



State of Washington REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

PRIORITY DATE OCTOBER 31, 1951	WATER RIGHT NUMBER 1412-A(A)
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MAILING ADDRESS JERRY MALEY LIVESTOCK, INC. P.O. BOX 48 LACROSSE, WA 99143	SITE ADDRESS (IF DIFFERENT)
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Total Quantity Authorized for Withdrawal

WITHDRAWAL RATE 1029	UNITS GPM	ANNUAL QUANTITY (AF/YR) 291
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Purpose

PURPOSE	WITHDRAWAL RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Irrigation	1029		GPM	291		4/1-9/30

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION		
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS	
89.3	--	--	--	

Source Limitations

SOURCE	WITHDRAWAL RATE (GPM)	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (mm/dd)
A well	1029	291	April 1 – September 30

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
WHITMAN	GROUNDWATER		34-PALOUSE

SOURCE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
A well	200003916139000		16 N.	39 E.	13	SE¼SW¼	46.86977°N	117.85518°W

Datum: WGS84

Place of Use (See Attached Map)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
89.3 acres in the E½SW¼, SE¼NW¼ and the E½E½SW¼SW¼ of Sec. 13, T. 16 N., R. 39 E.W.M. and the NE¼NW¼ of Sec. 24, T. 16 N., R. 39 E.W.M., all in Whitman County, WA

Proposed Works

12 inch well, 125 hp turbine pump, center pivots, handlines

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	Complete	In Use

Measurement of Water Use

How often must water use be measured?	Weekly
How often must 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

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.

In addition to the required access port, the applicant must install and maintain, in operating condition, an airline and pressure gage. The pressure gage must be equipped with a standard tire valve and placed in a location accessible to Department of Ecology personnel. The airline must extend from land surface to the top of the pump bowls and the total airline length must be reported to the Department of Ecology upon completion of the pump system.

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 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, 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 water is available from the source in question; 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-*02202C(A)@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.

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 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 12th day of March, 2013.



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>.

INVESTIGATOR'S REPORT

Gene Drury, Department of Ecology

Water Right Control Number CG3-*02202C(A)@1

GROUND WATER CERTIFICATE NO. 1412-A(A)

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CG3-*02202C(A)@1.

EXISTING Water Right Attributes

Water Right Owner:	Jerry Maley Livestock, Inc.
Priority Date:	October 31, 1951
Place of Use	89.3 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$ of Sec. 13, T. 16 N., R. 39 E.W.M. and the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 24, T. 16 N., R. 39 E.W.M.

County	Waterbody	Tributary To	WRIA
Whitman	Groundwater	---	34-Palouse

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation	1029	GPM	291	04/01	09/30

Source	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
A well	200003916139000		16N	39E	13	SE $\frac{1}{4}$ SW $\frac{1}{4}$	46.86977°N	117.85518°W

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Jerry Maley Livestock, Inc.
Date of Application:	April 12, 2010
Place of Use	89.3 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 13, T. 16 N., R. 39 E.W.M. and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 24, T. 16 N., R. 39 E.W.M., all in Whitman County, WA

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Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Whitman County Gazette on June 10 and 17, 2010. The application was amended on December 7, 2012 after an error was found on the application for the legal description of the proposed place of use. An amended notice was published on December 20 and 27, 2012. No protests were received.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface water right application for more than 1 cubic feet per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute;
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

A field investigation was conducted by Gene Drury on November 28, 2012, with Shane Berquist, President of Jerry Maley Livestock, Inc. This project is located in Whitman County approximately four miles north of LaCrosse, WA. It was noted that the project is complete and water has been used for irrigation as authorized.

History of Water Use

The Whitman County Water Conservancy Board authorized a change to Ground Water Certificate No. 1412-A(A) on July 25, 2007. The Department of Ecology's Water Resource Program modified and approved this change on October 5, 2007. The change authorized withdrawal of groundwater in the amounts of 1029 gallons per minute, 291 acre-feet per year, from April 1 to September 30, each year, for the irrigation of 89.3 acres. The authorized point of withdrawal is a well located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 13, T. 16 N., R. 39 E.W.M. The authorized place of use was the E $\frac{1}{2}$ SW $\frac{1}{4}$ of Sec. 13, T. 16 N., R. 39 E.W.M. and the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 24, T. 16 N., R. 39 E.W.M.

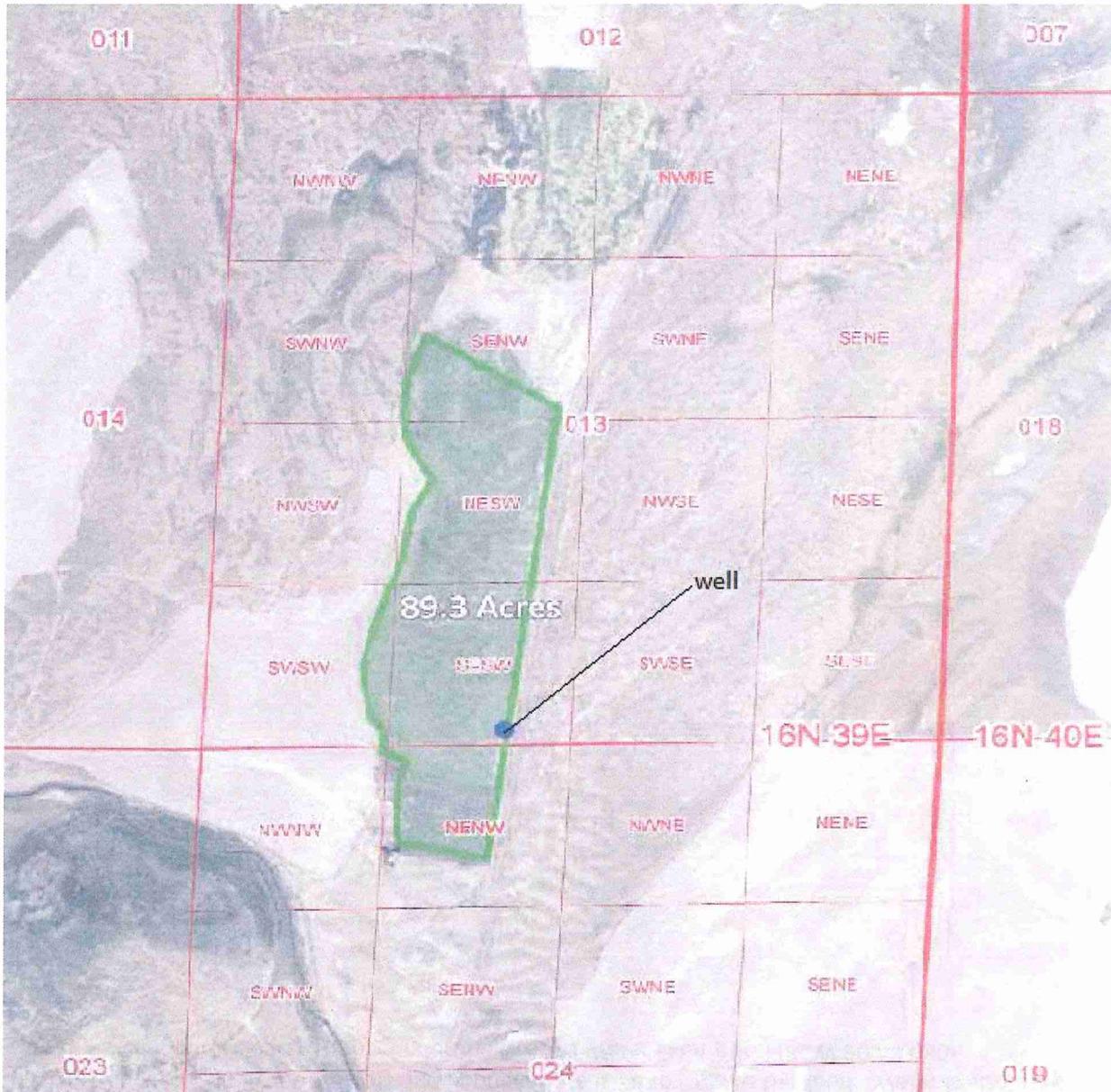
An error was found in the legal description of the place of use in the Whitman County Water Conservancy Board's authorization. According to the applicant, the place of use was different due to the center pivots being installed during the 1990's. The change did not account for this slight difference and so the applicant filed a change application with Ecology on April 12, 2010, to correct this mistake. The number of irrigated acres has not changed and no other changes are requested by the applicant.

The place of use should have been described as follows:

89.3 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 13, T. 16 N., R. 39 E.W.M. and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 24, T. 16 N., R. 39 E.W.M., all in Whitman County, WA.

Jerry Maley Livestock, Inc. uses the existing well to irrigate 89.3 acres of grass. The map below shows the irrigated area. Two center pivots and handlines are used to irrigate this land. Water is also used from this well for stockwater supply under the Ground Water Exemption (RCW 90.44.050).

Point of Withdrawal and Place of Use:



Annual water use for the last three years was provided by Mr. Berquist and is as follows:

Certificate 1412-A(A) – metered water use

YEAR	Gallons	Acre-feet
2010	93,653,000	287.41
2011	98,770,000	303.11
2012	94,552,000	290.17

Water use in 2011 was 303.11 acre-feet which slightly exceeded the authorized quantity of 291 acre-feet under 1412-A(A). However, the numbers provided do not separate out that amount which is used for stockwater supply since only one source meter is installed. The amount of acres and quantity used for irrigation appears to be consistent with that which is authorized under 1412-A(A).

Other Water Rights

The applicant holds two other water rights for irrigation recorded under Surface Water Certificate (SWC) No. 5181 and No. 2389 (together with Certificate of Change No. 356).

Surface Water Certificate No. 5181

Recorded Name:	J.H. Robinette
Priority Date:	October 31, 1951
Source:	Union Flat Creek
Instantaneous Quantity - Qi:	0.75 cubic foot per second
Purpose of Use:	Irrigation of 50 acres
Period of Use:	Seasonal
Point of Diversion:	NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 23, T. 16 N., R. 39 E.W.M.
Place of Use:	NE $\frac{1}{4}$ of Sec. 23 and part of the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 24, T. 16 N., R. 39 E.W.M.

Surface Water Certificate No. 2389 (C.CHG. No. 356)

Recorded Name:	J.H. Robinette
Priority Date:	December 4, 1944
Source:	Union Flat Creek
Instantaneous Quantity - Qi:	15 cubic feet per second
Purpose of Use:	Irrigation of 121 acres
Period of Use:	Seasonal
Point of Diversion:	NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 24, T. 16 N., R. 39 E.W.M.
Place of Use:	W $\frac{1}{2}$ SW $\frac{1}{4}$ of Sec. 13, T. 16 N., R. 39 E.W.M. and SE $\frac{1}{4}$ of Sec. 14, T. 16 N., R. 39 E.W.M.

The status of these two water rights was not investigated. However, the Whitman County Water Conservancy Board decision from July 25, 2007 stated that it appeared water was used for irrigation from Union Flat Creek under SWC No. 5181. The board also concluded that it appeared no water use had occurred for at least 5 years under SWC No. 2389(c.chg. 356).

Hydrologic/Hydrogeologic Evaluation

There are no requested changes to the point of withdrawal or quantities under this application. It involves a minor correction in the place of use description. There are no hydrogeologic concerns with this change.

Impairment Considerations

The correction in the legal description of place of use will not cause any impairment to existing water rights.

Enhancement Considerations

No withdrawal of water over and above what has been historically put to beneficial use and/or originally authorized under existing rights will be allowed through approval of this change.

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 any detrimental impact to the public welfare through issuance of the proposed change.

Consideration of Protests and Comments

No protests were filed.

Conclusions

There is a water right available for change under Ground Water Certificate No. 1412-A(A) in the amount of 1029 gallons per minute, 291 acre-feet per year, from April 1 to September 30, each year for the seasonal irrigation of 89.3 acres.

It is the conclusion of this examiner that, in accordance with Chapters 90.03, this application for change (to correct the place of use), as granted under Ground Water Certificate No. 1412-A(A) will not enlarge the quantity of water historically used nor will it impair existing rights provided the recommendations are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above

Source, 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.

- A well
- 1029 gallons per minute
- 291 acre-feet per year
- 89.3 acres of irrigation

Point of Withdrawal:

- SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, Township 16 North, Range 39 E.W.M.

Place of Use:

- 89.3 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 13, T. 16 N., R. 39 E.W.M. and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 24, T. 16 N., R. 39 E.W.M., all in Whitman County, WA.



Gene Drury, Report Writer

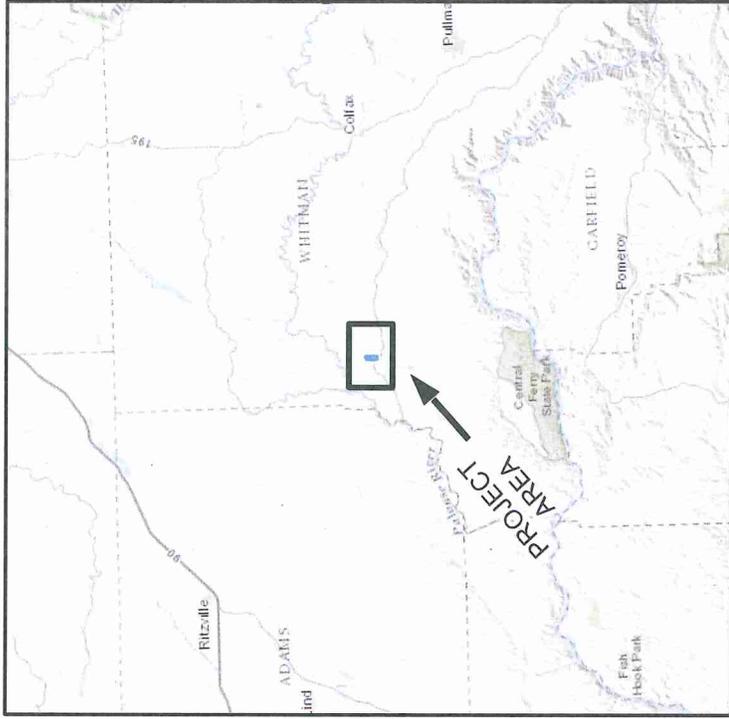
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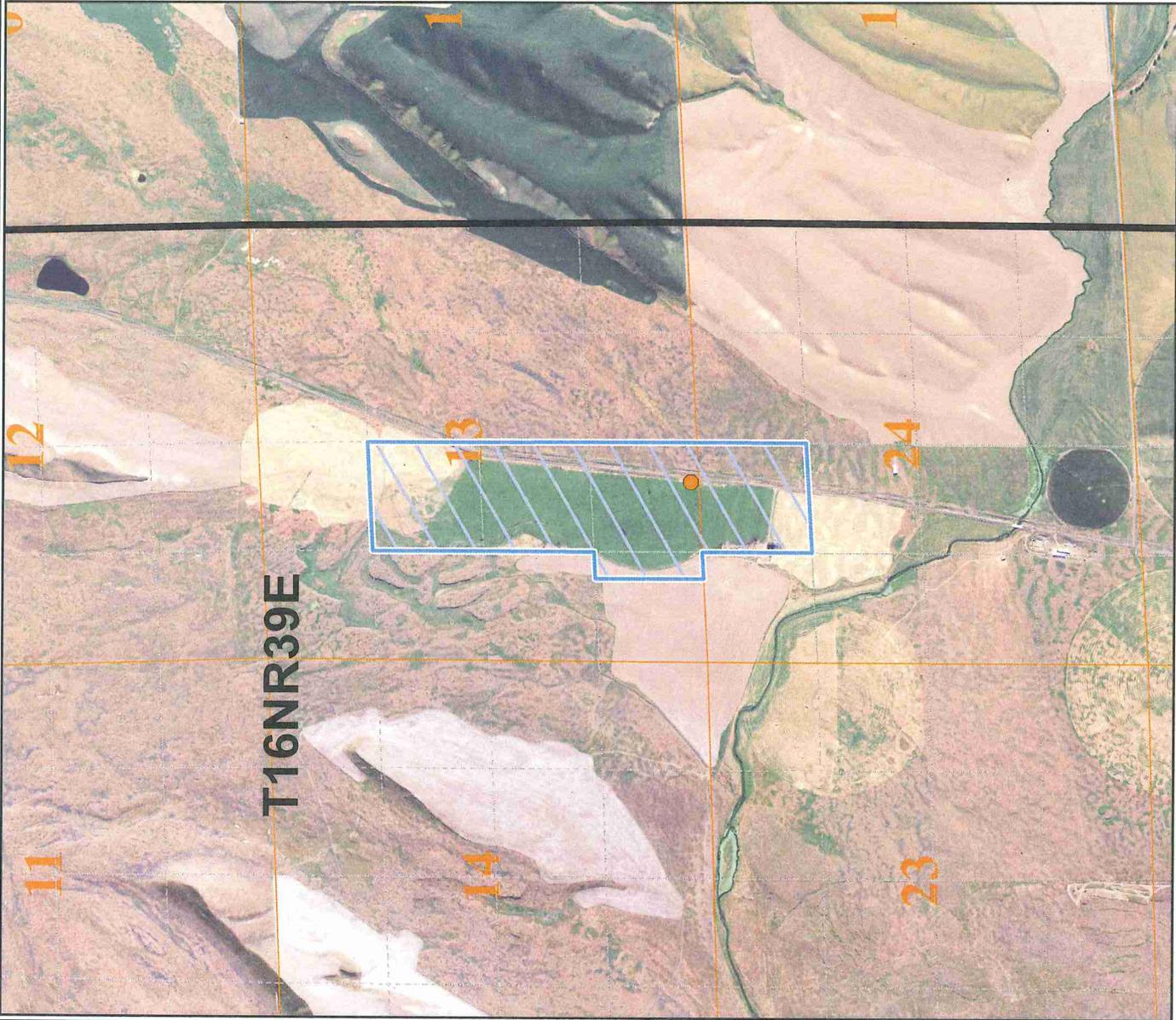
If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

ATTACHMENT 1

Jerry Maley Livestock, Inc
 Water Right Number 1412-A(A)
 T16N/R39E



Authorized Point of Withdrawal



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.

0 660 1,320 2,640 3,960 5,280 6,600 Feet

Basemap - (NAIP 2011 1m color)

Map Date: 2/1/2013

DEPARTMENT OF
ECOLOGY
 State of Washington