24 Twp 13 N R. 4 W; less Railroad R/W & Highways.
also

and that part of S 1/2 NW 1/4 lying westerly of the right of way of Chehalis
Western Railroad

(a) What interest do you have in the above described property owner operator.

(b) Are there any existing water rights appurtenant to the above described property _____

If so, from what source yes Permit H 3497 - Cert 1867 from Chehalis river
This is a request to increase not change above permit.

13. POWER:

(a) Total amount of power to be developed _____ H. P.
(Theoretical horsepower)

(b) Total fall to be utilized _____ feet.

(c) The nature of the works by means of which the power is to be developed _____

(d) Such works to be located in _____ of Sec. _____, Tp. _____ N., Rge. _____ W. M.
(Legal subdivision) (E. or W.)

(e) To what stream is the water to be returned? _____

(f) Locate point of return _____ Sec. _____, Tp. _____ N., Rge. _____ W. M.
(E. or W.)

(g) The use to which power is to be applied is _____

14. WORK SCHEDULE:

(a) Construction work will begin on or before _____

(b) Construction work will be completed on or before _____

Triplicate maps of the proposed ditch or other work, prepared in accordance with the rules of the State Supervisor of Water Resources, accompany this application.

(SIGN HERE) Melvin Stalder (Applicant) Address P. Box 257 C

Chehalis, wa

(SIGN HERE) Melvin Stalder (Owner of Land in Item 13) Address same

Signed in the presence of us as witnesses:

(1) Carl Pruden (Witness) Rt. Box 191 Chehalis (Address of witness)

(2) _____ (Name) _____ (Address of witness)

Remarks: _____

STATE OF WASHINGTON, }
COUNTY OF THURSTON. } ss.

This is to certify that I have examined the foregoing application together with the accompanying maps and data, and return the same for correction or completion, as follows: _____

In order to retain its priority, this application must be returned to the State Supervisor of Water Resources, with corrections, on or before _____, 19_____

WITNESS my hand this _____ day of _____, 19_____

State Supervisor of Water Resources.

14295

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
Division of Water Resources

Permit to appropriate Public Waters of the State of Washington

Book No. 36 of Permits, on Page 14295 Under Application No. 19528

MELVIN STULKEN

of Chehalis, Washington

is hereby granted a permit to appropriate the following described public waters of the State of Washington, subject to existing rights and to the following limitations and provisions: Permittee shall construct and maintain at his own expense a weir, or other suitable device, for measuring any water granted herein for irrigation purposes and such appropriation shall be subject to a reasonable rotation system if ordered by the State Supervisor of Water Resources. 1) Diversion intake shall be tightly screened at all times with wire having a mesh opening not greater than 0.125 (1/8) inch. 2) No dam shall be constructed in connection with this diversion. 3) All diversion from the Chehalis River shall cease when its flow falls to 25.0 c.f.s. or less, as measured immediately below the point of diversion. 4) All diversion from the South Fork Chehalis River shall cease when its flow falls to 15.0 c.f.s. or less, as measured immediately below the point of diversion.

Priority date of this permit is March 17, 1966

Source of the proposed appropriation is South Fork Chehalis River, tributary of Chehalis River / tributary of Grays Harbor

The quantity of water appropriated shall be limited to the amount which can be beneficially applied and not to exceed 1.26 cubic feet per second, or its equivalent in case of rotation, to be used for the following purposes: Irrigation

as more definitely set out below.

The approximate point of diversion is located #1 - 1920 feet west and 670 feet south; #2 - 1320 feet west and 880 feet south; both from north quarter corner of Sec. 24; #3 - 625 feet east and 1070 feet north from center of Sec. 24.

being within NE1/4 and SW1/4 Sec. 24, Twp. 19 N., Rge. 4 W. W. M., county of Lewis

The use, or uses, to which water is to be applied:

FOR DOMESTIC SUPPLY AND MISCELLANEOUS USES: cubic feet per second during entire year for to be used

within Sec. , Twp. N., Rge. W. M.,

FOR IRRIGATION: 1.26 cubic feet per second, 266 acre-feet per year, during irrigation season

each year, for irrigation of 133 acres, described as follows: SW1/4, S1/2, N1/2, SW1/4, that part of SE1/4 lying westerly of State Highway No. 6 (12), all in Sec. 19, T. 19 N., R. 4 W.W.M.; ALSO, NW1/4, NE1/4, NW1/4, SW1/4, and that part of S1/2 lying westerly of the right of way of Chehalis Western Railroad all in Sec. 24, T. 19 N., R. 4 W.W.M.; 1289 railroad and highway right of way.

14295

FOR POWER: _____ cubic feet per second continuously each year. Total power to be developed _____ theoretical horse power. Total fall to be utilized _____ feet.

Nature of works by means of which power is to be developed _____

Works to be located in _____ Sec. _____, Twp. _____ N., Rge. _____ W. M.

Water to be returned to _____

Point of return _____ Sec. _____, Twp. _____ N., Rge. _____ W. M.

Use to which power is to be applied _____

FOR MUNICIPAL SUPPLY: _____ cubic feet per second during entire year to supply _____

DESCRIPTION OF DIVERSION WORK

Portable pipeline.
Height of dam _____ ft.; Length on top _____ ft.; Length on bottom _____ ft.

Material to be used and character of construction _____

Description of headgate _____

CANAL SYSTEM

AT HEADGATE: Width on top (at water line) _____ ft.; Width on bottom _____ ft.;

Depth of water _____ ft.; Grade _____ ft. fall per one thousand feet.

AT _____ MILES FROM HEADGATE: Width on top (at water line) _____ ft.; Width on

bottom _____ ft.; Depth of water _____ ft.; Grade _____ feet per one thousand feet.

(Please read carefully provisions below)

Construction work shall begin on or before _____ June 1, 1967

and shall thereafter be prosecuted with reasonable diligence and completed on or before _____

June 1, 1968

and complete application of water to proposed uses shall be made on or before _____

June 1, 1969

Given under my hand and the seal of this office at Olympia, Washington, this 19th day of June, 1966

M. Gunder
State Supervisor of Water Resources

STATE OF WASHINGTON, COUNTY OF Lewis

CERTIFICATE OF SURFACE WATER RIGHT

(In accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the State Supervisor of Water Resources thereunder.)

This is to certify that MELVIN STULKEN

of Chehalis, State of Washington, has made

proof to the satisfaction of the State Supervisor of Water Resources of Washington, of a right to the use of the waters of South Fork Chehalis River, tributary of Chehalis River, and Grays Harbor, a tributary of Chehalis River

with point or points of diversion within the NE1/4 and SW1/4

Sec. 24, Twp. 13 N., R. 4 W., W. M., under and subject to provisions contained in

appropriation Permit No. 14295 issued by the State Supervisor of Water Resources, and

that said right to the use of said waters has been perfected in accordance with the laws of Washington,

and is hereby confirmed by the State Supervisor of Water Resources of Washington and entered of

record in Volume 20, at Page 9995, on the 28th day of June, 1967

that the priority date of the right hereby confirmed is March 17, 1966; that the

amount of water under the right hereby confirmed, for the following purposes is limited to an amount

actually beneficially used and shall not exceed 1.26 cubic feet per second, 266 acre-feet

per year, during irrigation season each year, for irrigation of 133 acres.

A description of the lands under such right to which the water right is appurtenant, and the place where such water is put to beneficial use, is as follows:

SW1/4SW1/4, E1/4SW1/4, N1/4SE1/4, SW1/4SE1/4, that part of SE1/4SE1/4 lying westerly of State Highway No. 6 (12), all in Sec. 13, T. 13 N., R. 4 W.W.M.; ALSO, NW1/4NW1/4, NE1/4NW1/4, NW1/4NE1/4, SW1/4NE1/4, and that part of S1/4NW1/4 lying westerly of the right of way of Chehalis Western Railroad all in Sec. 24, T. 13 N., R. 4 W.W.M; LESS railroad and highway right of way.

Permit No.....

**Certificate of Surface
Water Right**

*Recorded in the office of State Supervisor
of Water Resources, Olympia, Washington,
in Book No..... of Water Right
Certificates, on Page, on
the day of,
19.....*

STATE OF WASHINGTON, }
County of } ss.

*I certify that the within was received
and duly recorded by me in Volume
of Book of Water Right Certificates, Page
..... on theday of
....., 19.....*

EXHIBIT 2

Select Aerial Images



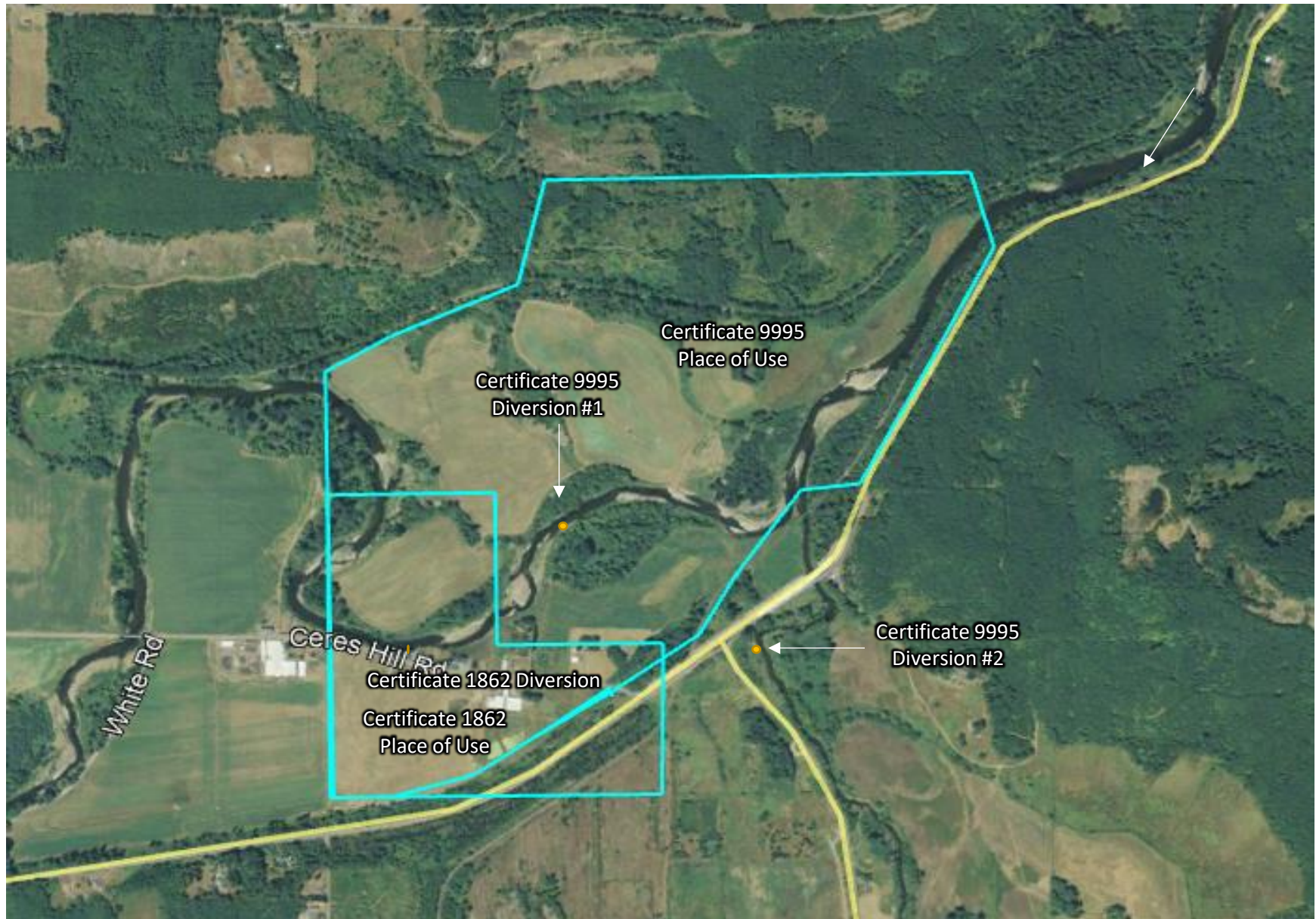
Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\1990 Aerial
153

1990 Aerial Photograph

Marwood Farm



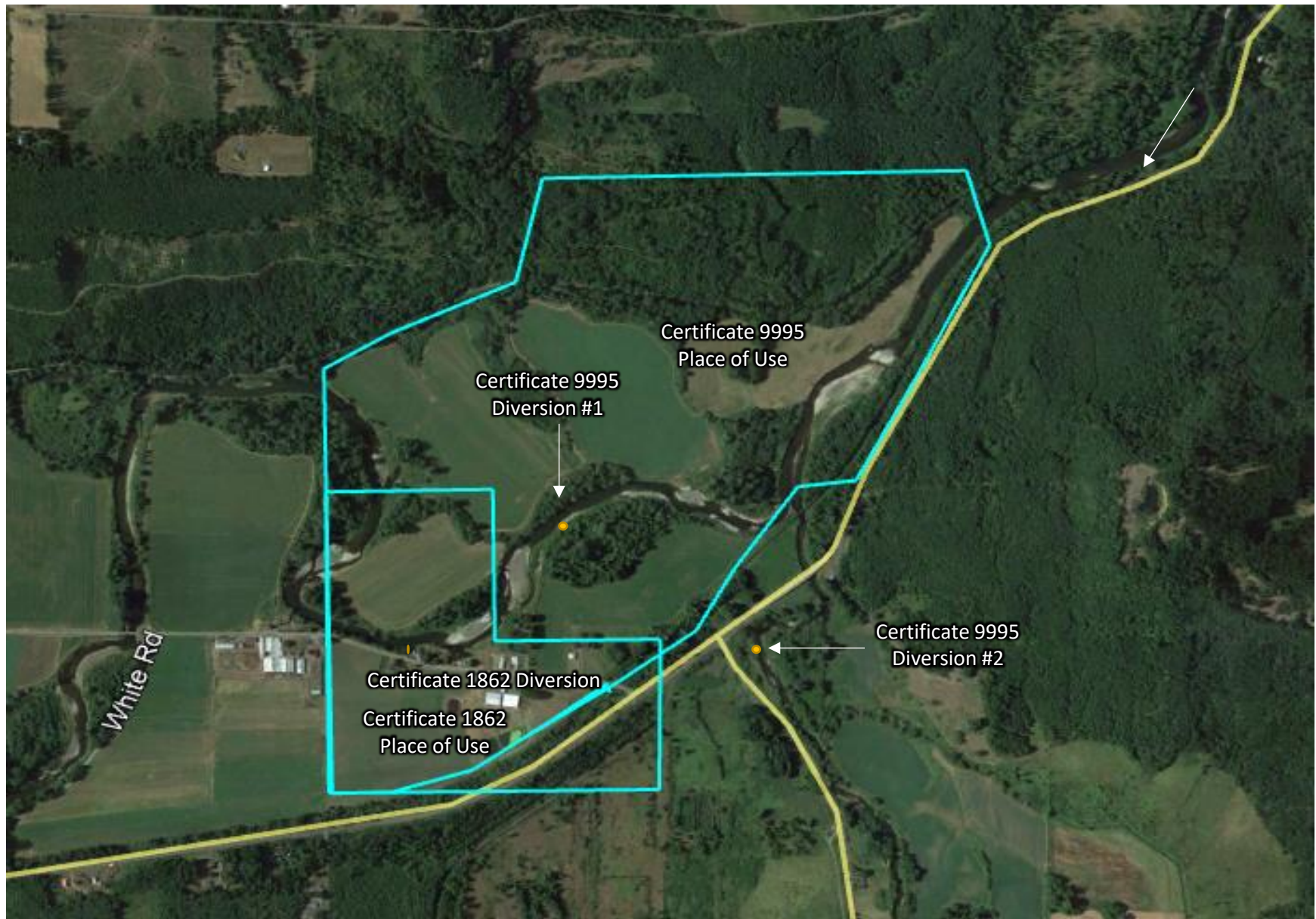
Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\2009 Aerial
154

2009 Aerial Photograph

Marwood Farm



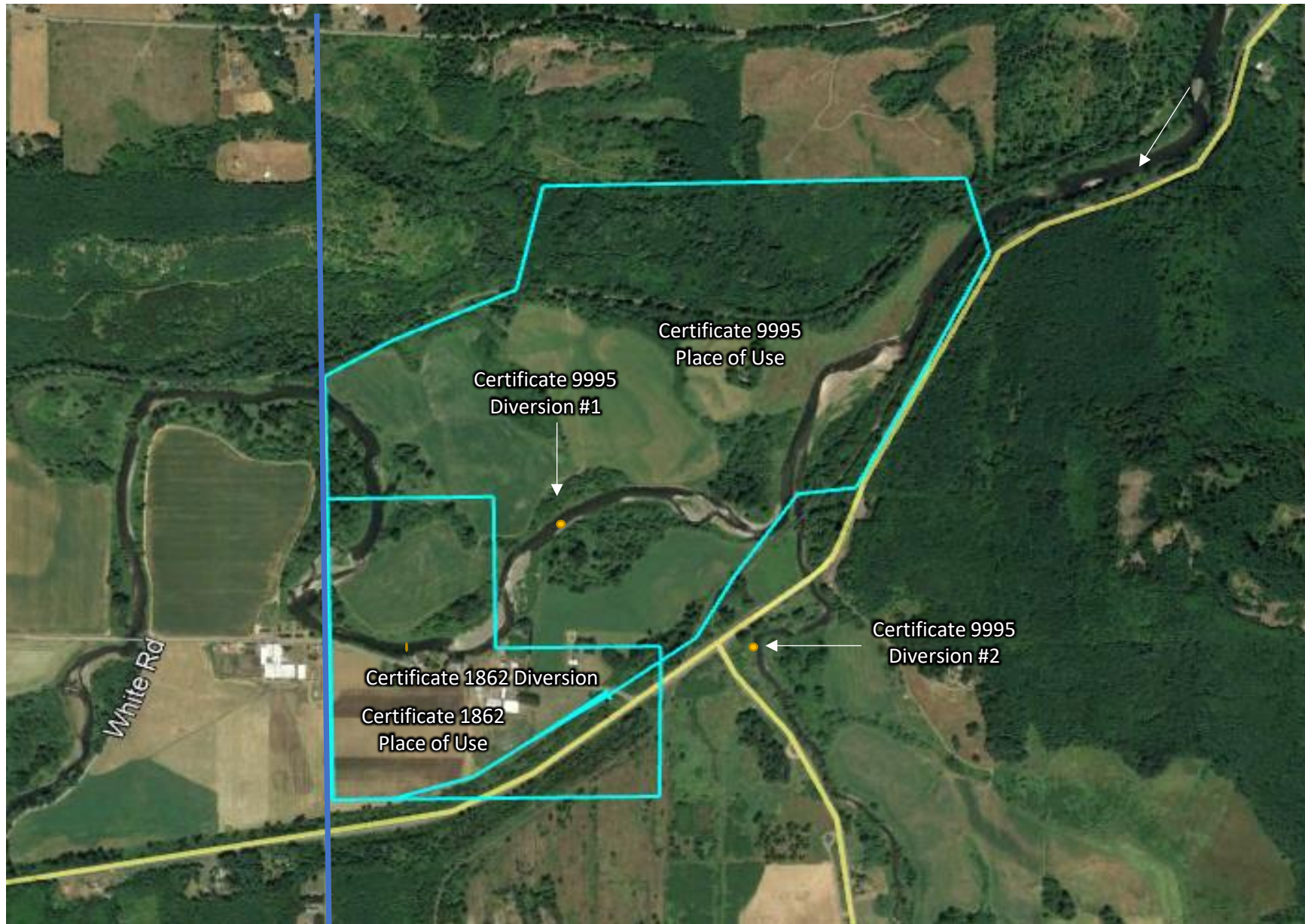
Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\2014 Aerial
155

2014 Aerial Photograph

Marwood Farm



Aspect Consulting

5/21/2021

V:\190540 Washington State Parks\Deliverables\04_Marwood Farms\Exhibits\Exhibit 1\2018 Aerial
156

2018 Aerial Photograph

Marwood Farm

EXHIBIT 3

Ecology Administrative Division Form

Water Resources Program

Request for Administrative Confirmation of Division of a Water Right

Complete the information required, attach referenced documents, and forward to the appropriate regional office address shown on the back of this form.

WATER RIGHT INFORMATION:

Water Right Certificate Number: _____

Name on Certificate: _____

- Attach a copy of subject water right certificate.
- Attach a map of the authorized place of use.
- Attach a list of all property owners and property owner contact information, including name, address, and telephone number.
- Provide tax parcel identification numbers and acreages for each property owner within the authorized place of use.
- Attach a copy of property transfer deed, contract, or other documentation indicating division of land and appurtenant water rights.

PROPERTY OWNER AGREEMENT

1. Signatories agree to the division of the subject right consistent with the apportioning presented herein. Agreement of this apportioning reflects the historic beneficial use of water on the property.
2. It is the responsibility of each property owner to verify that his or her "share" of the original right reflects the historic beneficial use of water on his property. If, after a superseding document is issued by Ecology, it is determined that the historic beneficial use of water on that property is less than the quantities agreed to herein, Ecology shall reduce said quantity to the portion put to beneficial use on that property.
3. The division of the original right into superseding documents shall not be construed as validation as to the extent and validity of the original right. The amounts authorized on the superseding portions of said right are not confirmed in this division. The actual amounts authorized on the superseding documents are subject to the historic beneficial use on the appurtenant property.
4. Each property owner shall be responsible for payment of fees associated with the issuance of superseding certificates. All required fees must be received by Ecology prior to issuance of the superseding certificates.

DESCRIPTION OF DIVISION OF THE WATER RIGHT AMONG PROPERTY OWNERS

(Note: For more than 2 property owners, attach additional pages as necessary).

Property Owner No. 1:

Property Owner Name:		Telephone No.:	
Property Owner Address:			
City:		State:	Zip:
Tax Parcel Numbers Owned within Authorized Place of Use:		Authorized Source:	
Share of Quantity Instantaneous (Qi), [gpm or cfs]:		Share of Quantity Annual (Qa), [acre-feet]:	
Share of acreage irrigated:		Authorized purpose(s) of use:	

Check one of the following:

- The authorized point of diversion is on my property and will continue to be used.
- The authorized point of diversion is not on my property, but I have entered into a shared use agreement with the owner of the authorized diversion point.
- The authorized point of diversion is not on my property, and I plan to construct a new diversion point on my property. I plan to file a change application or submit a showing of compliance form to Ecology to cover this change in the point of diversion. I understand that if I plan to use the water for a different purpose or in a different location than described above, I must file a change application with Ecology.

Property Owner Signature _____ *Date:* _____

Property Owner No. 2:

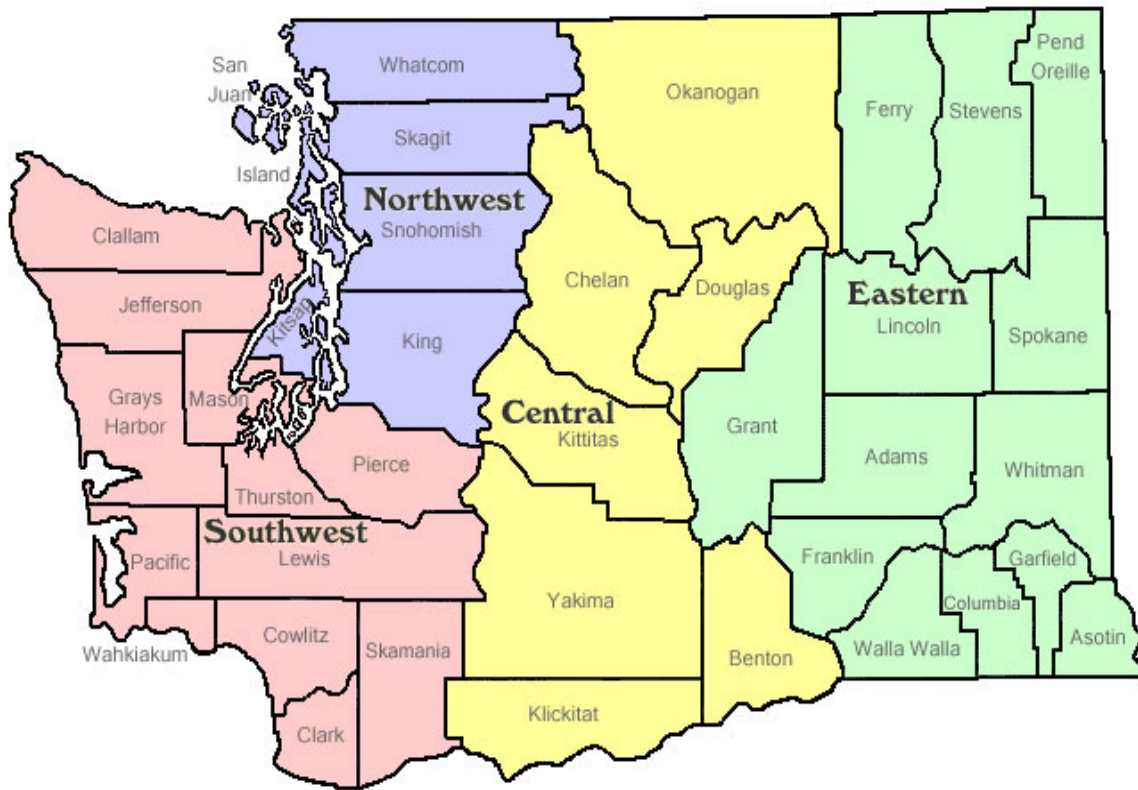
Property Owner Name:		Telephone No.:	
Property Owner Address:			
City:		State:	Zip:
Tax Parcel Numbers Owned within Authorized Place of Use:		Authorized Source:	
Share of Quantity Instantaneous (Qi), [gpm or cfs]:		Share of Quantity Annual (Qa), [acre-feet]:	
Share of acreage irrigated:		Authorized purpose(s) of use:	

Check one of the following:

- The authorized point of diversion is on my property and will continue to be used.
- The authorized point of diversion is not on my property, but I have entered into a shared use agreement with the owner of the authorized diversion point.
- The authorized point of diversion is not on my property, and I plan to construct a new diversion point on my property. I plan to file a change application or submit a showing of compliance form to Ecology to cover this change in the point of diversion. I understand that if I plan to use the water for a different purpose or in a different location than described above, I must file a change application with Ecology.

Property Owner Signature _____ *Date:* _____

<p>Northwest Regional Office 3190 – 160th Ave SE Bellevue, WA 98008-5452 (425) 649-7000</p>	<p>Southwest Regional Office PO Box 47775 Olympia, WA 98504-7775 (360) 407-6300</p>
<p>Eastern Regional Office 4601 N Monroe Street Spokane, WA 99205-1295 (509) 329-3400</p>	<p>Central Regional Office 1250 W Alder Street Union Gap, WA 98903-0009 (509) 575-2490</p>



**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Cassie Frazier, Interim City Clerk

MEETING OF: April 25, 2022

SUBJECT: Modification of Lodging Tax Funding for Chehalis Centralia Railroad and Museum

ISSUE

The Chehalis Centralia Railroad and Museum (CCRM) has submitted a request for permission for flexibility in the use of the 2022 LTAC funds originally allocated for marketing so that they can also use the funds for ongoing operational expenses associated with the non-profit. While this is an allowed use under the law, the LTAC committee recommended that the CCRM be granted \$29,860 for tourism promotion, advertising, and projects that promote tourism. This recommendation was approved by the City Council on September 27, 2021.

BACKGROUND

The Chehalis Centralia Railroad and Museum (CCRM) has had to place their current and upcoming events on hold due to a lapse in their insurance policies. While insurance for the premises has been secured, the CCRM is not expected to have insurance for train excursions in the foreseeable future. Therefore, they are not able to run the train for events, which have been the primary revenue generator for the organization. As a result, they will not be able to utilize all of the Lodging Tax funding they were awarded for marketing purposes in 2022.

The Executive Committee of the Chehalis Centralia Railroad and Museum has submitted a letter to the City formally asking that the Lodging Tax funding (\$29, 860) that was allocated for use on marketing in the 2022 year be reallocated to cover operational expenses, as well as future marketing for the current year. It should be noted that LTAC funding is paid on a reimbursement basis when reported to the City with the appropriate proof of the expense through a quarterly reporting process. No funds have been paid to the CCRM for 2022.

Current communication affirming the railroad has obtained insurance for the premises would facilitate them being able to hold stationary events on the property and continue to utilize the marketing portion of the Lodging Tax monies. This use of funds is covered under Lodging tax- Tourism promotion RCW 67.28.1816 and can be used as such with the authorization from the City Council or the Lodging Tax Advisory Committee (LTAC).

ALLOWED USES: RCW 67.28.1816

Lodging tax—Tourism promotion.

(1) Lodging tax revenues under this chapter may be used, directly by any municipality or indirectly through a convention and visitors bureau or destination marketing organization for:

- (a) Tourism marketing;
 - (b) The marketing and operations of special events and festivals designed to attract tourists;
 - (c) Supporting the operations and capital expenditures of tourism-related facilities owned or operated by a municipality or a public facilities district created under chapters [35.57](#) and [36.100](#) RCW;
- or

(d) Supporting the operations of tourism-related facilities owned or operated by nonprofit organizations described under 26 U.S.C. Sec. 501(c)(3) and 26 U.S.C. Sec. 501(c)(6) of the internal revenue code of 1986, as amended.

OPTIONS

The CCRM has indicated that the redistribution of funding to pay for day-to-day expenses such as rentals, utilities, etc., allows flexibility moving forward to reopen the facility to the public in the future.

Options that have been discussed with the LTAC City Council Chairman, Councilor Lord, are as follows:

- a. Reallocating the Lodging Tax funding for the Chehalis Centralia Railroad and Museum from just marketing to operation costs with marketing in the future.
 - If this option is approved, there would also be a need to determine whether the funding could then be retroactively used from January 1, 2022 for the 1st quarter reporting.
- b. Delay the decision until the new LTAC Members can be appointed and ask the Committee to fill the vacant LTAC spaces and have the Committee decide on how to proceed.
 - The LTAC membership application process will be opened by May 1, 2022
- c. Request the Chehalis Centralia Railroad and Museum utilize fundraising opportunities while the process of appointing the new LTAC takes place and a decision can be made by the committee.

FISCAL IMPACT

There would be no fiscal impact.

RECOMMENDATION

It is recommended that the City Council advise the staff on how to proceed.

SUGGESTED MOTION

There is no suggested motion.



April 7, 2022

Dear Ms. Anderson,

As a follow up to our recent meeting regarding the Chehalis Centralia Railroad & Museum, our Executive Committee met last night, (April 6, 2022) and stated their desire to ask the City of Chehalis to modify our request for lodging tax funds. As you know, the flooding of January 6, 2022 caused track damage to approximately 1 mile of track, just 1.3 miles from the Depot located at Sylvenus Street. This damage resulted in the suspension of our popular train excursions until the damage can be repaired. With the FEMA declaration for Lewis County in place, we will be requesting funds from FEMA for the track repair.

Concurrently, we have had an unfortunate situation develop with our liability insurance. We expect to finalize the insurance package for premises liability within the week. This, however will not allow us to run revenue generating rides until we can obtain full liability for the 10 miles of track. You (City of Chehalis) will receive documents as also insured on both policies early next week. Once full liability is reinstated, which could take several months, we will return to full operations.

Due to these issues, the Chehalis Centralia Railroad, respectfully requests approval to modify the LTAC award for 2022 (\$29,860) from use in marketing, to add operational expenses for reimbursement. As a tourist operation bringing in significant tax revenue, as well as over 14,000 passengers last year, we believe operational funding fits the definition as a tourism activity and is thusly qualified to apply for LTAC funds. These funds would help CCRM pay for the day-to-day expenses while we wait to resume revenue generating rides. Ongoing costs such as rental, utilities, internet and phone are monthly costs associated with our attraction.

We look forward to resuming this popular community activity and with the support of our local businesses and many dedicated individuals, we are determined to rebuild and put our train back on track.

Sincerely,

Date Signed: 4/7/22

Mary K. Nelson, President

Chehalis Centralia Railroad & Museum Board of Directors

Chehalis-Centralia
Railroad & Museum
SteamTrainRide.com

PO Box 1680
Chehalis WA 98532
360-748-9593
info@steamtrainride.com

501c3 Non-profit
EIN 91-1353377
UBI 601-798-865

THIS ENDORSEMENT CHANGES THE ENTIRE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO DESIGNATED OPERATIONS AT A DESIGNATED LOCATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated operations:

Museum Operations, fundraising events, maintenance of Way operations on Right of Way, and maintenance to the engine/cars

Designated Location: Museum Premises and Railroad Right of Way from Milepost 0.0 to Milepost 10.13

A. Paragraph 1. b. (1) of the **Insuring Agreement** of **SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is deleted and replaced by the following:

- (1) The “bodily injury” or “property damage” is caused by an “occurrence”; but only if arising out of the designated operations at the location(s) designated in the **Schedule** above. This insurance only applies to “bodily injury” or “property damage” when it occurs at the designated location and only if caused by the designated operations.

This insurance does not apply to any operations or location(s) not designated in the **Schedule** above.

B. The final paragraph of **SECTION II- WHO IS AN INSURED** is deleted and replaced by the following:

No Person or organization is an insured:

1. With respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a named Insured in the Declaration; or
2. For any operations or location(s) that are not designated in the **Schedule** above.

Includes copyrighted material of Insurance

Services Office, Inc., with its permission

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Erin Hillier, Randy Kaut

MEETING OF: Monday, April 25, 2022

SUBJECT: Revision to Infraction Penalties- Ordinance 1029-B First Reading

ISSUE

Due to changes in Washington State law related to monetary penalties collected on infractions, the City of Chehalis must revise the bail amounts for offenses affected by these requirements. In addition, the City of Chehalis proposes the creation of a fee schedule as a separate document which would allow future modifications to be made as needed, rather than include specific penalties within the ordinances.

BACKGROUND

In 2019, changes were made to State law requiring courts to collect additional monetary penalties for certain infractions. As part of these changes, all infractions issued to defendants must have a public safety and education assessment of 105% of the base monetary penalty added to the bail. In addition, traffic infractions must have an additional \$40 in assessments added for trauma care, auto theft, traumatic brain injury and legislative fees because of RCW 46.63.110.

To comply with these requirements, the City must modify our current infraction penalties. Traffic infraction penalties are already set by RCW, but the monetary penalties for our ordinances are determined by the City. Since these additional assessments would effectively double the penalties for infractions related to City ordinances, the City must decide how to modify the existing penalties to ensure they are appropriate for the level of offense.

DISCUSSION

The budget committee met on April 20, 2022 to discuss potential changes to the penalty amounts associated with City ordinance. Attached is a draft fee schedule which includes the recommended changes from that committee meeting. Based on our discussions, we are requesting the following changes:

A removal of second and third violation penalties for the noted City ordinances. The original concept was to increase penalties for subsequent offenses to use as a deterrent for people continually committing similar offenses, however officers in the field can't

access information on previous convictions, making it difficult to decide which level of offense to charge. We recommend only having one offense with a single penalty.

A change in monetary bail for the listed infractions to keep the level of penalty reasonable for the type of offense. In most cases the base penalty for offenses will be lowered to ensure that when the 105% increase is assessed, it remains in line with what would be considered reasonable for the violation. As a result, the City will experience a reduction in revenue from infractions related to City ordinances.

Modifying the City ordinances to refer to a separate fee and bail schedule rather than include the penalty amounts within the ordinances. This will allow changes in the future to be made to the bail and fee schedules without having to rewrite the associated ordinance.

Approve a change in penalties for “Parking Adjacent to Schools” and “Tamper with Parking Enforcement” ordinances. These two offenses were not included in the prior approval of changes to the parking fees and penalties and are shown at the bottom of the attached penalties document. We are recommending a modification to bring them in line with the previous parking violation increases.

FISCAL IMPACT

None

RECOMMENDATION

It is recommended that the City Council accept the suggested revisions for infraction penalties and to pass Ordinance 1029-B, updating Chehalis Municipal Court Law Table, amending penalty sections of Chehalis Municipal Code 6.04, 7.04, 10.04 and directing additions to the Chehalis Municipal Court Bail schedule and the City fee schedule on first reading.

SUGGESTED MOTION

I move that the City Council accept the suggested revisions for infraction penalties and to pass Ordinance 1029-B on first reading.

Exhibit A

Proposed Infraction Bails

Law Number	Law Description	Current Bail	Current Revised Bail (with Slate Fee)	Proposed Bail (No Slate Fee)	Proposed Bail (with Slate Fee)	Last Modified Date	Last Cited Date
5.04.020	CONDUCTING BUSINESS W/OUT A LICENSE	\$250	\$513	\$250	\$513	7/27/2003	9/21/2012
5.04.110	FAILURE TO OBTAIN CITY BUSINESS LIC	\$100	\$205	\$250	\$513	7/27/2003	
5.08.060	FAILURE TO PAY GAMBLING TAXES	\$100	\$205	\$250	\$513	7/27/2003	
END DATE							END DATE
6.04.080.A.1	UNLICENSED ANIMAL - 1ST VIOLATION	\$250	\$513	\$120	\$246	7/1/2015	5/14/2021
6.04.080.A.2	UNLICENSED ANIMAL - 2ND VIOLATION	\$500	\$1,025	Remove	Remove	7/1/2015	11/7/2018
6.04.080.A.3	UNLICENSED ANIMAL - 3RD VIOLATION	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.260.A.1	NUISANCE ANIMAL/NOISES/1ST VIOL	\$250	\$513	\$120	\$246	7/1/2015	1/27/2019
6.04.260.A.2	NUISANCE ANIMAL/NOISES/2ND VIOL	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.260.A.3	NUISANCE ANIMAL/NOISES/3RD VIOL	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.260.B.1	NUIS ANIMAL/ALLOW NOISE/1ST VIOL	\$250	\$513	\$120	\$246	7/1/2015	1/1/2017
6.04.260.B.2	NUIS ANIMAL/ALLOW NOISE/2ND VIOL	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.260.B.3	NUIS ANIMAL/ALLOW NOISE/3RD VIOL	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.260.D.1	ANIMAL AT LARGE - 1ST VIOLATION	\$250	\$513	\$120	\$246	7/1/2015	8/25/2021
6.04.260.D.2	ANIMAL AT LARGE - 2ND VIOLATION	\$500	\$1,025	Remove	Remove	7/1/2015	11/19/2018
6.04.260.D.3	ANIMAL AT LARGE - 3RD VIOLATION	\$750	\$1,538	Remove	Remove	7/1/2015	11/7/2018
6.04.300.A.1	ANIMAL CONT/TRESPASS/PROP DAM/1ST	\$250	\$513	\$120	\$246	7/1/2015	
6.04.300.A.2	ANIMAL CONT/TRESPASS/PROP DAM/2ND	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.300.A.3	ANIMAL CONT/TRESPASS/PROP DAM/3RD	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.300.I.1	ANIMAL CONT/TETHERING VIOL/1ST	\$250	\$513	\$120	\$246	7/1/2015	
6.04.300.I.2	ANIMAL CONT/TETHERING VIOL/2ND	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.300.I.3	ANIMAL CONT/TETHERING VIOL/3RD	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.300.K.1	ANIMAL CONT/DANGEROUS DOG/1ST VIOL	\$250	\$513	\$250	\$513	7/1/2015	
6.04.300.K.2	ANIMAL CONT/DANGEROUS DOG/2ND VIOL	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.300.K.3	ANIMAL CONT/DANGEROUS DOG/3RD VIOL	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.300.S.1	CONFINED ANIMAL XCESS 2 HRS-1ST VIO	\$250	\$513	\$120	\$246	7/1/2015	
6.04.300.S.2	CONFINED ANIMAL XCESS 2 HRS-2ND VIO	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.300.S.3	CONFINED ANIMAL XCESS 2 HRS-3RD VIO	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.300.T.1	ALLOW UNPROVOKED ATCK OF ANIMAL/1ST	\$250	\$513	\$250	\$513	7/1/2015	5/14/2021
6.04.300.T.2	ALLOW UNPROVOKED ATCK OF ANIMAL/2ND	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.300.T.3	ALLOW UNPROVOKED ATCK OF ANIMAL/3RD	\$750	\$1,538	Remove	Remove	7/1/2015	
6.04.320.1	ILLEGAL TRAPPING/1ST VIOL	\$250	\$513	\$120	\$246	7/1/2015	
6.04.320.2	ILLEGAL TRAPPING/2ND VIOL	\$500	\$1,025	Remove	Remove	7/1/2015	
6.04.320.3	ILLEGAL TRAPPING/3RD VIOL	\$750	\$1,538	Remove	Remove	7/1/2015	
7.04.130.A.1.B1	NUIS VIOL/CAUSE LITTER/DEBRIS/1ST	\$250	\$513	\$250	\$513	7/1/2015	
7.04.130.A.1.B2	NUIS VIOL/CAUSE LITTER/DEBRIS/2ND	\$500	\$1,025	Remove	Remove	7/1/2015	
7.04.130.A.1.B3	NUIS VIOL/CAUSE LITTER/DEBRIS/3RD	\$1,000	\$2,050	Remove	Remove	7/1/2015	
7.04.130.A.1.G1	NUIS VIOL/POST SIGN/POSTER/1ST VIOL	\$250	\$513	\$120	\$246	7/1/2015	
7.04.130.A.1.G2	NUIS VIOL/POST SIGN/POSTER/2ND VIOL	\$500	\$1,025	Remove	Remove	7/1/2015	
7.04.130.A.1.G3	NUIS VIOL/POST SIGN/POSTER/3RD VIOL	\$1,000	\$2,050	Remove	Remove	7/1/2015	
7.04.130.A.1.H1	NUIS VIOL/WEEDS/GRASS/1ST VIOL	\$250	\$513	\$120	\$246	7/1/2015	6/6/2019
7.04.130.A.1.H2	NUIS VIOL/WEEDS/GRASS/2ND VIOL	\$500	\$1,025	Remove	Remove	7/1/2015	
7.04.130.A.1.H3	NUIS VIOL/WEEDS/GRASS/3RD VIOL	\$1,000	\$2,050	Remove	Remove	7/1/2015	
7.04.130.A1EIV1	NUISANCE VIOL/NOXIOUS SUBSTANCE/1ST	\$250	\$513	\$120	\$246	7/1/2015	9/26/2017
7.04.130.A1EIV2	NUISANCE VIOL/NOXIOUS SUBSTANCE/2ND	\$500	\$1,025	Remove	Remove	7/1/2015	
7.04.130.A1EIV3	NUISANCE VIOL/NOXIOUS SUBSTANCE/3RD	\$1,000	\$2,050	Remove	Remove	7/1/2015	
7.04.320.I3A	COERCIVE SOLICITATION 1ST OFFENSE	\$250	\$513	\$250	\$513	9/2/2015	9/23/2015
7.04.320.I3B	COERCIVE SOLICITATION 2ND OFFENSE	\$500	\$1,025	Remove	Remove	9/2/2015	
10.04.030	SKATEBRDS/BICYCLE/TRFC CONTROL DEV.	\$250	\$513	\$60	\$123	7/1/2015	
10.04.040	SKATEBRDS/BICYCLES/SAFE OPERATION	\$250	\$513	\$60	\$123	7/1/2015	
10.04.050	SKATEBRDS/BICYCLES/PROHIBITED AREAS	\$250	\$513	\$60	\$123	7/1/2015	
10.04.060	SKATEBRDS/BICYCLES/OPER. AFTER DARK	\$250	\$513	\$60	\$123	7/1/2015	
10.04.070	SKATEBRDS/BICYCLES/CLING TO VEHICLE	\$250	\$513	\$60	\$123	7/1/2015	
10.08.120	PARKING ADJACENT TO SCHOOLS	\$5			\$30	6/18/2021	
10.08.170	TAMPER W/PARKING ENFORCEMENT	\$47			\$30	6/20/2018	

ORDINANCE NO. 1029-B

AN ORDINANCE OF THE CITY OF CHEHALIS, WASHINGTON, UPDATING CHEHALIS MUNICIPAL COURT LAW TABLE, AMENDING PENALTY SECTIONS OF CHEHALIS MUNICIPAL CODE 6.04, 7.04, 10.04, AND DIRECTING ADDITIONS TO THE CHEHALIS MUNICIPAL COURT BAIL SCHEDULE AND THE CITY FEE SCHEDULE.

WHEREAS, pursuant to the Revised Code of Washington 3.62.090 RCW, public safety and education assessments (PSEA's) are to be imposed and collected by all courts organized under Title 3 or 35 RCW for any criminal charge, other than parking infractions, and pursuant to RCW 46.63.110(7), an additional \$40 Trauma Care, Auto Theft, Traumatic Brain Injury and Legislative Assessment is to be added to traffic infractions; and

WHEREAS, the Chehalis Municipal Court is subject to the required assessments; and

WHEREAS, the Washington State Administrative Office of the Courts (AOC) requires an update of all Washington Municipal Courts Law Tables to ensure the Judicial Information System (JIS) law table entry contains proper case type, penalty amount, assessments, reporting to the Department of Licensing, and accurate accounting designation; and

WHEREAS, the Chehalis Municipal Court Law Table does not yet contain the required infractions for non-traffic infractions; and

WHEREAS, the City Council of the City of Chehalis has determined that it is in the best interests of the City and its citizens to amend the penalty sections of Chehalis Municipal Code 6.04, 7.04, 10.04, and add the required assessments to the Chehalis Municipal Court Bail Schedule and Chehalis Fee Schedule; **now therefore**,

THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City of Chehalis adopts the updated bail amount for each section shown on the law table spreadsheet attached as Exhibit A hereto and directs that the bail amount for each noted municipal code or Washington code be updated on the Chehalis Municipal Court Law Table and the Chehalis Municipal Court Bail Schedule for use by the Administrative Office of the Courts.

Section 2. The City of Chehalis amends CMC 6.04.350(A) as follows:

1. **6.04.350 Penalty.**

A. Infractions. Penalty for violation of any sections of CMC 6.04.080, 6.04.100, 6.04.260, 6.04.300, and/or 6.04.320 shall be as follows:

1. Any person cited for violation of any section designated in subsection (A) of this section shall be fined a monetary penalty as set forth in the Chehalis Fee Schedule and Chehalis Municipal Court Bail Schedule.

Section 3. The City of Chehalis amends CMC 7.04.130.F as follows:

1. **F. Penalties.**

1. Penalty for nuisances defined in subsections (A)(1)(a) through (n) of this section:

a. Any person cited for violation of any provision of subsections (A)(1)(a) through (n) of this section shall be fined a monetary penalty as set forth in the Chehalis Fee Schedule and Chehalis Municipal Court Bail Schedule.

b. Nothing herein shall preclude the city from issuing a citation for such violation concurrent with any abatement action as authorized by this chapter.

Section 4. The City of Chehalis amends CMC 10.04.090 as follows:

1. **10.04.090 Violation - Penalty**

Any person, 16 years of age or older, violating any provision of this chapter shall be guilty of an infraction and shall be punished by the imposition of a monetary penalty as set forth in the Chehalis Fee Schedule and Chehalis Municipal Court Bail Schedule. Should a violator be under the age of 16 years, the property seized shall be returned to the subject upon application for return by the subject with the chief of police, which application must be made and received by the city within 60 days of the confiscation.

Section 5. The penalties for the following Chehalis Municipal Code sections shall be added to the Chehalis Fee Schedule:

5.04.020	Conducting Business without a License
5.04.110	Failure to Obtain City Business License
5.08.060	Failure to Pay Gambling Taxes
10.08.060	Posted No Parking Zone
10.08.170	Tampering with Parking Enforcement

Section 6. The City Clerk shall be, and hereby is, instructed to amend Titles 6.04, 7.04, and 10.04 of the Chehalis Municipal Code as indicated herein, and to amend the Chehalis Fee Schedule to reflect the penalties as hereby instructed.

PASSED by the City Council of the city of Chehalis, Washington, and

APPROVED by its Mayor, at a regularly scheduled open public meeting thereof this _____ day of _____, 2022.

Anthony Ketchum Sr., Mayor

Attest:

City Clerk

Approved as to form and for content:

City Attorney

