



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

March 2, 2016

Warden Hutterian Brethren Trust
Mr. Paul Wollman
1051 West Harder Road
Warden, WA 98857

Re: Water Right Application Nos. 2567-A, 587-A, 2520-A, 6060-A, G3-01172, G3-01217,
G3-01541 and G3-01542

Dear Mr. Wollman:

Enclosed are the Department of Ecology's *Reports of Examination*. These reports contain our decisions regarding your applications.

Your applications have been approved.

You have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this document. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal, you must do the following within 30 days of the date of receipt of this document:

- File your appeal and a copy of this document with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this document on Ecology in paper form - by mail or in person. (See addresses below.) Email is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.



Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov> . To find laws and agency rules visit the Washington State Legislature
 Website: <http://www1.leg.wa.gov/CodeReviser> .

If you have any questions, please contact Kevin Brown at 509 329-3422.

Sincerely,



Keith L. Stoffel
 Section Manager
 Water Resources Program

KLS:KB:ka

Enclosures: Report of Examination
Your Right To Be Heard

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Sent To: **WARDEN HUTTERIAN BROTHERS TRUST**
 Street: **MR. PAUL WOLLMAN**
1051 WEST HARDER ROAD
 City, St: **WARDEN, WA 98857**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

WARDEN HUTTERIAN BROTHERS TRUST
MR. PAUL WOLLMAN
1051 WEST HARDER ROAD
WARDEN, WA 98857



9590 9403 0671 5196 4047 92

2. Article Number (Transfer from service label)

7015 0640 0003 6620 1960

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 Paul Wollman Addressee

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PS Form 3811, April 2015 PSN 7530-02-000-9053

Domestic Return Receipt



State of Washington
 REPORT OF EXAMINATION
 FOR WATER RIGHT CHANGE

Changed Place of Use
 Added or Changed Point of Withdrawal

PRIORITY DATE
 December 1, 1952

WATER RIGHT NUMBER
 2567-A

MAILING ADDRESS
 WARDEN HUTTERIAN BRETHERN TRUST
 MR. PAUL WOLLMAN
 1051 WEST HARDER ROAD
 WARDEN, WA 98857

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
1200	GPM	300

Purpose

PURPOSE	WITHDRAWAL RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Agricultural irrigation of 105 acres and municipal water supply purposes	1200		GPM	262.5	37.5	02/01 - 11/31

*262.5 acre-feet for irrigation and 37.5 acre-feet for municipal purposes

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
ADAMS and GRANT	GROUNDWATER		41-LOWER CRAB

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well 1 (587-A)	2831060100001	N/A	18N	31E	06	SENE	47.08228	118.96021
Well 2 (2520-A)	181162000	N/A	18N	30E	11	NESW	47.06440	119.01320
Well 3 (2567-A)	2831080330001	AFL246	18N	31E	08	SESW	47.05836	118.95045
Well 4 (2567-A)	2831080330001	AHP734	18N	31E	08	SESW	47.05737	118.95261
Well 5 (G3-01217)	2831180100001	N/A	18N	31E	18	NENW	47.05714	118.97338
Well 6 (6060-A)	2831020100001	AHP745	18N	31E	02	SWNE	47.08210	118.88517
Well 7 (G3-01541)	2831200100001	N/A	18N	31E	20	NENE	47.04228	118.94148
Well 8 (G3-01542)	2831070000001	AHP737	18N	31E	07	SWNW	47.06592	118.98083
Well 9 (G3-01172)	2831060100001	N/A	18N	31E	06	SENW	47.07938	118.97129

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

Adams County--2831080330001, 2831170100001; Grant County--181164000, 181163000

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Municipal Water Supply Purposes and irrigation of 96.5 acres within the S½S½ of Section 8; 0.33 acres of (Pivot H13) within the NE¼NE¼SE¼SE¼ of Section 17, T. 18 N., R. 31 E.W.M. Adams County and 8.17 acres (Pivot H28) within the NE¼NE¼NW¼ and NW¼NW¼NE¼ of Section 12, T. 18 N., R. 30 E.W.M. Grant County.

Proposed Works

Nine integrated wells and pivot irrigation systems

The proposed change application proposes to integrate existing wells and does not intend to construct new wells. This change proposes to move the water right, adjust pivot sizes, move the water right closer to the canal to receive delivery from the East Columbia Basin Irrigation District (ECBID) surface water delivery under the replacement water program. This change allows for the change in place of use pending entry into a Water Service Contract (WSC) with the ECBID. At such time this right will be standby reserve (RCW 90.44.510). If a WSC is offered and accepted, a Superseding Certificate will be issued subject to this change authorization. If a WSC is offered and not accepted, this change will be superseded.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
December 1, 2018	December 1, 2018	December 1, 2018

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Upon request
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm)

Provisions

The total authorized acres under Certificates 587-A, G3-01542, 2520-A, G3-01217, G3-01541, 2567-A, G3-01172, 6060-A is 2930 acres. Since these change authorizations allow for the development of additional pivots and the reductions of existing pivots, during the development period of these authorizations, an "Annual Farm Plan" shall be submitted each year prior to irrigation season identifying the 2930 acres that will be irrigated under these permits.

The applicant has requested the Municipal Water Supply portion of this right be split from the irrigation portion. Once the decision has passed the appeal period, the applicant may request the authorization be split from the development period for the irrigation. A separate certificate will be issued for the municipal water supply and the development of the irrigation portion of the change authorization will be subject to the development period.

The owner of this water right has proposed to enter into a contract with the East Columbia Basin Irrigation District for delivery of surface water from the Columbia Basin Project (Project). Surface water served by the Project is to be used in place of or instead of water that could be withdrawn under this state-issued water right, not in addition to it.

In accordance with RCW 90.44.510, Ecology "shall issue a superseding water right permit or certificate for a groundwater right where the source of water is an aquifer for which the department adopts rules establishing a groundwater management subarea and water from the federal Columbia Basin project is delivered for use by a person who holds such a groundwater right. The superseding water right permit or certificate shall designate that portion of the groundwater right that is replaced by water from the federal Columbia Basin project as a standby or reserve right that may be used when water delivered by the federal project is curtailed or otherwise not available."

This water right authorizes use of groundwater in the Odessa Ground Water Management Subarea.

This provision is being added to clarify that this right will be a standby reserve right that is entirely supplemental to Columbia Basin Project water. Groundwater withdrawn under this authorization shall only be used when delivery of Project water is interrupted during the Project's irrigation season. Groundwater shall not be used before Project water delivery begins each season and after Project water delivery ends each season.

Should the contract/delivery of water from the Project be terminated by the water right holder, landowner or successor, this standby/reserve right shall be subject to cancellation. However, such cancellation shall not occur if the contract/delivery of water from the Project is terminated as a result of an action outside of the control of the water right holder, landowner or successor, such as the failure of the United States Bureau of Reclamation and an irrigation district to renew their contract.

Transfer of this standby reserve water right to other lands, or change in the nature or purpose of use of this right is prohibited.

Groundwater withdrawal facilities authorized by this water right must be maintained in operating condition.

Wells, Well Logs and Well Construction Standards

All wells constructed in the state must meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard must be decommissioned.

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

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Easement and Right-of-Way

The water source and/or water transmission facilities may not be wholly located upon land owned by the applicant. Issuance of a water right change authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include contracting with a Certified Water Rights Examiner to confirm the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

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

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that a valid right exists; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No.CG3-*02839C@1, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

to the canal. The remaining applications request to transfer a portion of the water rights to new lands by reducing pivot lengths and smaller pivots to cover other ground closer to the canal. Each application will have its own decision.

Attributes of Ground Water Certificate No. 2567-A

Priority Date: December 1, 1952
Instantaneous Quantity – Q(i): 1200 gallons per minute
Annual Quantity – Q(a): 300 acre-feet per year
Source: two wells
Point(s) of withdrawal: SE¼SW¼, Sec. 8, T. 18 N., R. 31 E.W.M.
Purpose of Use: irrigation of 105 acres and Municipal Supply

INVESTIGATION

Certificate 2567-A authorized the use of 1200 gallons per minute, 300 acre-feet per year: 37.5 acre-feet for municipal water supply purposes and 262.5 acre-feet for irrigation of 105 acres.

The applicant has identified the Pivots H25, H26, H29, and H30 as developed under this authorization for irrigation totaling 107 acres as irrigated all lying within the S½S½ of Section 8. They propose to reduce the pivot sizes and transfer portions of this right to H13 and H28.

The municipal use of this well is being exercised in the S½S½ of Section 8 and will remain as originally authorized. The irrigation authorization was issued for 2.5 acre-feet per acre. Crops are grown annually and vary from potatoes to wheat. The 105 acres has been historically irrigated and eligible for replacement water.

The existing pivots will be reduced in size. The applicant identified pivot H13 (0.33 acres) and H28 (8.17 acres) as the land proposed to be irrigated under a portion of this authorization. Pivot H13 is located in the SE¼ of Section 17, T. 18 N., R. 31 E.W.M. The proposed land, Pivot H13, is a 93 acre pivot and is currently irrigated under Certificate G3-01541. They propose to move this portion of G3-01541 to other lands and reduce the Pivot size to 80.75 acres replacing the existing authorization with Certificate 2520-A (80 acres) and a portion of 2567-A (0.33 acres) and a portion of Certificate G3-01217 (0.42 acres). Pivot H28 is a 10 acre ½ pivot currently irrigated under Certificate G3-01542. This pivot will be reduced in size and the right (G3-01542) will be transferred to other lands.

The water use is within the Odessa Special Study Area and predates the Record of Decision, signed April 2, 2013, for the Odessa Subarea Replacement Water Program.

The application requests to transfer the water rights to new lands, reallocate the rights by reducing pivot lengths and smaller pivots to cover other ground closer to the canal that is irrigated without authorization.

Evaluation of the Water Right and Beneficial Use Analysis:

The Washington State Supreme Court, in *Okanogan Wilderness v. Town of Twisp and Department of Ecology*, 133 Wn.2d 769, 947 P.2d 732 (1997), found that applications for change may be granted only to

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

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- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 2nd day of March, 2016.



Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

BACKGROUND

An application for change/transfer was submitted on August 31, 2015. The applicant proposes to change the place of use and integrate the irrigation systems resulting in adding existing wells to Ground Water Certificate 2567-A.

A notice of application was duly published in accordance with RCW 90.03.280 in the Ritzville Adams County Journal on October 29th and November 5, 2015, Adams County and the Columbia Basin Herald on November 18 and 25, 2015, Grant County, and no protests were received.

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW. As these changes together exceed the threshold, a SEPA determination is required. A Determination of Nonsignificance was issued January 20, 2016.

This application for change is filed along with seven other applications for change. All of the applications request to integrate the existing wells. Three of the applications request to infill the entire right closer

the extent the water has been historically put to beneficial use, as beneficial use determines the measure of a water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been lost for non-use before the Department can approve a change or transfer of the water right.

Ground Water Certificate 2567-A confirmed a use of 1200 gallons per minute 300 acre-feet per year for the irrigation of 105 acres and municipal supply. This right has been determined to have been perfected and put to beneficial use and has continued to be irrigated. The water right appears to be valid for 1200 gallons per minute, 300 acre-feet per year for agricultural irrigation of 105 acres and municipal supply.

Hydrologic/Hydrogeologic Evaluation

Applications for change/transfer of water right permits and certificates of ground water are governed by RCW 90.44.100, which states in part that: the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued by the Department only on the conditions that: (1) the additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (4) other existing rights shall not be impaired. The Department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment.

The proposed project lies within the boundaries of the Odessa Sub-area as defined in Chapter 173-128A WAC. The Odessa Sub-area encompasses approximately 2,000 square miles in parts of Grant, Lincoln, and Adams Counties. The relatively flat-lying land surface slopes in a southwesterly direction and is locally dissected by coulees. The proposed change is subject to the conditions of WAC 173-130A, the management regulation for the Odessa Sub-area.

The Department of Ecology promulgated the Odessa Ground Water Management Subarea (Chapter 173-128A WAC) under authority and procedures provided in chapters 34.04, 43.21A, 90.03, and 90.44 RCW.

RCW 90.44.130 directs the Department to designate groundwater subareas that "*enclose a single and distinct body of public ground water, as the department deems will most effectively accomplish the purposes of this chapter.*" By this rule the wells producing water from the Columbia River Basalt Group within the Subarea boundary are all producing water from the same body of public ground water.

Well 3 - The original well located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, T. 18 N., R. 31 E.W.M., was constructed in 1953. The well is a 12 inch diameter well, 405 feet deep. The well penetrated basalt at 45 feet below ground surface, and is cased into basalt. This well was deepened in 1982 to a depth of 825 feet and reconditioned in 1998.

Well 4 - The original well in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, T. 18 N., R. 31 E.W.M., was constructed in 1995. The well is a 16 inch diameter well, 1734 feet deep. The well penetrated basalt at seven feet below ground surface, and is cased into basalt. The well was deepened in 2010 to a depth of 2615 feet.

The applicant proposes to integrate these wells with seven other wells associated with different water rights. Most of the piping already exists. Additional piping would be required to integrate these wells together.

A new well is not proposed to be constructed. The table below identifies the well construction of the existing wells.

Well Table

Well No.	Cert	Size-in	Depth -ft	Tag ID	Casing	Comment
# 1	587-A	12	370	NA	16	Deepened/reamed
# 2	2520-A	16	920	NA	601	Replacement
# 3	2567-A	10	825	AFL246	560	Deepened/reamed
# 4	2567-A	16	2615	AHP734	1050	Deepened
# 5	G3-01217	16	787	NA	42	
# 6	6060-A	24	1562	AHP745	560	Deepened/reamed
# 7	G3-01541	16	610	NA	40	
# 8	G3-01542	24	2215	AHP737	840	Replacement
# 9	G3-01172	14.75	620	NA	unknown	

A change or transfer of a ground water right requires a determination of the existing well and proposed well to determine if they are in the same body of public ground water. As described above, all of the wells are within the same body of public ground water.

Impairment Considerations

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200); and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

The proposed change in the place of use will not impair existing water rights. The proposed change in the place of use will not enlarge the quantity of water identified above.

The proposed additional wells are all constructed and in use. The proposed additional wells are all within the same body of public ground water. Under the change, the impacts to the aquifer system will not change appreciably as the points of withdrawal will not change.

The property within the proposed place of use lies within the boundary of the Columbia Basin Project and potentially within delivery of the irrigation district. Should contracts be issued by the district that include lands developed under this authorization, these lands will be subject to RCW 90.44.510. If water from facilities of any legally formed irrigation district is used on any or all of the lands described and

developed herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available. RCW 90.44.510 confirms that should water be supplied to these lands (agricultural or non-agricultural) and replaced with Columbia Basin Project Water, the permit or certificate, or portion thereof shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation and the authorized number of acres under the permit or certificate.

Public Interest Considerations

There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be detrimental impact to the public welfare through issuance of the proposed change.

CONCLUSIONS

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, a valid right exists. This application for change to change the place of use and add wells will not enlarge the quantity of water identified, nor will it impair existing rights or be detrimental to the public welfare provided the terms and conditions are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to Ground Water Certificate 2520-A be approved in the amounts and within the limitations listed below and subject to the provisions.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

- 1200 gpm
- 300 acre-feet per year
- Agricultural irrigation of 105 acres and municipal supply

Point of Withdrawal

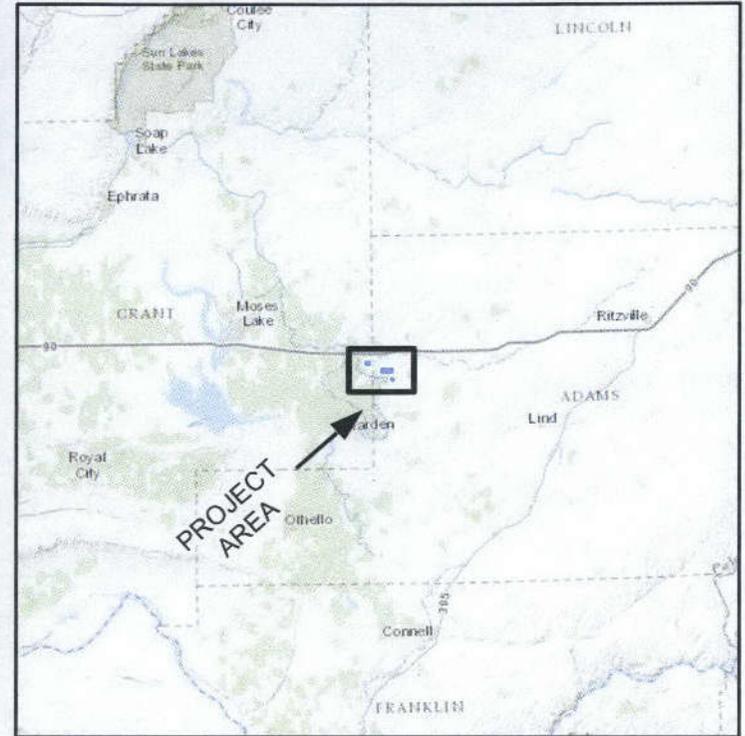
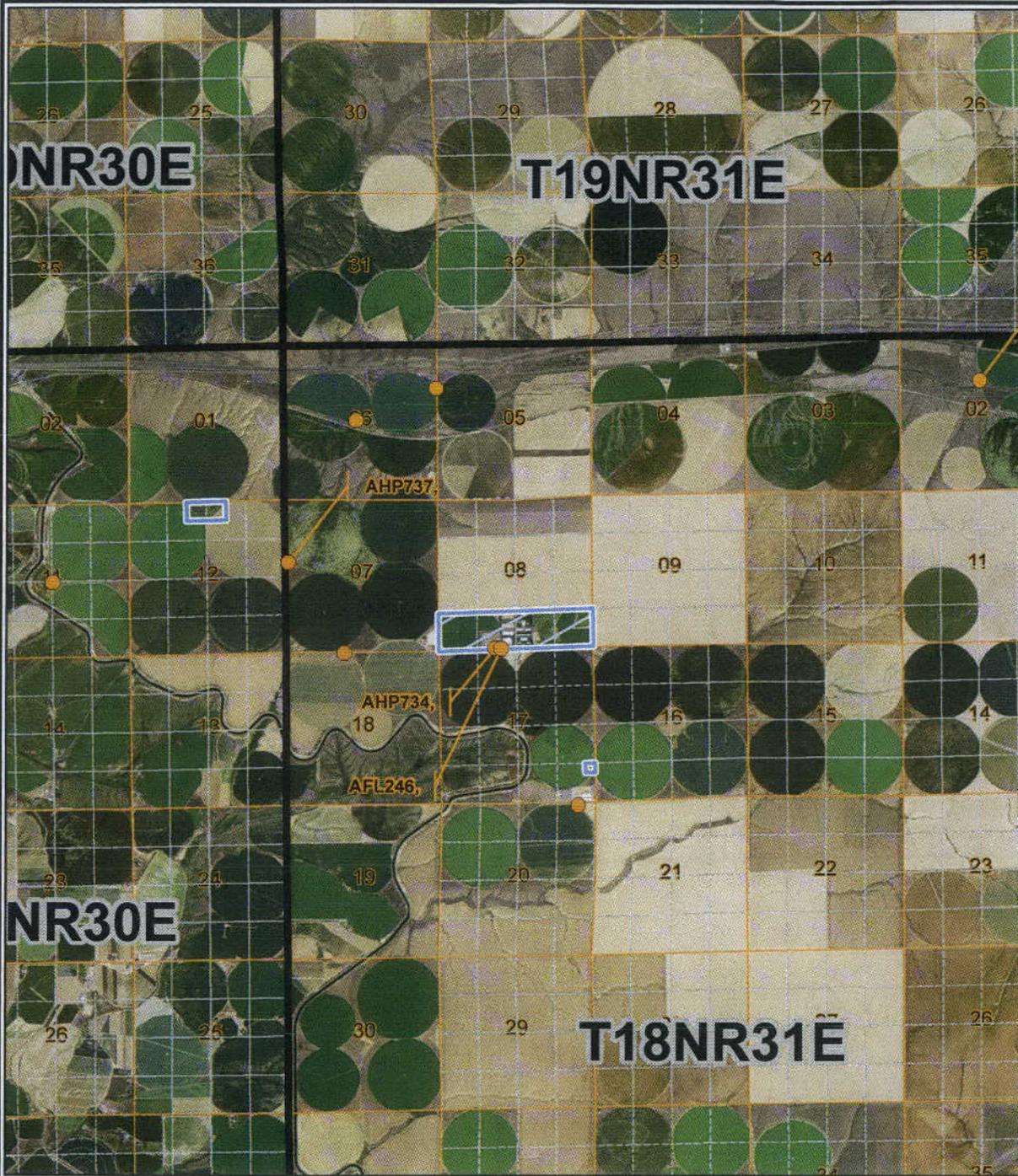
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Place of Use

Municipal Water Supply Purposes and irrigation of 96.5 acres within the S½S½ of Section 8; 0.33 acres of (Pivot H13) within the NE¼NE¼SE¼SE¼ of Section 17, T. 18 N., R. 31 E.W.M. Adams County and 8.17 acres (Pivot H28) within the NE¼NE¼NW¼ and NW¼NW¼NE¼ of Section 12, T. 18 N., R. 30 E.W.M. Grant County.

Report by: Kevin Brown 3/2/14
Kevin Brown Date

Warden Hutterian Trust
 2567-A
 T18N/R30E, T18N/R31E



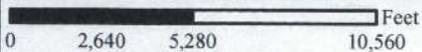
Basemap - (ESRI US Topographic Maps)

Legend

-  Authorized Place of Use
-  Townships
-  Sections

● Authorized Point of Withdrawal

(Source locations may vary in their accuracy and precision as stated within the body of the report.)



Basemap - (NAIP 2013 1m color)



Map Date: 12/29/2015



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.