State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Changed Place of Use
Added Irrigated Acres

PRIORITY DATE
December 21, 1976

WATER RIGHT NUMBER
S3-25150(B)

MAILING ADDRESS
GLENN WOLLWEBER
51500 DEVILS GAP ROAD EAST
FORD, WA 99013

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
4.992	CFS	852.2

Purpose

PURPOSE	DIVERSION RATE ADDITIVE	DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Irrigation of 590 acres	4.992		CFS	852.2		03/01 - 10/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
LINCOLN	SPOKANE RIVER	COLUMBIA RIVER	54-LOWER SPOKANE

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
SPOKANE RIVER	27-39-016 100000	27 N.	39 E.	16	SW¼SW¼	47.8350254	117.9065637

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

2739022900012, 2739022400020, 2739022900010, 2739027900010, 2739027400000, 2739028100010, 2739021900020

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

That portion of the SE¼ of Section 21, Section 22 and the NE¼ of Section 28 all lying east of the highway and Section 27, T. 27 N, R. 39 E.W.M.

Proposed Works

5 existing turbine pumps on the river platform, 48" mainline runs south to the diffusing station Multiple small lines disperse water to farms.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
January 1, 2015	January 1, 2016	January 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 by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

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. In order to confirm the amount of water authorized for spreading, the applicant will be required to install a meter at the road crossings prior to filing a completion of construction on the expansion project.

Department of Fish and Wildlife Requirement(s)

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. http://wdfw.wa.gov/about/contact/

Easement and Right-of-Way

The water source and/or water transmission facilities are not 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, as appropriate, contracting with a Certified Water Rights Examiner (CWRE) 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 there is a water right available for change and there will be no impairment of existing rights;

Therefore, I ORDER approval of Application No. CS3-25150(B)@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 17th day of March, 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

This report serves as the written findings of fact concerning Water Right Application Number CS3-25150(B)@1.

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the proposed change.

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 Davenport Times on June 27 and July 4, 2013, and no protests were received.

Notification with the Department of Fish and Wildlife

The Department must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. No response or comments 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 foot 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

In considering the proposed change/transfer, the investigation included, but was not limited to, research and review of (1) appropriate rules and statutes; (2) Surface Water Certificate No. S3-25150C

and other water rights/claims/applications in the vicinity; (3) USGS topographic maps; (5) discussions with Department of Ecology regional program staff; including review by Ecology hydrogeologists.

A field investigation was conducted on October 30, 2013 with the applicant.

The applicant farms in cooperation with the Spokane Hutterian Brethren. Superseding Surface Water Certificate S3-25150 confirms a right of 15.6 cfs, 2486 acre-feet per year for the irrigation of 1243 acres. The right confirmed 923.9 acres in the name of the Spokane Hutterian Brethren, and 319.1 acres for Glenn Wollweber. Scott Wollweber requested an Administrative Division of the right in 2013, but could not get the Spokane Hutterians to sign the form. This application requests authorization to spread water and change the place of use only for that portion of the Certificate appurtenant to the applicant's property lying south of the county road and east of the highway.

File Background

Certificate S3-25150C issued to Glenn Wollweber for 15.6 cfs, 4185 acre-feet per year for the irrigation of 1350 acres in 1983 based on a Proof Examination. A portion of the property was sold to the Spokane Hutterian Brethren (SHB), and the right was then owned by two separate landowners. The west side of the highway was owned by the SHB and the east side remained in the name of Wollweber.

A change application was filed in January of 2000 on behalf of the SHB. The application was submitted by SHB requesting to change some CRP corner areas to pivots. Almost all of the proposed changes were on lands owned by the SHB. They did obtain the signature of Glenn Wollweber at the time.

The Report of Examination again confirmed the right was in good standing for 1350 acres and approved the change in place of use of a portion of the water right. The corner areas were moved and the applicant (SHB) filed a Proof on the 2000 change authorization in 2002. The Proof of Appropriation identified 1243 acres of irrigation including lands of Mr. Wollweber. Multiple discussions took place with the SHB over the maps identifying the irrigated lands. (Review of the 2002 Proof maps and the 2013 field examination confirmed the Proof maps did not include all of the land Mr. Wollweber was irrigating. Mr. Wollweber was not aware of the Proof since the applicant was the SHB and they were not contacted during the proof examination. The proof was completed with the maps and information provided by the applicant (SHB).

Based on the records submitted with the 2002 Proof and the discussion with the Applicant (SHB), Ecology issued one Superseding Certificate as follows:

- SHB, 923.9 acres west of the Hwy
- Wollweber, 319.1 acres east of the Hwy

Both landowners were named on the Certificate. The SHB paid the certificate and recording fees. The final recorded certificate was only sent to the applicant, SHB.

The difference between the original certificate and the superseding certificate amounted to 107 acres. The SHB could not identify any additional acres within their property and agreed they had no additional interest in the authorization and agreed to a voluntary relinquishment for any portion of the permit not appurtenant to their property. The SHB relinquished any interest in the remaining 107 acres on their property lying west of the highway.

No discussions took place with Mr. Wollweber. He was not listed as a co-applicant in the 2000 change application and was not contacted during the proof examination.

In June 2013, Scott Wollweber filed an application for change. (Subject Application for Change 2013) During the pre-application meetings, he was concerned their portion of the water right was not accurate and thought they had more acres under irrigation than what was represented by the 2002 Proof of Appropriation filed by the SHB.

A field investigation was conducted based on the 2013 application for change. Based on the field investigation, it appears that approximately 100+ acres were historically irrigated in addition to those represented in the 2002 Proof of Appropriation. Some of the irrigated property (100 acres) was located outside of the authorized legal description of Certificate S3-25150.

An analysis of aerial photos between 1985 and 2013 was conducted to determine if the property was expanded. Historically the property was irrigated with hand and wheel lines. In the mid to late 80's, some of the hand and wheel lines were slowly replaced with center pivots and some of the corner areas were moved to new locations and some corners remained irrigated on the Wollweber property. This transition from wheel and hand lines to pivots took multiple years to complete. The new land irrigated was a result of the replacement project and some of the wheel lines and hand lines were moved to irrigate lands outside of the authorized place of use. Although outside of the authorized place of use, beneficial use continued and he (Wollweber) didn't realize the need to file an application for change.

This wasn't realized until they filed a change application in June 2013 that brought about this investigation.

Based on this analysis it appears Mr. Wollweber has continued to irrigate approximately 426.1 acres of property east of the highway. This is equal to the 107 acres the SHB did not claim and agreed to relinquish their interest in the right. The total irrigated acres did not increase over the original 1350 acres.

In order to correct the errors in the 2002 Proof records and subsequent 2005 Superseding Certificate, both water right holders received a separate Amended Certificate of Water Right. (Division of the water right in 2014)

The Qi did not exceed the original 15.6 cfs. Each landowner received 2.0 acre-feet per acre for their authorized acres (2700 acre-feet). The annual quantity was based on recent beneficial use since the farm has been changed over to pivots.

- SHB, 923.9 acres
- Wollweber, 426.1 acres

Superseding Surface Water Certificates (A) and (B) were issued in February of 2014 to reflect these issues and errors of the 2002 Proof records.

Mr. Wollweber's application for change filed in 2013 will be sufficient to correct the place of use for the change in place of use of the water right. It will also request spreading to additional acres. This report will determine those requests and quantify the amount available for spreading above the 426.1 acres.

Application proposal

The applicant proposes to remove some of the wheel lines and put in a new pivot of approximately 140 acres. The new pivot will be centered in the NW¼NE¼ of Section 27. The pivot length is proposed around 1400 feet. The wheel lines along the N½N½ of Section 27 will be removed. The land is currently being cleared and leveled for the pivot installation.

The applicant is currently irrigating with multiple center pivots and some hand lines and wheel lines. Some of the existing lands are outside of the authorized place of use. This proposed change in place of use should correct the legal descriptions.

The applicant is currently authorized to irrigate up to 4.992 cfs, 852.2 acre-feet per year for irrigation of 426.1 acres under Certificate S3-25150(B). The applicant proposes to increase the authorized lands from 426.1 acres to up to 590 acres and spread the water use across the expansion lands. The applicant owns all of the lands on the east side of the highway. The pivot in the N½ of Section 23 lying east of the highway is currently leased to the Spokane Hutterian Brethren and is not proposed for the expansion. This pivot is supplied by an independent mainline running east-west in the N½ of Section 22. The remaining property lying east of the highway and south of county road is all farmed and supplied from a mainline crossing the highway near the SW corner of Section 22. The applicant is not planning to increase the pipe size, but may add a second booster pump at this location.

Proposed Use

The applicant has been irrigating the authorized 426.1 acres. The crops have been alfalfa, potatoes, corn, pasture and wheat.

Annual Consumptive Quantity

A change in the place of use, point of diversion, and or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if the change results in no increase in the annual consumptive quantity of water used under the *water right*. Since the lands east of the highway are all part of the water right (S3-25150(B), all of the authorized acres are considered in the ACQ analysis, including the northern most pivot.

Annual Consumptive Quantity means the estimated or actual amount of water diverted in a year, allowed under the *water right*, reduced by the estimated annual amount of return flows. This quantity is then averaged using the highest two years of use within the most recent five-year period of continuous beneficial use of the water right.

The river source is metered, however, the metered data is evidence over the entire 2740.2 acres authorized from this pump station. The metered information suggests an average of 2 acre-feet per acre for the four certificates and one permit described below. Therefore estimates of use on the Wollweber property are derived from the Washington Irrigation Guide.

Year	Crop type	CIR		
2008	Alfalfa, Corn, Pasture	25.62	20.44	27.16
2009	Alfalfa, Potato, Pasture	25.62	21.32	27.16
2010	Alfalfa, Corn, Pasture	25.62	20.44	27.16
2011	Wheat, Corn, Pasture	22.57	20.44	27.16
2012	Potato, Wheat, Pasture	21.32	22.57	27.16
2013	Alfalfa, Corn, Pasture	25.62	20.44	27.16

The two high years of crop types were 2009 and 2012. These two years were evaluated further for the number of acres, crop types and efficiency rate described below.

The efficiency of the equipment ranges between 70% and 85% depending on the pivots, wheel lines or hand lines. Evaluating the efficiency ratings of the crop types calculate consumptive use rates exceeding the authorized 2.0 acre-feet per acre. Based on these calculations, it would appear that the water use application rates are in deficit of maximum consumptive use identified in the Washington Irrigation Guide. The applied water use is considered consumptive up to the total annual authorized under the *water right*.

Therefore, no reduction of the annual Qa is determined in this calculation. The quantity available for spreading is 4.992 cfs, 852.2 acre-feet per year. This calculation is determined for Surface Water Certificate S3-25150(B).

In order to confirm the amount of water authorized for spreading, the applicant will be required to install a meter at the road crossings prior to filing a completion of construction on the expansion project.

Other Rights Appurtenant to the Point of Diversion

There are no other water rights appurtenant to the place of use of this right (S3-25150(B).

The land owner has filed a new application for portions of this property. No action has take place on this application.

In addition to S3-25150(B) in the amount of 4.992 cfs, 852.2 acre-feet per year for the irrigation of 426.1 acres, the point of diversion is authorized under four existing water rights described as follows:

- Surface Water Certificate S3-25150(A) confirms a right of 10.608 cfs, 1847.8 acre-feet per year for the irrigation of 923.9 acres
- Surface Water Certificate S3-27377 confirms a right of 0.25 cfs, 60.6 acre-feet per year for the irrigation of 20.2 acres.
- Surface Water Certificate S3-29311 confirms a right of 2.02 cfs, 283 acre-feet per year for the irrigation of 100 acres.
- Surface Water Permit S3-29607 authorized a right of 15.6 cfs, 2857 acre-feet per year for the irrigation of 1270 acres. (Proof of Appropriation identifies 1073.45 acres developed.)

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.

This proposed change in the place of use shall not increase the amount of water withdrawn from the river nor will it expand the right. The proposed change will not impair existing water rights.

Conclusions

There is a water right available for change/transfer. Surface water has been historically and beneficially used under this authorization for the purpose of agricultural irrigation.

When considering an application for change to a water right, Ecology must determine that the proposed change can be made without detriment or injury to existing water rights. Factors considered when determining potential impact include the following:

<u>No Impairment to Existing Rights</u>
The proposed change will not increase the volume of water currently authorized.

<u>No Enhancement of the Original Right</u>
No withdrawal of water over and above what has been authorized for beneficial use would be authorized through approval of this change.

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.

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:

4.992 cfs
852.2 acre-feet per year
Agricultural irrigation of 590 acres

Point of Diversion

SW¼SW¼ of Section 16, T. 27 N., R. 39 E.W.M.

Place of Use

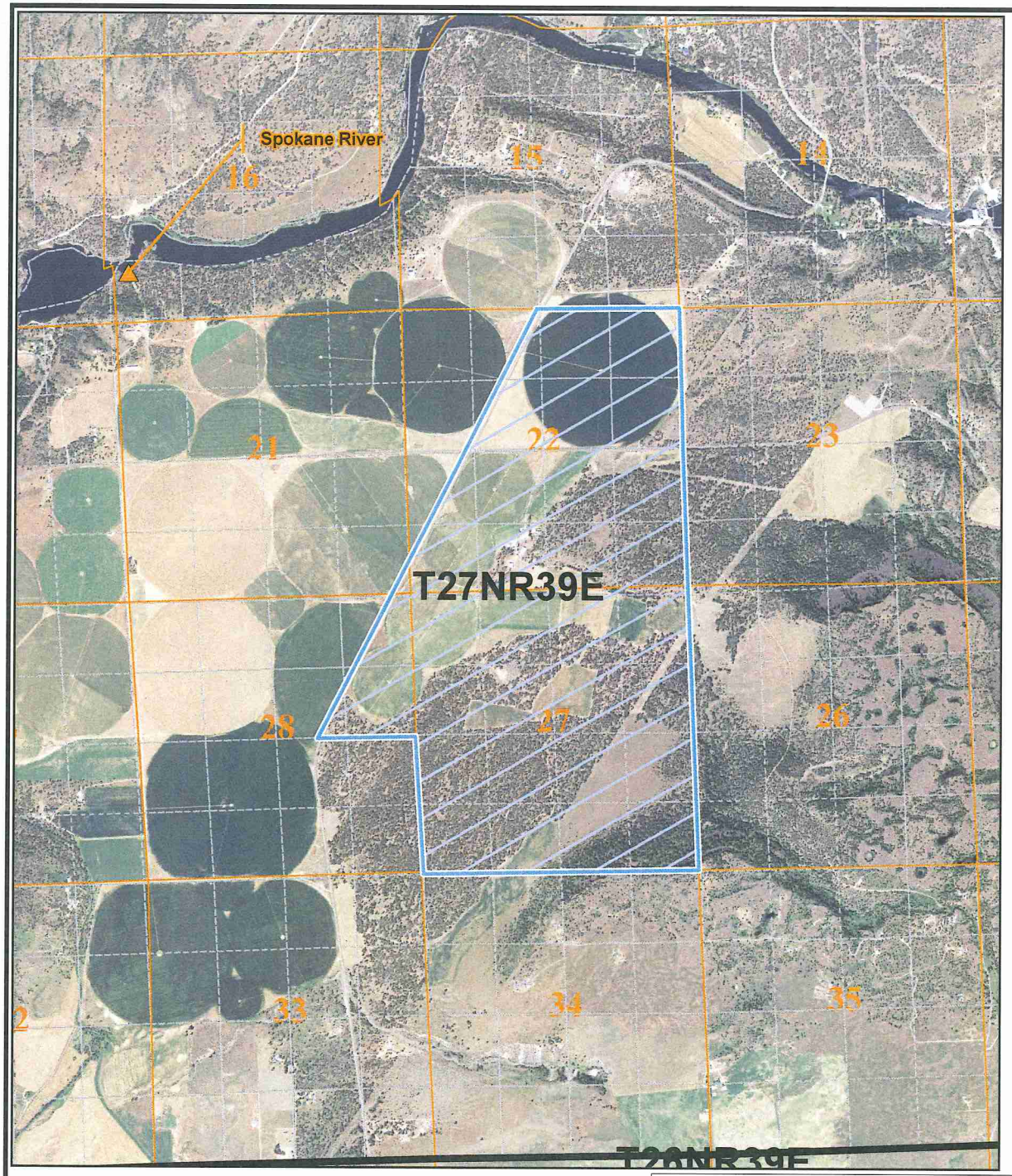
That portion of SE¼ of Section 21, Section 22 and the NE¼ of Section 28 all lying east of the highway and Section 27, T. 27 N, R. 39 E.W.M.

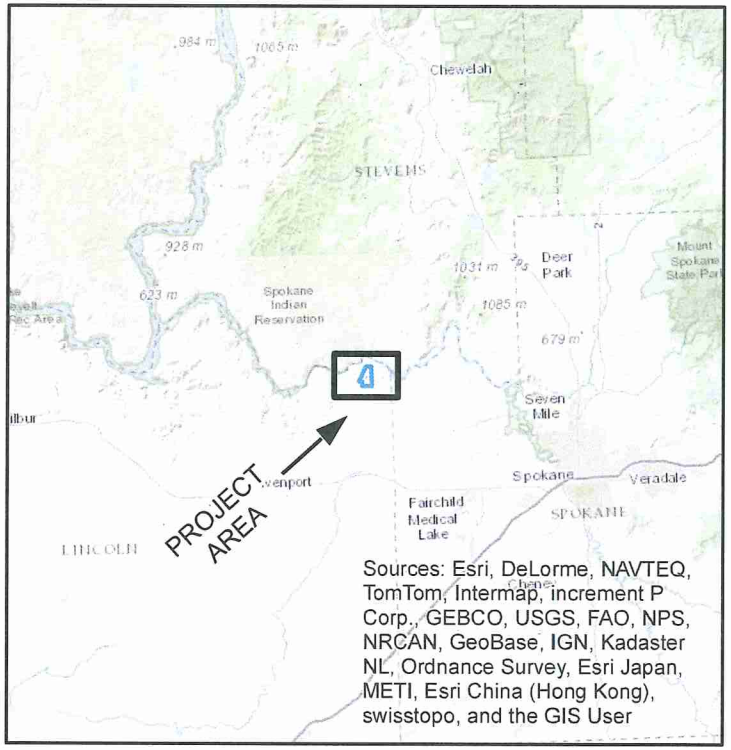
Kevin Brown 3/17/14

Kevin Brown, Report Writer *Date*

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.

Glenn Wollweber
S3-25150(B)
T27N/R39E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Diversion

0 990 1,980 3,960 5,940 7,920 9,900 Feet

Basemap - (NAIP 2011 1m color)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 2/7/2014

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