

**From :** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>  
**To :** Short, Jaime \ (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>  
**Subject :** RE: Proposal to Complete Greiff - SPOK-22-01,02,03  
**Cc :** Anthony Kiepe <[alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)>; [scwcb6@gmail.com](mailto:scwcb6@gmail.com); Kevin Freeman <[kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com)>; Kelly Williquette <[kwilliquette@scwd3.org](mailto:kwilliquette@scwd3.org)>; [savage4citycouncil@gmail.com](mailto:savage4citycouncil@gmail.com); [dwilhite1975@yahoo.com](mailto:dwilhite1975@yahoo.com)>; Spangle, Herm \ (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>  
**Received On :** 12/29/2022 6:31 AM

Thank you for the detailed reply. I'll study it and continue offering support to the board for its decisions.

Sincerely,  
 Tim Reiersen

### *Streamline Water Consulting LLC*

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**From:** Short, Jaime (ECY)  
**Sent:** Wednesday, December 28, 2022 4:27 PM  
**To:** Tim Reiersen  
**Cc:** Anthony Kiepe ; [scwcb6@gmail.com](mailto:scwcb6@gmail.com); 'Kevin Freeman' ; Kelly Williquette ; [savage4citycouncil@gmail.com](mailto:savage4citycouncil@gmail.com); 'dwilhite1975' ; Spangle, Herm (ECY)  
**Subject:** RE: Proposal to Complete Greiff - SPOK-22-01,02,03

Mr. Reiersen,

You make a number of statements and raise a few questions in your email. I will attempt to address them in order:

- *"Mr. Spangle and you have raised issues about complying with the individual water right limits (such as when a well goes down). The purpose of the change applications has been to resolve all of those concerns. This remains the goal for my client."* This statement is deeply concerning. Even if the place of use is expanded and these rights overlap, they are still limited by their individual Qi and Qa. If the well goes down, you client is not authorized to pump the quantities permitted by the ground water rights from the spring. That would be a gross expansion of the surface water right. The converse is true if the surface water right is curtailed – the wells cannot be used to pump the quantities authorized from the spring. A shared place of use will not resolve the issue as you have described it in your email.
- **November 8<sup>th</sup> memo supplementing the record before the Board.** There are a number of errors in the November 8<sup>th</sup> memo, so the document as written is not sufficient to support a new decision by the Board. For example, we acknowledge that Surface Water Certificate 4057 was not issued a quantity for acre-feet or total use for the five month season originally applied for. That being said, calculating 44.1 acre-feet of use in 2021 exceeds the amount of water that could be pumped at the authorized rate of 0.12 cubic feet per second, 24 hours a day from May to October. If the surface water system was never turned off for harvest, regulation or maintenance at this diversion, the total quantity of water that could be pumped is 36.35 acre-feet for the requested season of use. For comparison, the Washington State Irrigation Guide (WIG) for the Spokane area lists a 2.2 acre-feet consumptive use quantity needed to grow alfalfa. A 75 percent efficient irrigation system would require 2.93 acre-feet per acre or 35.2 acre-feet total for 12 acres during the irrigation season. Another example is the quantity listed under "annual use" for G3-01333C for the 2021 season. The quantity authorized under this right is 68 acre-feet. Including quantities in excess of that amount to determine ACQ is not allowed. Once the errors in the memo are corrected, the Board will have to decide if it is reasonable and feasible to spread each of these rights to 112 acres.
- **Questions 1-4 regarding overlapping rights.** Overlapping rights have been approved by the agency over time; there is no law prohibiting it. The challenge with this particular portfolio is the small number of acres authorized by each of the rights. Since RCW 90.03.380 requires each right to be evaluated on its own merits, the ACQ calculation must be applied in the same fashion. Once the memo is corrected, the Board will have to determine if it is feasible to spread the quantity historically used to irrigate 5 acres to 112. Using the number from your memo, that would equate to a water duty of 0.14 acre-feet per acre. The Board will need to determine if it is reasonable to conclude that 0.14 acre-feet per acre for irrigation is a beneficial use. If they determine that the quantity should be spread to fewer acres, the place of use will need to be more clearly defined. A defined place of use and source meters with annual reporting become even more important when we are dealing with one

right that could be curtailed because of low flows and a problematic well that serves the other two. Curtailment in the Little Spokane Basin is happening on a nearly annual basis, there is no reason to assume that surface supplies will not be impacted more frequently than they have been in the past.

It is ultimately the Boards' decision on how to proceed from this point forward. We will make ourselves available if they would like to discuss a revised proposal.

Sincerely,  
Jaime Short (she/her)  
Section Manager, Eastern Regional Office  
Water Resources Program, WA Dept. of Ecology  
509.990.7636 (cell)

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**From:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>  
**Sent:** Tuesday, December 27, 2022 3:33 PM  
**To:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>  
**Cc:** Anthony Kiepe <[alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)>; scwcb6@gmail.com; 'Kevin Freeman' <[kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com)>; Kelly Williquette <[kwilliquette@scwd3.org](mailto:kwilliquette@scwd3.org)>; [savage4citycouncil@gmail.com](mailto:savage4citycouncil@gmail.com); 'dwilHITE1975' <[dwilHITE1975@yahoo.com](mailto:dwilHITE1975@yahoo.com)>  
**Subject:** RE: Proposal to Complete Greiff - SPOK-22-01,02,03

Thank you for the reply. I have no frustration at all with my client. I admire and respect him.

I did honestly try to make alternative approaches (alternatives to overlapping water right acres) work, and failed. As I explained in detail.

Mr. Spangle and you have raised issues about complying with the individual water right limits (such as when a well goes down). The purpose of the change applications has been to resolve all of those concerns. This remains the goal for my client.

I would like to facilitate the change applications being decided before the Greiffs need to irrigate in 2023. With your help and the board's help I am confident this can be done.

Each right has now been evaluated separately on its own merits for tentative determinations of validity, as you requested (the memo I submitted **November 8, 2022**). This information is in the record for the board to consider.

Regarding flow rate, the Greiffs have sufficient flow rate under their current rights to irrigate the farm, running two of their wheel lines at a time, provided the rights are changed to share irrigation of the same acres as requested.

If they decide to apply for more flow rate as you offered, such as to run more wheel lines at once, we can pursue that with separate applications to your office. But that is separate from the applications before the water board.

I would like to focus on your last sentence that Ecology will work with the board under a revised proposal and provide support for technical assistance requests. For the reasons I have explained in detail, the only revision I will be proposing is to increase the combined acres to 112 instead of 100 acres. I will publish the amended notice and work with the board to prepare revised decisions.

As far as I know, the remaining concern that Ecology has for the application decisions, is about irrigation acres overlapping completely. I have to say, even after all this back and forth I remain puzzled by this--to my knowledge this is fully allowed. I wouldn't have requested it otherwise.

Which is why I had asked previously for you (or anyone) to provide the water board (and me) with justification in law for Ecology's concern. Even to identify the problem Ecology is worried about, the issue, might help towards some kind of understanding.

My questions to you about what is allowable from Ecology's perspective:

1. Are more than one irrigation water right allowed to overlap on the same acres?
2. Are more than one irrigation water right allowed to be changed (including with an increase in acres) to overlap on the same acres?
3. Do examples exist where Ecology has allowed 1 or 2?
4. If 1 or 2 are prohibited by law, please cite the statute, administrative code, or case law.

Will you please answer to provide clarity? If not, I hope the board will ask these same questions of you formally. I think the truth in this situation will allow us all to move forward quickly and efficiently, and there will be no regulatory issue on this farm going forward.

Sincerely,  
Tim Reiersen

*Streamline Water Consulting LLC*

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**From:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>

**Sent:** Tuesday, December 27, 2022 8:43 AM

**To:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>

**Cc:** Anthony Kiepe <[alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)>; [scwcb6@gmail.com](mailto:scwcb6@gmail.com); 'Kevin Freeman' <[kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com)>; Kelly Williquette <[kwilliquette@scwd3.org](mailto:kwilliquette@scwd3.org)>; [savage4citycouncil@gmail.com](mailto:savage4citycouncil@gmail.com); 'dwilHITE1975' <[dwilHITE1975@yahoo.com](mailto:dwilHITE1975@yahoo.com)>

**Subject:** RE: Proposal to Complete Greiff - SPOK-22-01,02,03

Dear Mr. Reiersen,

I appreciate you including the Conservancy Board members in this discussion as it will be their recommendation Ecology responds to. There appears to be some confusion as to what Mr. Greiff's water rights authorize and how they can be exercised in compliance with the law. Your message below, particularly in regards to the spring right, describes use outside of that authorization in detail. It is unfortunate that the system used on the farm does not comply with elements of their portfolio but there are other potential legal solutions (i.e. a Qi only application that would increase the instantaneous pumping rate authorization across the farm) that would address some of the current discrepancies.

You appear extremely frustrated with the fact that your client has been irrigating outside of their authorization and the agency can't simply approve your initial findings via the Board's decision. Each water right needs to be evaluated for change on its own merits and the ACQ calculations applied accordingly. Your report did not do that so we would have been unable to approve the Board's recommendation. Encouraging the Board to simply reinstate a decision that we cannot approve will not bring your client the resolution they seek.

We look forward to continued work with the Board if a revised proposal is under consideration and they request technical assistance.

Sincerely,  
Jaime Short (she/her)  
Section Manager, Eastern Regional Office  
Water Resources Program, WA Dept. of Ecology  
509.990.7636 (cell)

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**From:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>

**Sent:** Thursday, December 22, 2022 6:43 AM

**To:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>

**Cc:** Anthony Kiepe <[alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)>; [scwcb6@gmail.com](mailto:scwcb6@gmail.com); 'Kevin Freeman' <[kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com)>; Kelly Williquette <[kwilliquette@scwd3.org](mailto:kwilliquette@scwd3.org)>; [savage4citycouncil@gmail.com](mailto:savage4citycouncil@gmail.com); 'dwilHITE1975' <[dwilHITE1975@yahoo.com](mailto:dwilHITE1975@yahoo.com)>

**Subject:** Proposal to Complete Greiff - SPOK-22-01,02,03

Note to all: The email that follows is long in itself. Below it, is a string of emails that precedes it, beginning with my email dated December 20, 2022.

The string of emails documents my evolving thoughts and progressive failure at trying to compromise with Ecology's insistence on separate, non-overlapping places of use.

In the current email I explain why none of the alternatives (even those I proposed) work in the real world.

And I raise again that the original board decisions were allowable, not contrary to law.

As background to this email, I have attached two emails. Not all board members may have seen those two emails and their attachments.

In addition, a third attachment is a map that goes with my **December 20, 2022 4:37 PM** email, which is the email next below the following.

Thank you for bearing with me. Please take your time and let me know any questions.

I have reached a firm conclusion, but like to think I'm open to alternatives, if they are based in law and reality.

BEGIN DECEMBER 22, 2022 MESSAGE

I would like the entire water board to be aware of this conversation, and so have included all board members in this reply.

I've given the situation more thought and becoming more and more bothered by Mr. Spangle's email response of **December 20, 2022 1:15 PM** (see below emails) where he says "[Also I have a concern about the well being down and the surface diversion is what is being utilized for all water rights.](#)"

This led me to realize that ethically for my client I must withdraw both options 1 and 2 (see below emails) that I had offered. I feel that after trouble-shooting the options, neither will provide a workable compromise.

I also know that Ecology's position, as related to me, is not workable (three separate water rights each with their own separate places of use with no overlap). The reasons why are given in my **December 20, 2022 10:55 AM** email response to Mr. Spangle below (the flow rate limits of each water right don't allow operation of a wheel line in a way that permits farming).

After considering Ecology's position, I'm now convinced: the only way the unique problems of this farm and water right history can be solved, is the original approach that we applied for, and that the board approved (now withdrawn). I was wrong to agree with Ecology's request that the board decisions be withdrawn (my **November 11, 2022** email to Jamie Short).

I believe I have in good faith tried to work something out to meet Ecology's position, as demonstrated by the attempt to offer options 1 and 2 and explain them in detail. The process was not without benefit—it was helpful towards proving that the original answer was correct.

Mr. Spangle's December 20 email response, that he has a "concern" about the irrigation that took place last year, with the well not functional because of sand, provided me with the final realization. Ecology's proposal leaves my client with completely unnecessary regulatory issues. And those comments indicate that Ecology will keep all options open to be able to micromanage my client--after having denied them the right to correct the very issue. That is wrong and I can't let that happen, willingly.

The original solution was the correct one. The original solution would authorize each water right to supply up to 100 acres, without exceeding 100 ac in combination. In 2022, the well was not functional because it was pumping sand. The field prep and planting had already been done. They used what water they had, as anyone would who is dependent on farming for a living for their families. Had the original decisions been approved by Ecology, this would not have posed any water right problem. The surface water right would have authorized up to 100 acres (they irrigated 37 acres in 2022). Plain and simple.

Professionally and ethically I cannot advise my client to compromise if doing so damages my client's ability to farm, AND there is no legal reason to impose such a limitation. No legal reason. We must have a system that has respect for law, and we must demand respect for law from our government agencies.

#### FACTS

1. Mr. Spangle called me on the phone after reviewing the board's decisions and told me that Ecology doesn't micromanage water use within the farm (as documented in my **October 21, 2022 letter** to Jaime Short)—[see 1<sup>st</sup> attachment to this email. Additional discussion of this letter is found in the 2<sup>nd</sup> attachment to this email.]
2. Mr. Spangle now raises a "concern" about the use of water during 2022, when the farm was dealing with a problem outside its control. Pumping the well could have caused major problems. I raise this not because Ecology can't micromanage—they absolutely do have discretion to regulate if water is not being used consistent with the water right. I raise it as a question of trust-worthiness of words and good faith.
3. Ecology's **October 26, 2022 email** (see 2<sup>nd</sup> attachment to this email) stated "A record of decision needs to be submitted that includes the location of the acres developed under each right, what specific crops were grown on those acres for the 5 year period being evaluated for ACQ, and to what extent those acres can reasonably be expanded to under the change." I provided a responsive memo supplement reply on **November 8, 2022** to this technical issue.
4. Jaime Short and Herman Spangle met with board member Kevin Freeman on **November 9, 2022**, and told him that

Ecology would deny the board's decisions as approved by the board if they kept the acres overlapping (personal conversation with Kevin Freeman).

5. Ecology has never cited to a law that prevents what the board approved, with overlapping water rights, three water rights each for the same acres, but with additive flow rate and annual volume on those same acres.

6. Ecology's own state-wide guidance has an example that does exactly this (with two water rights). The farm had a water right with a duty suited for wheat. The farm converted to orchard and acquired a 2<sup>nd</sup> water right on the same acres, to add annual volume so that the total water duty applied to the orchard was covered by water rights. Exactly the same as requested here. Exactly the same, just adding one more water right to raise the water duty and available flow rate to the acres.

7. I personally know of at least one example where Ecology has approved water spreading changes on two water rights that previously did not overlap one another, so they overlapped each other completely in acres (water spreading on both) and so their annual volume and flow rates were additive. It's a brute fact. In the Eastern Region. This example, which I have personal knowledge of, is the same concept as the board approved, just add one more water right. The same. Approved by Eastern Region Ecology.

#### REALIZATION

The reality check for me, like a shock that wakes a person up, is Mr. Spangle pointing out an issue with irrigation in 2022, with the well down, when the board's decisions would have completely removed the issue he now raises. To spell it out, he is pointing out that the spring water right only covers 12 acres right now, so if the well is down, only 12 acres can be irrigated. That is not a particularly helpful "concern" right now. How much concern is there, really, when Ecology was the one that stopped the solution?

The whole point of my working with the Greiffs since 2019, when Ecology sent its letter alerting them to the issue they have, is to solve this type of practical problem (a well or pump breaks down), and of course the irrigation area needed to be increased. That is what we did, in cooperation with the board. Changed the water rights to match the farming practices, as allowed by law with water spreading.

I am unable to make sense of Ecology's actions and advice. Prevent the solution that allows the farm to operate in compliance with water rights? Make sure that when the well goes out, or the spring pump goes out, Ecology can cut what little water is left even farther back? Limit the water rights without lawful reason and then regulate because the rights were limited? The issues were solved when the board approved the three changes.

Ecology's actions here have no rational explanation, and it's important to be truthful and not make any excuses when something is this far from truth and reality.

#### PROPOSAL

My plan is to re-publish notice for 112 acres (instead of 100 ac) and stay with the original approach. Greiffs can actually farm 112 acres as explained in the emails below. I'm asking the water board to re-issue its decisions once notice is concluded. I will simply hope that Ecology will reconsider its position in the meantime.

If any person can find a law, rule, case law; even policy or guidance, that prevents what is being asked here, please share it with the group. Otherwise, please consider the Greiffs need for a fair and lawful resolution of this situation. This is literally their livelihood.

I understand the water board's decision to act on these applications is at its discretion. The Greiffs need the board's help to re-issue the decisions. There is no other way. I personally request each board member to commit to this last step of re-issuing the decisions.

Thank you for taking the time to consider, I'm very sorry for the imposition, but am driven by the importance of what this is about and that it's the right thing to do.

If any board member would like a copy of any reference or any other information or justification for any of my statements, please let me know.

Sincerely,

Tim Reiersen

*Streamline Water Consulting LLC*

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END December 22, 2022 MESSAGE

EMAIL STRING THIS RESPONDS TO – FOLLOWS BELOW

**NOTE FOR EMAIL IMMEDIATELY BELOW:**

**The referenced attachment is “Attach\_Map.pdf”, attached again to this email dated 12/22/2022 (above email)**

**From:** Tim Reiersen

**Sent:** Tuesday, December 20, 2022 4:37 PM

**To:** 'Spangle, Herm (ECY)' <HSPA461@ECY.WA.GOV>; Short, Jaime (ECY) <JSHO461@ECY.WA.GOV>; Tolleson, Daniel F. (ECY) <DTOL461@ECY.WA.GOV>

**Cc:** kfreeman@inlandearth.com; scwcb6@gmail.com; alkiepe1@gmail.com

**Subject:** RE: Response to 10/21 email re: Greiff

Thank you Herm, for looking this over with a quick turn-around. I will respond to (A) your questions about the well, (B) separation from the creek, and then (C) focus in on Options 1 and 2.

(A) Regarding the well, it needs repair likely a screen to be telescoped inside because the original screen is attached to the 10inch casing. Skip Holman drilled the well, he was one of the best around at the time, with large well, oil industry experience. Bob was there when it was drilled, they put in a 20 inch temporary casing, placed a sand filter around the 10inch with screen, developed it, and removed the 20 inch temp casing. That was a long time ago, so the screen has apparently lost effectiveness. If a new screen doesn't fully correct the problem, they could drill another well. I'm assuming this is not central to our focus of getting the water right changes done. We are trying to avoid regulatory issues, is the point.

(B) Regarding separation from the creek.

The well was constructed in compliance with the requirement at that time and accepted by Ecology. As mentioned above, Bob was there when the well was drilled. There are clay layers that provide some degree of separation from the creek and this was the likely basis for compliance with the condition placed, under the regulatory management scheme of that time.

(C) I would like to focus on solving the water right changes with the requested increase in acres.

**Option 1.** Here's how it would work.

water rights: 36ac, 15ac, 61ac; separate to each right and totaling 112 ac, post-spreading.

as % of total area (112ac): 32%, 13%, 55%

I misspoke below, the lines are 1/8 mile so it takes 2 lines to use the 180-204gpm; each line takes 90-102 gpm.

The point still stands they need more than one water right to apply to any wheel line that is running, whether they are running one or two at a time; if they are to use their full quantities.

This is how they farm with the full flow rate quantities. If they “had” to reduce that, they could go smaller nozzles, or valve back etc, but then they're not farming any more, they're changing nozzles or wasting energy. I'm trying to find a solution that has the water rights working for the farmer, not the other way round.

So for round figures, figure 660 ft wheel line widths; the place of use widths under each wheel line would be:

(0.32x660) = 211 ft width POU for SWC 4057.

(0.13x660) = 86 ft width POU for GWC 4589-A.

(0.55x660) = 363 ft width POU for G3-01333C.

I'm sure you can picture that as I'd really prefer not to make any more maps.

Although Option 1 could work in theory, I think it twists a pretzel to accommodate a false idea that overlapping places of use are prohibited.

I no longer consider Option 1 an option.

More Background on Why:

In a spirit of compromise and cooperation, I honestly tried to accommodate the ask for separate places of use.

There is something bothering me that I haven't shared, which is that Ecology Eastern Region has done the exact thing before. I have a professional responsibility to ensure my client is treating fairly and equally. Not to mention Ecology's own guidance example, which is consistent with these applications, post-change. Ms Short has said the guidance example is not applicable, but please decide for yourself:

See Scenario 4, page 13 at this link : <https://apps.ecology.wa.gov/publications/documents/2011065.pdf>

*Scenario 4*

*Farmer Sam was issued Water Right G2-33333 for 900 gpm and 200 ac-ft for irrigation of 100 acres of wheat.*

***Subsequently, Water Right G2-44444 was issued** from the same well for 0 gpm and 200 ac-ft supplemental to irrigate apples **on the same 100 acres.** ... [emphasis added]*

Ecology response: "The example you cited from Ecology's Guidance 20-11-065 is not relevant as these three rights are not approved for the same number of acres. In this case Mr. Greiff is not 'Farmer Sam'."

Ecology's response misses the point of the example: If the changes were approved as originally requested, the rights would then lay on top of each other, same acres, just like "Farmer Sam". It's Ecology's own example that has completely overlapping (same) acres and additive annual volume on those acres. There is no statute preventing this, is what makes it legal; the guidance just shows, with a concrete example, that Ecology does in fact consider it an acceptable water right configuration. Which of course it is, because it solves some practical situations. I'm willing to let go of the ideal, if we can find a workable solution, such as Option 2.

**Option 2.** This is substantially the same as what we started with in terms of the three existing certificates. I've attached the map that went with the original applications. It shows the overlap of the three rights north of Ridgeway Rd. The larger heavy dotted boundary is the requested place of use, not yet approved (the same place of use would be used for Option 2). The map shows the three water rights overlapping the 37 acre area (within cross-hatched area) that was authorized by the three water rights, just as Ecology issued them. Two of those places of use extended to the north beyond the 37 acres, but I think it's pretty clear that a three-water-right overlap was already there, status quo.

What is changing from that with Option 2? We would just be expanding the acres for each water right (water spreading which is allowed by law), and expanding the exterior boundary of the place of use to make room for the acres. Making it one boundary for simplicity and flexibility. All three water rights overlap in place of use, but add in flow rate, acres, and annual volume. It's the same. Give all three water rights the same exterior boundary as place of use. If Ecology needs to regulate a water right, they take those acres out of production and regulate a source.

Please, let's get this done.

Sincerely,

Tim Reiersen

*Streamline Water Consulting LLC*

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**From:** Spangle, Herm (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>

**Sent:** Tuesday, December 20, 2022 1:15 PM

**To:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>; Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>; Tolleson, Daniel F. (ECY) <[DTOL461@ECY.WA.GOV](mailto:DTOL461@ECY.WA.GOV)>

**Cc:** [kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com); [scwcb6@gmail.com](mailto:scwcb6@gmail.com); [alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)

**Subject:** RE: Response to 10/21 email re: Greiff

I would like to see maps of what is proposed for Option 1 to understand more specifics. Option 2 appears to be the same problem we had before. Also I have a concern about the well being down and the surface diversion is what is being utilized for all water rights. What is the status of the well? The well was to be constructed to prevent interference with the creek.

**From:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>

**Sent:** Tuesday, December 20, 2022 10:55 AM

**To:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>; Spangle, Herm (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>; Tolleson, Daniel F. (ECY) <[DTOL461@ECY.WA.GOV](mailto:DTOL461@ECY.WA.GOV)>

**Cc:** [kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com); [scwcb6@gmail.com](mailto:scwcb6@gmail.com); [alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)

**Subject:** RE: Response to 10/21 email re: Greiff

RE: Greiff Applications SPOK-22-01,02,03

Dear All:

I left a msg with Jaime Short, but am thinking it may be difficult to reach people now so will go ahead and cover this by email.

To recap: I had originally proposed that all three rights would share the same place of use AND the same irrigation acres overlapping (annual volume and flow rate would have been additive). I firmly maintain this is the correct and best answer for full integrity to match farm practice to water rights. Reading the room, however, I see little choice for my client but to compromise. So, I have attempted to comply with Ecology's firm position.

In trying to carry this out, as I understand it (see my November 11, 2022 email below), **I have run into a problem**, described next.

The three water rights have flow rate limits:

SWC 4057 at 0.12 cfs (54 gpm)

GWC 4589-A at 50 gpm

G3-01333C at 100 gpm.

The Greiffs irrigate (as they have for a very long time) with wheel lines that each deliver approx. 180 gpm to 204 (water right limit) gpm, depending on where they are located, etc. So if the rights are divided into three separate areas, Greiffs would only be able to use 54 gpm within the SWC 4057 water right place of use area, 50 gpm within the 4589-A place of use, and 100 gpm within the G3-01333C area. But because the wheel line is going to deliver up to 204 gpm while traveling through all three areas, **it would always be in violation of water rights**. Any less than that, and the farm cannot run.

I have two options that I can make work for my client, for all to consider.

**Option 1. Comply with the direction from Ecology to have no overlapping places of use.**

The only way I can figure to do this, is to divide the place of use into more areas. There are two wheel lines used north of Ridgeway Rd, and they are moved in a north-south-north direction; I'll refer to them as the west wheel line, and the east wheel line. To provide water rights for the wheel lines to deliver up to 204 gpm at a time, I will divide the area under the west wheel line into three places of use in the shape of rectangles running long in the north-south direction, one for each water right. Likewise, I will divide the area under the east wheel line into three places of use, one for each water right.

South of Ridgeway Rd, there is the same arrangement with a west and east wheel line. I will divide the area under the west wheel line into three place of use areas, one for each water right, running long in the north-south direction. Same for the east wheel line south of Ridgeway Rd.

In this way, the three water rights can always contribute their flow rate to the wheel line that is running. The places of use will have no overlap, which is what Ecology has said it wants and possibly, requires. Mr. Spangle has raised the issue of ability to regulate individual water rights. This is answered: in the event of regulation, individual sprinklers can be capped off, or a seasonal change or temporary change can be requested to simultaneously fallow and cover the necessary acres. A very low probability event. None of these rights have been regulated in response to a call from a senior right holder, to make water available for the senior right. Greiffs have been requested (not formally regulated) to shut off portions of irrigation for other reasons. Those other reasons are what we are trying to solve.

**Option 2. Separate additive water rights sharing a common place of use.** All three water rights would be granted the same place of use, but each water right would be separate from the other, with completely additive quantities.

To me, option 2 is much easier to administer and understand than option 1. But I will agree to either one that is chosen.

**MORE**

With the passage of time, the 2022 irrigation season has concluded. I asked Mr. Greiff for power records and a description of farm practices for 2022. They didn't use the well this year because it is now pumping sand. They have been unable to get a contractor to work on it, so will be trying to deal with it themselves. They also had repeated mainline breaks earlier in the year so had a late start on irrigation. They used about a fifth of their water rights,

irrigating about 18 acres of alfalfa and 19 acres of grass. They used only 26 ac-ft as estimated from power records, which reflected in yields as deficit irrigation. I believe this should satisfy anyone that they can live within their means with the 113 ac-ft/yr total ACQ result. (The year 2022 will not affect the ACQ result already reached, because it is not one of the 2 highest years of use within the past 5).

So, I would like to amend the applications to request a total of 112 acres, which will allow Greiffs to irrigate a footprint including the museum demonstration ground just south of Ridgeway Rd and is more accurate to what they can farm.

Specifically, and with reference to my November 8, 2022 memo supplement, I propose for approval:

SWC 4057: 54 gpm, 36.7 af, 36 ac

GWC 4589-A: 50 gpm, 15.3 af, 15 ac

G3-01333C: 100 gpm, 61 af, 61 ac

Total 204 gpm, 113 af/yr, 112 acres irrigation; each water right and each attribute separate and additive as being required by Ecology. Individual acres are calculated as pro-rating the total acres on annual volume, example 36.7 ac-ft x (112ac/113ac-ft) = 36 ac. Numbers are rounded to make a total of 112 acres.

**Unless anyone has objection, I will proceed with an amended public notice, in cooperation with the board, and wait to hear whether option 1 or 2 is preferred by Ecology or the board.**

Sincerely,  
Tim Reiersen

*Streamline Water Consulting LLC*

Tim Reiersen, PE      tim@water-consultant.com  
he/him RYE er sun  
6604 Appleview Rd      ph (509) 965-7175  
Yakima WA 98908      fax (509) 965-6995

**From:** Tim Reiersen

**Sent:** Friday, November 11, 2022 7:30 AM

**To:** Short, Jaime (ECY) <JSHO461@ECY.WA.GOV>; Spangle, Herm (ECY) <HSPA461@ECY.WA.GOV>; Tolleson, Daniel F. (ECY) <DTOL461@ECY.WA.GOV>

**Cc:** kfreeman@inlandearth.com; scwcb6@gmail.com; alkiepe1@gmail.com

**Subject:** RE: Response to 10/21 email re: Greiff

Thank you. Mr. Freeman generously gave time to meet with me for lunch yesterday in Sunnyside, and shared Ecology's concept for revising the decisions so that none of the three water rights overlap in place of use. My client has authorized me to accept that approach.

My client has no objection to the board withdrawing the three decisions for SPOK-22-01,02,03.

My plan is to prepare three amended decision reports for the board's review. I don't see that amended public notice is needed, because the original 3 applications requested larger places of use and more acres than would be considered in the revised approach. [EDIT 12/20/2022 tdr: AN AMENDED PUBLIC NOTICE WILL BE PREPARED TO INCLUDE A TOTAL OF 112 ACRES REQUESTED] For example, instead of 100 acres for each, they would be for 30 acres, 20 acres, and 50 acres each, with three [EDITED 12/20/2022 tdr] adjoining places of use (no overlap).

Please correct me if anything here is a misunderstanding on my part. I won't be attending the upcoming special meeting of the board, but do plan to attend the regular meeting towards the end of the month.

Thanks again to Mr. Freeman for time, effort and insight. Also to Ms Short and Mr. Spangle for proposing a forward path.

Thank you,  
Tim

*Streamline Water Consulting LLC*

Tim Reiersen, PE      tim@water-consultant.com  
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Yakima WA 98908      fax (509) 965-6995

**From:** Short, Jaime (ECY) <JSHO461@ECY.WA.GOV>

**Sent:** Thursday, November 10, 2022 1:09 PM

**To:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>; Spangle, Herm (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>; Tolleson, Daniel F. (ECY) <[DTOL461@ECY.WA.GOV](mailto:DTOL461@ECY.WA.GOV)>

**Cc:** [kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com); [scwcb6@gmail.com](mailto:scwcb6@gmail.com); [alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)

**Subject:** RE: Response to 10/21 email re: Greiff

Good Afternoon,

The meeting yesterday with Mr. Freeman was simply a discussion – I don't have a summary or any notes to share. We did talk about the supplemental information you provided on 10/8 but the data was a bit confusing and Mr. Freeman was going to talk with his fellow Board members early next week. It was also my understanding that Mr. Freeman was going to reach out to you directly while he was in Sunnyside for other business. Hopefully you have a chance to connect with him soon. - Jaime

Jaime Short (she/her)

Section Manager, Eastern Regional Office

Water Resources Program, WA Dept. of Ecology

509.990.7636 (cell)

**From:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>

**Sent:** Wednesday, November 9, 2022 4:51 PM

**To:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>; Spangle, Herm (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>; Tolleson, Daniel F. (ECY) <[DTOL461@ECY.WA.GOV](mailto:DTOL461@ECY.WA.GOV)>

**Cc:** [kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com); [scwcb6@gmail.com](mailto:scwcb6@gmail.com); [alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)

**Subject:** RE: Response to 10/21 email re: Greiff

Ms Short,

I would appreciate a summary of your discussion from the 9am meeting today, if someone could please send that to me. Let me know if I need to make a public records request. It would help me to know whether the information I provided satisfied Ecology's concerns, or whether Ecology has additional concerns. The decisions on these applications are of utmost importance to my client, I hope everyone understands this—I've done my best to communicate it.

Tony, please keep me on the notification list for the board.

Thank you,

Tim

*Streamline Water Consulting LLC*

Tim Reiersen, PE [tim@water-consultant.com](mailto:tim@water-consultant.com)

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Yakima WA 98908 fax (509) 965-6995

**From:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>

**Sent:** Wednesday, November 9, 2022 3:21 PM

**To:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>; Spangle, Herm (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>; Tolleson, Daniel F. (ECY) <[DTOL461@ECY.WA.GOV](mailto:DTOL461@ECY.WA.GOV)>

**Cc:** [kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com); [scwcb6@gmail.com](mailto:scwcb6@gmail.com); [alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)

**Subject:** RE: Response to 10/21 email re: Greiff

Hi Tim,

Thank you for your response to my earlier email. We've discussed the issues with Mr. Freeman and it is our understanding that the Board will be considering their options moving forward.

Sincerely,

Jaime Short (she/her)

Section Manager, Eastern Regional Office

Water Resources Program, WA Dept. of Ecology

509.990.7636 (cell)

**From:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>

**Sent:** Tuesday, November 8, 2022 10:14 PM

**To:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>; Spangle, Herm (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>; Tolleson, Daniel F. (ECY) <[DTOL461@ECY.WA.GOV](mailto:DTOL461@ECY.WA.GOV)>

**Cc:** [kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com); [scwcb6@gmail.com](mailto:scwcb6@gmail.com); [alkiepe1@gmail.com](mailto:alkiepe1@gmail.com)

**Subject:** RE: Response to 10/21 email re: Greiff

Dear All,

I prepared detailed answers to the below requests for information with hopes this will resolve all of Ecology's concerns, please see attached memo. The Greiffs need the decision approval to resume their farming and livelihood.

Again, the same result is reached, but this does fill in the details for the lower three years of use out of the 5 reviewed for the ACQ statutory requirement.

Please feel free to call me before, during or after your meeting tomorrow if you have any questions.

Thank you,  
Tim

Land: 509 965-7175  
Cell: 509 945-1256

*Streamline Water Consulting LLC*

Tim Reiersen, PE                      [tim@water-consultant.com](mailto:tim@water-consultant.com)  
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**From:** Short, Jaime (ECY) <[JSHO461@ECY.WA.GOV](mailto:JSHO461@ECY.WA.GOV)>

**Sent:** Wednesday, October 26, 2022 2:09 PM

**To:** Tim Reiersen <[tim@water-consultant.com](mailto:tim@water-consultant.com)>

**Cc:** [kfreeman@inlandearth.com](mailto:kfreeman@inlandearth.com); Spangle, Herm (ECY) <[HSPA461@ECY.WA.GOV](mailto:HSPA461@ECY.WA.GOV)>; Tolleson, Daniel F. (ECY) <[DTOL461@ECY.WA.GOV](mailto:DTOL461@ECY.WA.GOV)>

**Subject:** Response to 10/21 email re: Greiff

Dear Mr. Reiersen,

Thank you for reaching out to me regarding the processing of the Spokane County Water Conservancy Board's decisions on Mr. Greiff's applications (SPOK-22-01, 02, 03). I have reviewed the record with my team and can assure you that nothing in our decision making process includes a consideration of your client's integrity or future plans for the property. If we have done anything to give you that impression, I sincerely apologize. That being said, we do have significant concerns with the decisions forwarded to us by the Board with their recommendation to approve.

Three applications came before the Board, all of them proposing to add acres and amend the place of use. Unfortunately, each right was not evaluated on its own merits so the record for each decision is insufficient. I understand that the delivery system for these three rights has been integrated but the rights themselves are assigned individual acres. A record of decision needs to be submitted that includes the location of the acres developed under each right, what specific crops were grown on those acres for the 5 year period being evaluated for ACQ, and to what extent those acres can reasonably be expanded to under the change. The example you cited from Ecology's Guidance 20-11-065 is not relevant as these three rights are not approved for the same number of acres. In this case Mr. Greiff is not "Farmer Sam".

I appreciate your desire to avoid undue influence from agency staff and your ethical obligations to your client. Our liaison to the Conservancy Board, Herman Spangle, has reached out to Mr. Freeman and will work directly with the Spokane Board to determine next steps. The decisions as submitted cannot be approved so the Board will have to decide if they would like to withdraw and amend the record or leave them as-is. Thank you again for sharing your concerns.

Sincerely,  
Jaime Short (she/her)  
Section Manager, Eastern Regional Office  
Water Resources Program, WA Dept. of Ecology  
509.990.7636 (cell)

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**Sent by Electronic Mail**

October 21, 2022

Jaime R. Short, Section Manager  
Washington Department of Ecology  
Water Resources Program  
4601 N. Monroe Street  
Spokane, WA 99205-1295

**SUBJECT:** Ecology Communications about Greiff Decisions, SPOK-22-01,02,03

I'm consulting for applicants Robert H. Greiff and Robert W. Greiff (pronounced "grife") on a project to correct a longstanding place of use discrepancy. The water right places of use do not include about half the historic farmed area—they exclude the property south of Ridgeway Rd.

I worked with the board and together we established a record for the board's decisions, currently under Ecology review. This included providing the factual basis, technical evaluations of statutory conditions for approval, and even a legal opinion. A brief word about the board. As you know, they are volunteers. I've been working in the water rights field for over 30 years and am still learning. I have nothing but respect for those who volunteer on these boards and keep water rights functioning. This was my first time working with the Spokane board. Kevin Freeman was assigned. The board and Mr. Freeman insisted on a high standard and appropriately challenged the concept of sharing the same acres. The decisions reflect their insistence on careful attention to detail and thorough evaluation of the applications.

Herman Spangle from your office called me yesterday morning. He said that both he and you disagreed with the board's decision to increase the acres for all three water rights to the same 100 acres. He said that if the Greiffs were to sell a water right to Deer Park in the future, that the acres would be increased. He then also acknowledged the provision addressing that very concern. That makes no sense. Provision quoted here for your convenience:

*Combined use limit. The quantities authorized are not to exceed 113 ac-ft/yr for irrigation of 100 acres in combination among the following: Surface Water Certificate (SWC) 4057, Ground Water Certificate (GWC) 4589-A and certificate G3-01333C. The annual quantity is considered all consumptive use.*

In response to Mr. Spangle, first, the Greiffs have never mentioned anything to me about selling water rights. They want to farm this ground, as their family has for about 70 years.

Second, I know with absolute certainty (a rare statement when talking water rights) the remedy with overlapping acres in the decisions is completely within the bounds of law. In spite of that, in a spirit of cooperating with Ecology, I offered a compromise to Mr. Spangle. This was to

limit each of the three rights to non-overlapping acres that would add to 100 acres. But the only way that works for my client is on condition that all three rights share the same place of use boundary encompassing the farm. This would allow the high duty crop (typically alfalfa) to be rotated with low duty crops according to agronomic practices--without having to change all three water rights every time the location changes. It accommodated Mr. Spangle's wish for Ecology to have a specific acreage they could regulate in case of shortage. After our first conversation yesterday, I offered to write the compromise up as a proposal. Mr. Spangle emailed in response to my explanation "I don't know about that. I'll wait to see what you come up with and the maps." He called again a few hours later and that conversation is what has prompted this letter.

The Greiffs have never been regulated due to a shortage in the water supply. According to the public water right files, they were regulated once in 1968 by verbal notice, with voluntary compliance, for irrigating south of Ridgeway Road. After which, Mr. Greiff filed application for those lands, which Ecology approved. When it came time for the certificate to issue, in 1983 Ecology removed those lands from the certificate place of use. This was done despite the fact the lands south of the road were being irrigated. This is based on the word of Mr. Greiff, is clearly visible on aerial photos, and was witnessed by Ecology staff Chester E. Dorrough on June 10, 1977 who wrote: "In Sec. 9. it appeared that the 40 acres...were being cultivated in preparation for irrigation."

Since 2019, when Mr. Greiff received Ecology's letter asking about his water rights, I verified the problem for him (which he wasn't aware of) and worked with him to fix the issue. This is no easy matter to navigate under today's regulations. But he followed an agronomic use program and has followed the law all the way through to board approval. During this time, I will tell you, it has been an honor for me to learn a few things about farming in traditional ways, hard work, and integrity, from Mr. Greiff. This is a legacy moment for Mr. Greiff, to protect their family livelihood and I'm proud to be a part of supporting what they're doing.

Mr. Spangle told me that it's not true when Mr. Greiff says he didn't know he wasn't authorized to irrigate south of the road. Before I address that disappointing comment, I will share something else Mr. Spangle told me, and this is what prompted this rare letter of concern coming from me.

In the second phone call to me yesterday, Mr. Spangle was not agreeing with my compromise, but was explaining why three separate places of use, without overlap, would be a workable outcome. He said that Ecology knows this is a commingled system and that Ecology does not micromanage the use of water within the system. I asked if he would put that in writing, to which he said no he wouldn't. I told him that each water right is limited by its face attributes and in that approach if the alfalfa stand were moved to a low duty water right area, that would not comply. I knew perfectly well that if he or even the Director put that statement in writing, it would be worthless as an "outside of the law" statement. He knew that, and I knew he knew that, which is exactly why I tested him. After that, I no longer wish to compromise.

Please do not allow staff to seek to influence my actions and advice to a client in ways that are out of bounds of law. Please do not contact me to discuss any different approach to the Greiff changes unless you cite the statute, administrative code or case law that demonstrates the illegality of three rights on the same 100 acres. You won't find them because they don't exist.

The practical application to Greiff: acres are non-additive, annual volume and flow rate are additive. I send this messaging to you only because Mr. Spangle told me that you are in agreement with him.

I have an ethical obligation to my client. I'm not going to agree to any proposal that sets my client up to be out-of-compliance with their water rights while following their historic rotation practice. Mr. Spangle mentioned the possibility of seasonal changes. True, but pointlessly unnecessary and that would only take up time and energy from all involved and waste paper.

Finally, I could spend a lot of time and space providing the evidence and arguments for why the board's decisions are fully within bounds of law, but I believe Ecology knows that already. I am left at a loss to explain Mr. Spangle's representations to me. One easy example. Vineyard with 1.5 ft water duty on 100 acres. Owner wants to tear out vineyard and plant orchard at a total 3.5 ft duty. What do they do? They acquire another water right at 100 acres (through spreading, direct transfer or new permit) with a 2 ft average duty and apply it to the same 100 acres. Annual volume, additive; acres non-additive. Simple. I just now went back and reviewed Ecology Guidance Document 20-11-065 "Use of Terms that Clarify Relationships between Water Rights". The example I just gave off the top of my head is a near exact match to Scenario 4, page 13, "Farmer Sam". This is Ecology's own Program guidance!

To answer Mr. Spangle's comment about not believing Mr. Greiff. You can read some things in the file from back in the day where things got testy. In my experience over the past three years Mr. Greiff has been an inspiration, trustworthy, honest, hard-working and dedicated to the task of correcting the situation. I feel fortunate to have had the opportunity to help protect a small but important family farming legacy. I trust and believe Bob Greiff.

Sincerely,



Tim Reiersen

copy to: Spokane County Water Conservancy Board  
Robert H. Greiff