



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*

By Certified Mail 7015 0640 0003 6620 1960

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3/2/16

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 Total Postage and Fees

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

Street

City, St

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

0961 0299 0000 0490 5102

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Paul Wollman*  Agent  Addressee

B. Received by (Printed Name)

C. Date of Delivery

3-4-16

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

1054 W Harder Rd

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
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- Collect on Delivery
- Collect on Delivery Restricted Delivery
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- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

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 16, 1965

WATER RIGHT NUMBER  
 6060-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)
1500	GPM	1200

**Purpose**

PURPOSE	WITHDRAWAL RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Agricultural irrigation of 300 acres	1500		GPM	1200		02/01 - 11/31

**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)

2831220100001

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

N½ and SE¼ of Section 22, T. 18 N., R. 31 E.W.M.

**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 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). Until such time as the applicant enters into a contract the right will remain to be exercised at the original place of use. 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 and the right will remain at the original place of use.

**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.

Certificate of Change 1-3 PP 314 is superseded by this authorization and considered null and void.

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-\*07897C, 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).

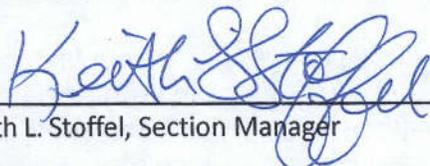
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<b>Pollution Control Hearings Board</b> 1111 Israel Road SW Ste 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

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 6060-A.

A notice of application was duly published in accordance with RCW 90.03.280 in the Ritzville Adams County Journal on October 29<sup>th</sup> 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 eight 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 to the canal. The remaining applications request to transfer portions 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. 6060-A w/chg 1-3-314**

Priority Date: December 16, 1965  
Instantaneous Quantity – Q(i): 1500 gallons per minute  
Annual Quantity – Q(a): 1201 acre-feet per year  
Source: A well  
Point(s) of withdrawal: SW¼NE¼, Sec. 2, T. 18 N., R. 31 E.W.M.  
Purpose of Use: irrigation of 300 acres and domestic supply

**INVESTIGATION**

Certificate 6060-A w/chg 1-3-314 authorized the use of 1500 gallons per minute, 1201 acre-feet per year for the irrigation of 300 acres and domestic supply from a well. The authorized place of use is owned by the applicant. The authorized property has multiple irrigation pivots of approximately 330 acres. The domestic use of this well has not been exercised. The authorization was issued for four acre-feet per acre, inconsistent with the Odessa Subarea Rule, WAC 173-130A which allows for up to 2.5 acre-feet per acre. Crops are grown annually and vary from potatoes to wheat. The 300 authorized acres have been historically irrigated and are eligible for replacement water.

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 current farm is approximately six miles from the East Low Canal. The proposed land is approximately 1.5 miles from the East Low Canal and closer to the proposed laterals. The applicant desires to transfer this right (infill) closer to the canal and enter into a Water Service Contract (WSC) with the ECBID to obtain replacement water for this water right. He does not plan to construct a new well at the new location(s) or construct pivots unless the WSC is issued. This proposed transfer is only to move this authorization closer to the canal to higher value crop ground and obtain a WSC. If approved this would allow for him to enter into a WSC at the new place of use.

The proposed design is to install three pivots in the desired location. Pivots P6-22 for 122.8 acres in the NW¼, P10-22 for 122.8 acres in the NE¼, and P11-22 for 127 acres in the SE¼. A portion of Certificate G3-01172 is proposed to be transferred to P6 as the total exceeds 300 acres.

**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 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 6060-A w/chg 1-3-314 confirmed a use of 1500 gallons per minute 1201 acre-feet per year for the irrigation of 300 acres and domestic 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 1500 gallons per minute, 1200 acre-feet per year for agricultural irrigation of 300 acres.

### **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 6 - The original well in the SW¼NE¼ of Section 2, T. 18 N., R. 31 E.W.M., was constructed in 1966. The well is a 16 inch diameter well, 447 feet deep. The well penetrated basalt at 63 feet below ground surface, and is cased 65 feet into basalt. This well was deepened in 1990 to 905 feet. The well was reconditioned and deepened in 2008 to a depth of 1562 feet. Casing was installed to a depth of 560 feet.

The applicant proposes to integrate this well with eight 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 6060-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:

- 1500 gpm
- 1200 acre-feet per year
- Agricultural irrigation of 300 acres

**Point of Withdrawal**

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
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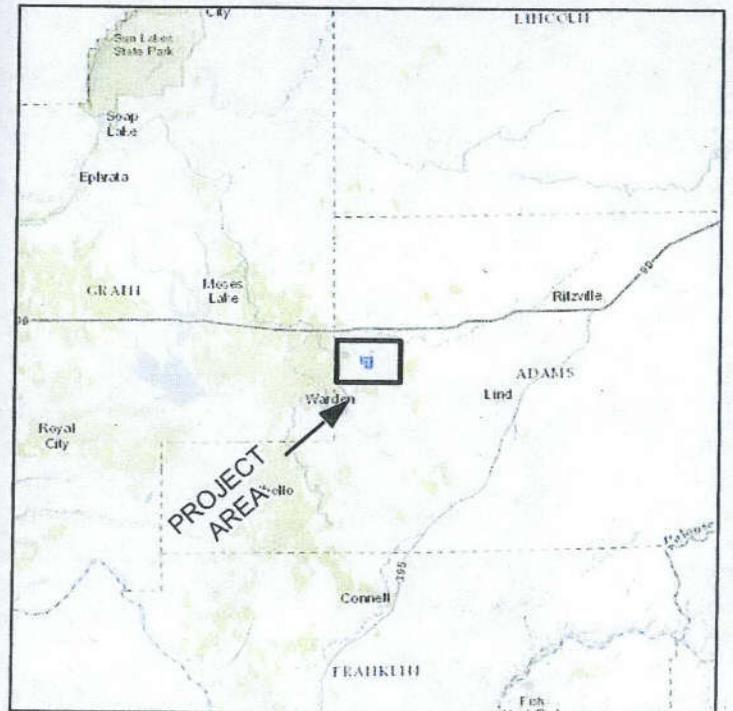
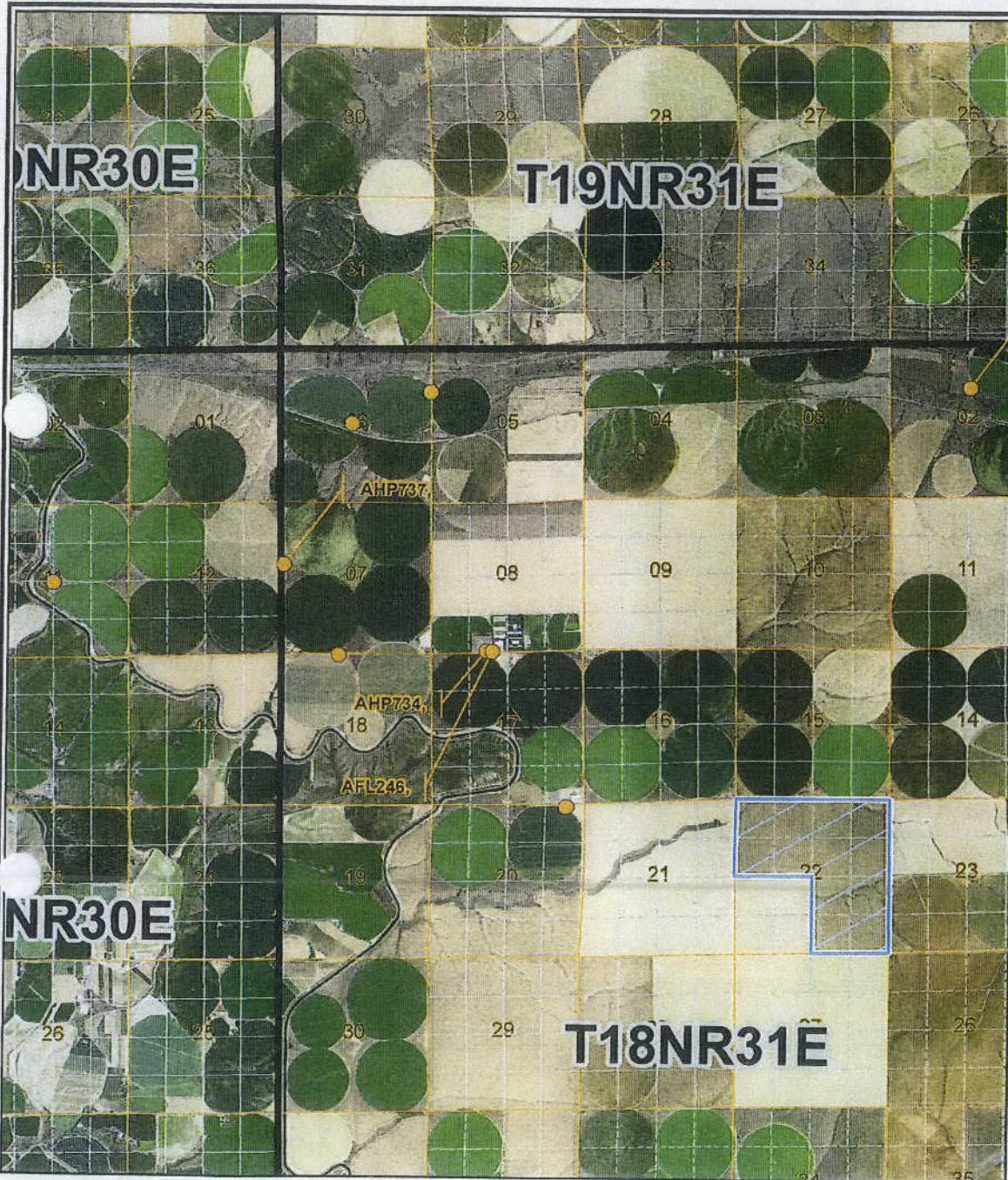
**Place of Use**

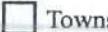
N½ and SE¼ of Section 22, T. 18 N., R. 31 E.W.M.

Report by: Kevin Brown  
Kevin Brown

3/2/16  
Date

Warden Hutterian Trust  
 6060-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.)

0 2,640 5,280 10,560 Feet  
 Basemap - (NAIP 2013 1m color)

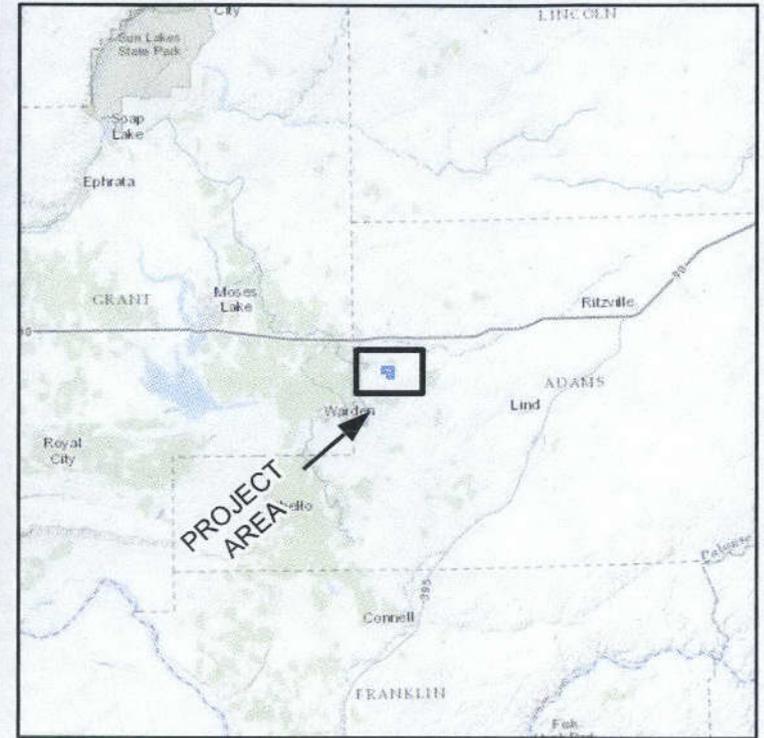
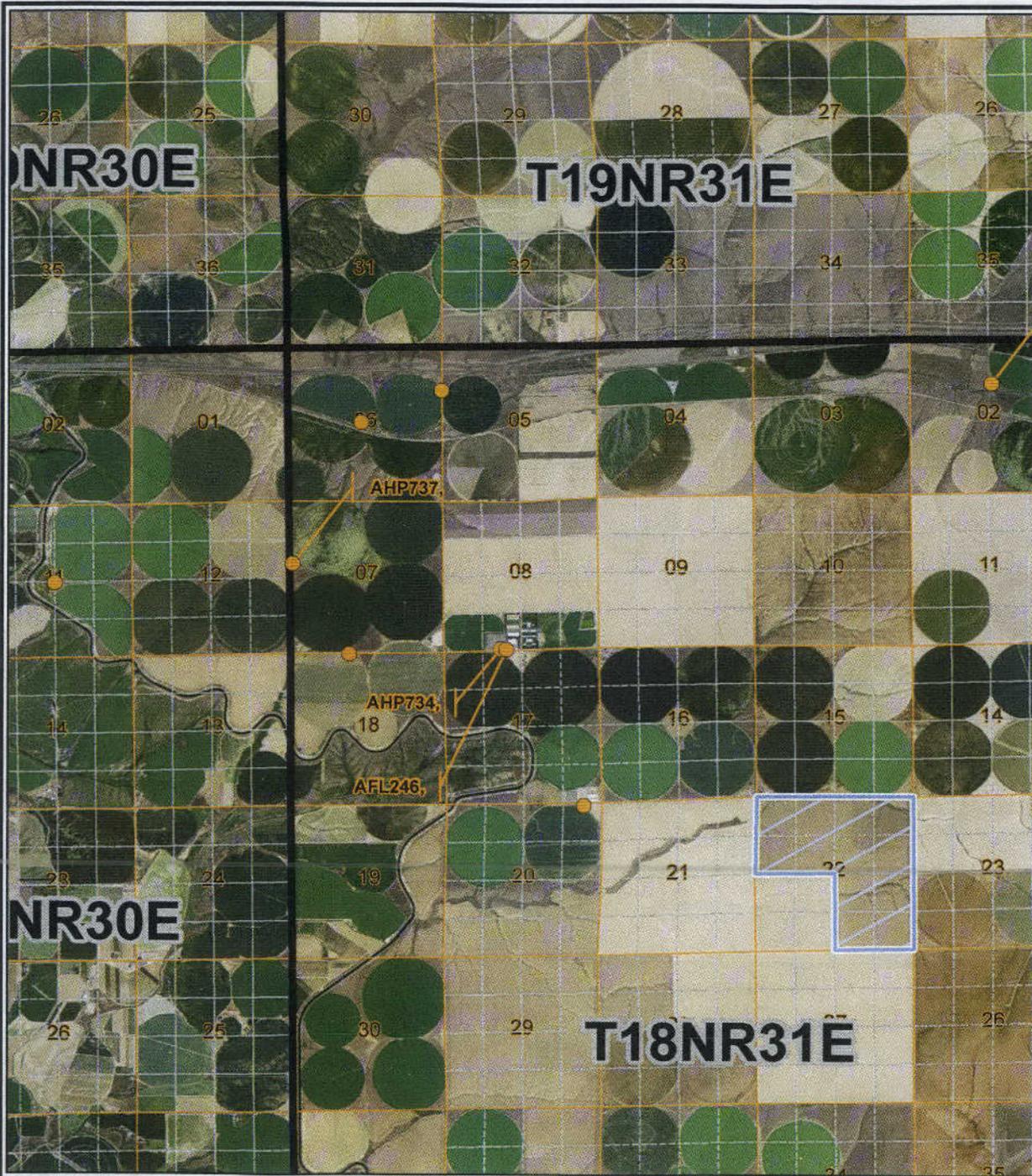


Map Date: 12/29/2015 

**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.

ATTACHMENT 1

Warden Hutterian Trust  
 6060-A  
 T18N/R30E, T18N/R31E



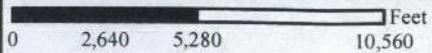
Basemap - (ESRI US Topographic Maps)

**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.