DEPARTMENT OF ECOLOGY
State of Washington

# State of Washington
# REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Changed Place of Use
Added or Changed Point of Withdrawal/Diversion

**PRIORITY DATE**
January 1, 1907

**WATER RIGHT NUMBER**
Cert 848-D w/chg Vol. 3 pg 1139 and Vol. 1-3 pg 422

**MAILING ADDRESS**
STREDWICK LAND, LLC
6573 HWY 283 N
EPHRATA WA 98823-9784

**SITE ADDRESS (IF DIFFERENT)**

## Total Quantity Authorized for Withdrawal

| WITHDRAWAL RATE | UNITS | ANNUAL QUANTITY (AF/YR) |
|---|---|---|
| 400 | GPM | 162.8 |

## Purpose

| | WITHDRAWAL RATE | | | ANNUAL QUANTITY (AF/YR) | | |
|---|---|---|---|---|---|---|
| PURPOSE | ADDITIVE | NON-ADDITIVE | UNITS | ADDITIVE | NON-ADDITIVE | PERIOD OF USE (mm/dd) |
| irrigation of 40 acres | 400 | | GPM | 162.8 | | 04/01 - 10/31 |

## Source Location

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

| SOURCE FACILITY/DEVICE | PARCEL | WELL TAG | TWP | RNG | SEC | QQ Q | LATITUDE | LONGITUDE |
|---|---|---|---|---|---|---|---|---|
| A well | 160254001 | | 18 N. | 26 E. | 01 | SE¼SW¼ | 47.07495 | 119.50441 |

Datum: NAD83/WGS84

## Place of Use (See Attached Map)

**PARCELS (NOT LISTED FOR SERVICE AREAS)**
160254001

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**
E½SW¼ of Section 1, T. 18 N., R. 26 E.W.M.

## Proposed Works

A well and ½pivot

## Development Schedule

| BEGIN PROJECT | COMPLETE PROJECT | PUT WATER TO FULL USE |
|---|---|---|
| June 1, 2015 | June 1, 2016 | June 1, 2017 |

## 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

This change will result in the issuance of a new Certificate of Change (CC) upon completion of the development and beneficial use described in this authorization. This will supersede Certificate of Change Vol. 1-3 pg 422 for the 40 acres described in CC 1-3-422 that was appurtenant to the NE¼ of Section 21. The remaining 60 acres described in CC 1-3-422 will remain appurtenant to the E½NW¼ and N½NE¼SW¼ of Section 21. Certificate of Change Vol. 3 pg 1139 is determined to be null and void and was superseded by CC Vol. 1-3-422.

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 and other rights administered by the USBR (PBS). Should contracts be issued by the district or rights under the PBS program 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.

**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. Water use records shall be maintained during the development of this authorization and submitted with the Proof of Appropriation.

The well shall remain within the unconsolidated sands and gravels.

**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 as appropriate, 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.

**Real Estate Excise Tax**
This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: http://dor.wa.gov/. E-mail: REETSP@DOR.WA.GOV.

**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 there is a water right eligible for change; 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-*00767S, 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.

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.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail 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**<br>Attn: Appeals Processing Desk<br>300 Desmond Drive SE<br>Lacey, WA 98503<br><br>**Pollution Control Hearings Board**<br>1111 Israel Road SW Ste 301<br>Tumwater, WA 98501 | **Department of Ecology**<br>Attn: Appeals Processing Desk<br>PO Box 47608<br>Olympia, WA 98504-7608<br><br>**Pollution Control Hearings Board**<br>PO Box 40903<br>Olympia, WA 98504-0903 |

Signed at Spokane, Washington, this 29th day of April, 2014.

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 by Stredwick Land LLC on November 27, 2013. The applicant proposes to change the point of withdrawal and place of use to Ground Water Declaration 848-D together with Certificate of Change Vol. 3 pg 1139 and Vol. 1-3 pg 422.

A notice of application was duly published in accordance with RCW 90.03.280 in the Columbia Basin Herald on January 15 and 22, 2014 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.

**Attributes of Ground Water Declaration No. 848-D w/chg 3-1139 and 1-3-422**

| | |
|---|---|
| Recorded Name: | Wayne Zickler |
| Priority Date(date of first use): | 1907 |
| Instantaneous Quantity – Q(i): | 1000 gallons per minute |
| Annual Quantity – Q(a): | 450 acre-feet per year |
| Source: | Two wells |
| Point(s) of withdrawal: | NE¼NW¼ and SE¼NE¼, Sec. 21, T. 19 N., R. 27 E.W.M. |
| Purpose of Use: | irrigation of 100 acres |

A second application for change was filed by the applicant for Water Right Claim No. G3-200096. These two rights will be discussed in the report, but this claim will have its own decision.

Certificate 848-D issued in 1949 for a well in the amount of 1000 gallons per minute, 450 acre-feet per year for irrigation of 100 acres.

Certificate of Change Vol. 3 pg 1139 issued in 1971 and changed the point of withdrawal from the SW¼NW¼ of Section 21 to the NE¼NW¼ of Section 21.

Certificate of Change 1-3 pg 422 issued in 1985 and added a point of withdrawal in the SE¼NE¼ of Section 21 and changed a portion of the place of use of 40 acres of the right.

**Water Rights**

The Surface Water Code (RCW 90.03) was adopted in 1917. The code required all diversions of surface water to obtain authorization from the state. The Ground Water Code (RCW 90.44) was adopted in 1945. The ground water code required ground water uses to obtain a water right in the same manner as a surface water use.

Prior to 1945 many wells were constructed and ground water was used for many purposes. These uses were identified as "vested rights" to ground water. The 1945 Ground Water Code provided these persons claiming a "vested right" established prior to 1945 the opportunity to file an application with the Department and obtain a certificate for the "vested right" (RCW 90.44.090).

The original land owner of this water right complied with the requirements of RCW 90.44.090 and obtained Certificate 848-D in 1949. The "vested right" was certified and the land owner received a water right certificate for the ground water use originating in 1907.

In 1967 the state adopted RCW 90.14. A portion of this law required all users of surface water established prior to 1917 and all users of ground water established prior to 1945 to file a claim in the state Water Right Claims Registration or forfeit the right. This registration did not require holders of existing water rights issued by the department to file a claim. In this instance, the landowner of this "vested right" was not required to file a claim, because he had obtained a Certificate (848-D) in accordance with RCW 90.44.090 in 1949.

The claims registration act (RCW 90.14) was amended in 1985 (RCW 90.14.043). This registration opened for filing of claims and required claimants to submit appropriate documents and obtain certification from the Pollution Control Hearing Board (PCHB) they had met the requirements of RCW 90.14.043. The certification was not to establish the claim was a valid right, but only to certify the claimant had submitted sufficient information to meet the requirements of RCW 90.14.043.

The land owner of the property during this time filed paperwork with the PCHB and obtained Ground Water Claim 200096. The paperwork submitted in support of the claim was the same as filed by the previous land owner in 1946 to support the declaration. The claimant actually filed the Ground Water Certificate 848-D as supporting documentation to establish Ground Water Claim 200096.

These two documents Certificate 848-D and Ground Water Claim 200096 are the same "vested right" for 100 acres.

In 1985, the landowner filed an application for change and changed a portion of the place of use of Certificate 848-D (CC 1-3-422). A change to the claim was not pursued and remained at the original place of use. The change in the claim was not required as the right was memorialized in Certificate 848-D. The claim and the certificate were no longer identifying the same place of use and led to confusion over the link between the water right records.

**INVESTIGATION**

The NE¼ of Section 21 is primarily owned by Anzuk Land Company LLC. The landowner signed the Application for Change to transfer 40 acres to Stredwick Land LLC.

Certificate 848-D together with Certificate of Change Vol. 3 pg 1139 and Vol. 1-3 pg 422 authorized the use of 1000 gallons per minute, 450 acre-feet per year for the irrigation of 100 acres from two wells. This authorized 60 acres in the E½NW¼ and N½NE¼SW¼ of Section 21 served from well 1 and 40 acres in the E½NE¼ and E½E½NW¼NE¼ of Section 21 served from well 2. The applicant's interest in this right is to the 40 acres in the NE¼ of Section 21 served from well 2. The 60 acres in the NW¼ lies on property owned by another party.

That portion of the NE¼ described under Certificate 848-D is owned by Anzuk Land LLC. The property has been irrigated from multiple sources, the authorized well and from surface water. One large pivot (100 acres) and three small pivots (10-15 acres) irrigate the majority of the property. A field investigation was conducted by Katherine Ryf of Ecology on December 13, 2012 and by Kevin Brown of Ecology on March 6, 2014.

The irrigation district was contacted and indicated no water service contracts in this section and the USBR does not have any active PBS contracts for the section.

The well is located near the center of the NE¼ and pumps water into a small pond and pivot. A pond pump also is integrated in the system. The surface water was authorized under a Pothole Bank Storage (PBS) contract PBS-24 for 50 acres issued by the USBR to a previous owner. The PBS contract expired by the previous owner. However the current land owner appears to have continued to irrigate these properties without authorization through 2012 in excess of the 40 acres authorized.

More land has been irrigated in the NE¼ than was authorized, however, beneficial use under the Certificate is confirmed with no period of non-use exceeding 5 years. The applicant has described the existing well (#2) as shallow and constructed in the unconsolidated sands and gravels.

The applicant proposes to transfer this portion of this right to property located in the E½SW¼ of Section 1, T. 18 N. R. 26 E.W.M. A well was constructed in 2014 and the applicant is developing a ½ pivot wiper. A portion of the property has a Quincy Basin Artificially Stored Ground Water Permit QB 0351(B) for irrigation of 20 acres. The transfer of 40 acres would complete the ½ pivot of approximately 60 acres.

The proposed well is described as constructed in the unconsolidated sands and gravels.

**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 848-D w/chg 1139 and 1-3-422 confirmed a use of 1000 gallons per minute 450 acre-feet per year for the irrigation of 100 acres. The claimed date of use is 1907. This evaluation is only for the 40 acres in the NE¼ of Section 21 (see CC 1-3-422).

There is no information to quantify the amount of water actually used. A reasonable quantity for irrigation in this area is 3.5 acre-feet per year. This is consistent with the standard allotment in the Columbia Basin Project.

The land has been primarily pasture. The Washington State Irrigation Guide confirms a crop consumption requirement for pasture/turf at 3.26 acre-feet per year (39.10 inches per year). The irrigation systems are center pivot with drop tubes. If applied at 80% efficiency the applied water duty is approximately 4.07 acre-feet per acre.

**Hydrologic/Hydrogeologic Evaluation**

Applications for change/transfer of water right permits and certificates 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 Quincy Ground Water Management Subarea as defined in Chapter 173-124 WAC. This Subarea covers the northern portion of the Columbia Basin project (developed by the US Department of Interior, Bureau of Reclamation), and lies mostly within Grant County.

As the application for change requests a change in well location, a determination of the same body of ground water is required.

The original well in Sec. 21, T. 19 N., R. 27 E.W.M. is described as constructed in 1907. The well has been described as a hand dug well 45 feet deep. The second well constructed under CC 1-3-422 was constructed to a depth of 58 feet and constructed in the unconsolidated sands and gravels.

The proposed well (constructed in 2014) in the SE¼SW¼ of Section 1, T. 18 N., R. 26 E.W.M., must be completed within the unconsolidated sands and gravels to remain within the same body of public ground water. Multiple wells are constructed in the vicinity of the proposed location. Some of the wells are productive from the unconsolidated sands and gravels and some of the wells were deepened into the Columbia River Basalt Group.

This proposed well may not produce water from basalt formations.

**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.

Three water rights are on record for Section 1, T. 18 N., R. 26 E.W.M. Artificially Stored Groundwater Permit Nos. QB-465 in the NW¼ of Section 1, QB-174(A) in the NE¼ of Section 1 and QB-174(B) in the SE¼ of Section 1.

The proposed property is also located near a recharge area. The proposed well location is outside of the established Buffer Zone. The Buffer Zone was designated to protect the interest of the Bureau of Reclamation capture and reuse facilities.

There may be seasonal fluctuation in the water table at this location. These potential seasonal fluctuations are not considered to be impairment. The proposed well location change and change in place of use will not impair existing water rights.

The proposed change to change the point of withdrawal and place of use will not enlarge the quantity of water identified above. The proposed well is required to be constructed into the same body of public ground water.

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.

**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 add a point of withdrawal and change a portion of the place of use 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 848-D together with Change Vol. 3 pg 1139 and Vol. 1-3 pg 422 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:

- 400 gpm
- 162.8 acre-feet per year
- Agricultural irrigation of 40 acres

**Point of Withdrawal**

- SE¼SW¼ of Section 1, T. 18 N., R. 26 E.W.M.

**Place of Use**

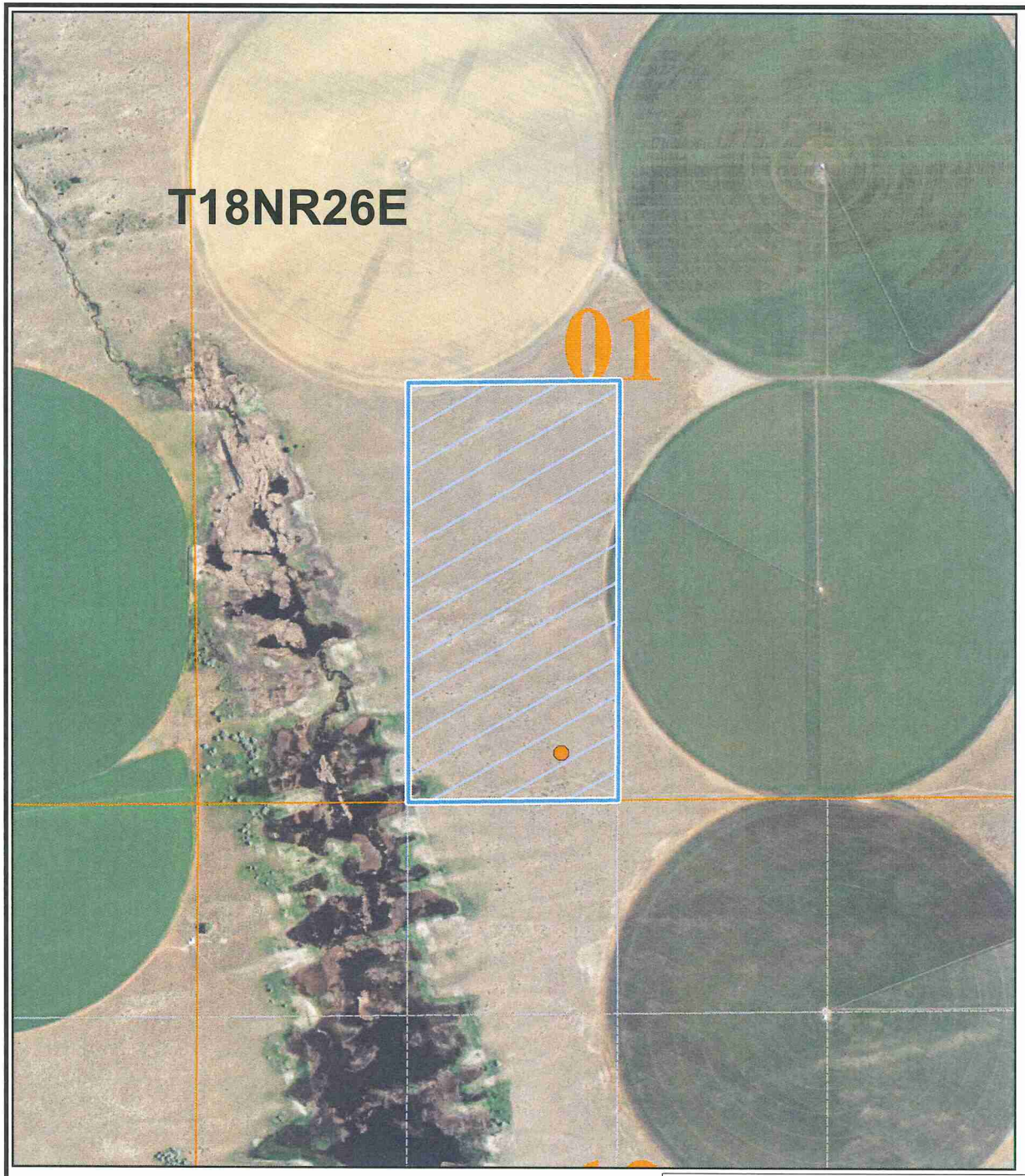
- E½SW¼ of Section 1, T. 18. N., R. 26 E.W.M.

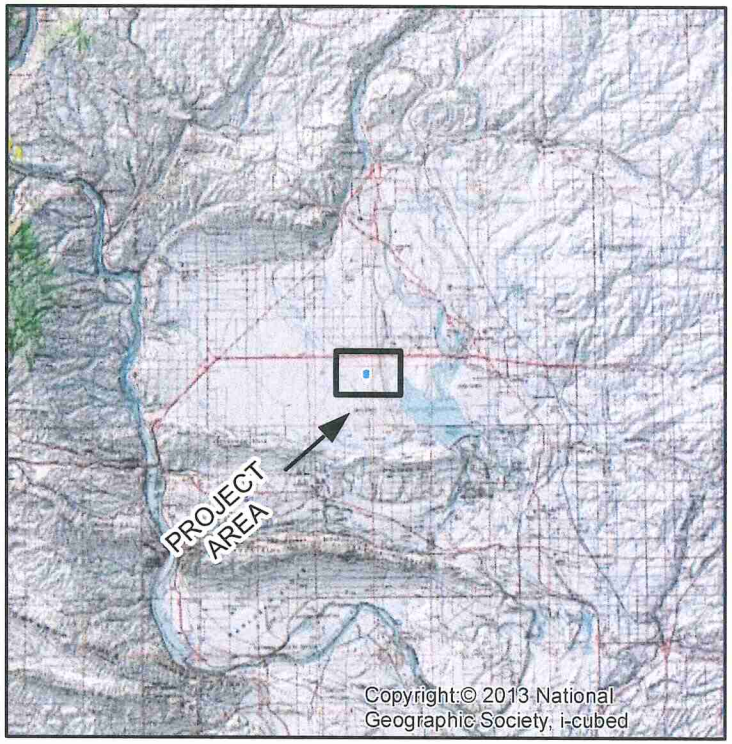
Report by: Kevin Brown 4/29/14

Kevin Brown
Water Resources Program

Date

Stredwick Land, LLC
Cert 848-D w/chg Vol 3 Pg 1139 & Vol 1-3 Pg 422
T18N/R26E




Basemap - (ESRI US topo maps)

**Legend**

- Authorized Place of Use
- Townships
- Sections
- Authorized Point of Withdrawl

Feet
0 330 660 1,320 1,980 2,640 3,300

Basemap - (NAIP 2011 1m color)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 4/4/2014

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

ATTACHMENT 1