File NR S3-30517
WR Doc ID 4287946

DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE	WATER RIGHT NUMBER
AUGUST 2, 2006	S3-30517

MAILING ADDRESS	SITE ADDRESS (IF DIFFERENT)
ELSIE and DOUG GRAHAM P.O. BOX 264 CUSICK, WA 99119-0264	

Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.02	CFS	1.94

Purpose

	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		
PURPOSE	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	PERIOD OF USE (mm/dd)
Domestic supply for 2 mobile homes* *includes lawn and garden irrigation	0.02 (½ acre)		CFS	1.94		01/01 - 12/31

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
½ acre			2 mobile homes

Source Limitations

SOURCE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE(mm/dd)
TACOMA CREEK	0.02	1.94	01/01 - 12/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
PEND OREILLE	TACOMA CREEK	PEND OREILLE RIVER	62-PEND OREILLE

SOURCE	PARCEL	TWP	RNG	SEC	QQ	LATITUDE	LONGITUDE
TACOMA CREEK	433435510021	34N	43E	35	NE¼SW¼	48.40370° N	117.33877° W Datum: WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

433435510019, 433435510020, 433435510021

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lot 19, Tacoma Creek Acres in the W½NE¼SW¼ of Sec. 35 (Parcel #433435510019); Lot 20, Tacoma Creek Acres in the W½E½NE¼SW¼ of Sec. 35 (Parcel #433435510020); Lot 21, Tacoma Creek Acres in the E½E½NE¼SW¼ of Sec. 35 (Parcel #433435510021); ALL IN T. 34 N., R. 43 E.W.M.

Proposed Works

Portable gas pump, one inch pvc pipe

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
November 1, 2013	November 1, 2014	November 1, 2015

Measurement of Water Use

How often must water use be measured?	Monthly
How often must 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 Diversion (gpm or cfs)

Provisions

Pend Oreille River Low Flow

All irrigation shall cease when the flow of the Pend Oreille River falls below 7700 cubic feet per second at U.S. Geological Survey (U.S.G.S.) gage #12395500, Pend Oreille River at Newport, located within Section 24, Township 56 N., Range 6 W.B.M.

Measurements, Monitoring, Metering and Reporting

An approved measuring device shall 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.

WAC 173-173 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.

Department of Fish and Wildlife Requirement(s)

The intake(s) shall 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/

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 shall 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 permit. 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, shall 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 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. S3-30517, 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 **Pollution Control Hearings Board** 1111 Israel Road SW Ste 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 15th day of January, 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
Application for Water Right -- Graham
Water Right Control Number S3-30517
Gene Drury, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30517.

Applicant Name:	Elsie and Doug Graham
Date of Application:	August 2, 2006
Place of Use	Lot 19, Tacoma Creek Acres in the W½NE¼SW¼ of Sec. 35 (Parcel #433435510019); Lot 20, Tacoma Creek Acres in the W½E½NE¼SW¼ of Sec. 35 (Parcel #433435510020); Lot 21, Tacoma Creek Acres in the E½E½NE¼SW¼ of Sec. 35 (Parcel #433435510021); ALL IN T. 34 N., R. 43 E.W.M.

County	Waterbody	Tributary To	WRIA
Pend Oreille	Tacoma Creek	Pend Oreille River	62-Pend Oreille

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Domestic Supply for 2 mobile homes*	0.02	CFS	1.94	01/01	12/31

*Includes lawn and garden irrigation (½ acre)

Source Name	Parcel	Twp	Rng	Sec	QQ	Latitude	Longitude
Tacoma Creek	433435510021	34 N	43 E	35	NE¼SW¼	48.40370° N	117.33877° 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: WGS84.

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 Newport Miner on August 29 and September 5, 2012.

Consultation with the Department of Fish and Wildlife

Steven N. Boessow of Washington State Department of Fish and Wildlife (WDFW) was contacted on September 27, 2012 regarding this diversion from Tacoma Creek. On October 19, 2012, Mr. Boessow provided a recommendation that all new diversions from Tacoma Creek be limited to in-house domestic supply only. This application requests in-house domestic supply for two existing mobile homes and irrigation of ½ acre (lawn and garden). The applicant has tried to drill a well and cannot get sufficient water supply for these uses. After reviewing the applicant's request and in this case where no alternate water source is available, surface water appropriation may be allowed. However, the irrigation portion will be subject to the Pend Oreille River low flow.

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.

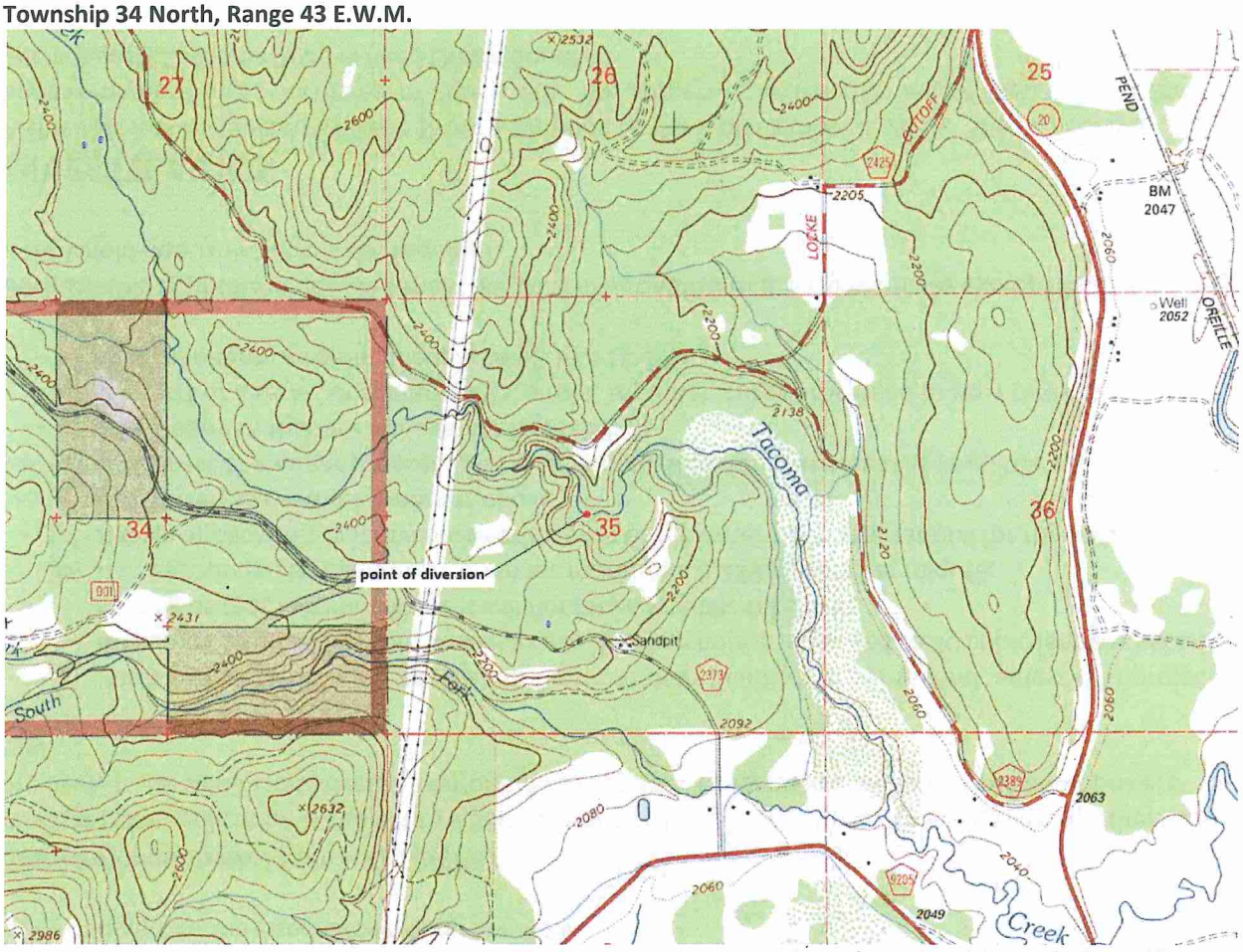
INVESTIGATION

A site visit was conducted by Gene Drury with Doug Graham on October 3, 2012. The project is located approximately 7 miles northwest of Cusick, WA. The property is accessed by way of West Calispell Road and is just off Calicoma Road in Pend Oreille County.

It was noted that the project had not been started. The applicant proposes to divert water from Tacoma Creek and use water for two existing single wide mobile homes. Water will also be used to irrigate up to ½

acre of lawn and garden. The proposed diversion is to be located downhill from the two mobile homes. A well was drilled about 12 years ago but only produces about 5 gallons per hour according to the applicant. A 2500 gallon concrete storage tank is currently used for water supply.

Township 34 North, Range 43 E.W.M.



USGS 7.5 Minute (Topographic Map) - "Jared"

Impairment Considerations

A review of Ecology records was conducted for existing water rights, permits, and claims in the vicinity of the proposed point of diversion and within the NE¼SW¼ of Sec. 34, T. 34 N., R. 43 E.W.M. There are no other water rights appurtenant to the applicant's property. The following is a list of water rights from Tacoma Creek generated from the Water Resources Tracking System (WRTS) database:

Tacoma Creek Water Right Records

File #	Person	Doc	Priority Dt	Purpose	Qi	UOM	Qa	TRS	QQ/Q
S3-*03199CWRIS (1904)	MCGILL EARL ET UX	Cert	10/19/30	ST,IR	1	CFS		33.0N 43.0E 01	
S3-CV2P931 (1904)	McGill Earl	CChg	8/2/67			CFS		33.0N 43.0E 01	NE/NW
S3-032086CL	WA DNR	CL	11/1/1889	WL,RE	0.022	CFS	8	34.0N 42.0E 16	SW/NW
S3-037907CL	WA DNR	CL	11/1/1889	RE,IF	4	CFS	3226	34.0N 43.0E 16	SE/NW
S3-163501CL	PENNISON L R	CL		IR,DG		CFS	1	34.0N 43.0E 27	
S3-22273CWRIS	SOMMERS RICHARD A	Cert	12/19/73	DS	0.01	CFS	1	34.0N 43.0E 27	NE/SW
S3-20282CWRIS	CARRITHERS GALE H	Cert	6/8/72	DS	0.01	CFS	1	34.0N 43.0E 27	SW/NW
S3-20491CWRIS	HATHORN JOHN ARTHUR	Cert	9/1/72	DS	0.01	CFS	1	34.0N 43.0E 27	NE/SW
S3-00149CWRIS	FROMM ROBERT E	Cert	2/25/71	DS	0.01	CFS	1	34.0N 43.0E 27	SE/SW
S3-30624	Brown Family Trust	App	6/10/10	IR,FR	0.06	CFS		34.0N 43.0E 27	
S3-109128CL	CAMPBELL FRASER C	CL		DG		CFS		34.0N 43.0E 35	
S3-044128CL	FUSON LYLE E.	CL	2/1/71	DM	0.005	CFS	4	34.0N 43.0E 35	SE/NW
S3-*06697CWRIS (6311)	DUNCAN/CAMPBELL	Cert	9/29/45	IR,DS	13	CFS		34.0N 43.0E 35	SW/NE
S3-*04087CWRIS (1034)	ESCH S J	Cert	3/12/35	ST,IR	0.83	CFS		34.0N 43.0E 35	NW/NW
S3-30517	Graham Elsie	App	8/2/06	IR,DS	0.02	CFS		34.0N 43.0E 35	NE/SW
S3-037909CL	WA DNR	CL	11/1/1889	IFlow	11	CFS	8065	34.0N 43.0E 36	SE/SE
S3-*12159CWRIS (5718)	LARL M	Cert	3/13/53	IR	0.42	CFS		34.0N 44.0E 31	
S3-032088CL	WA DNR	CL	11/1/1889	RE,IF	2.2	CFS	1613	35.0N 42.0E 36	SE/SW

The proposed appropriation under the Graham application will not cause any impairment to existing water rights.

Water Availability

Tacoma Creek was closed to further appropriations by recommendation of the WDFW on September 3, 1999 with an exception for 0.02 cubic foot per second for domestic supply (including ½ acre of lawn and garden irrigation). As explained above, a more recent recommendation from WDFW now requests that only in-house domestic supply be issued. It has long been the Water Resource Program's position that when there is no alternate water supply for a domestic use, that a diversion may be permitted. This application is for in-house domestic supply for two existing mobile homes and irrigation of ½ acre (lawn and garden). On the day of the investigation, Tacoma Creek was flowing very well (several cubic feet per second) even though there has been no significant rain for a very long time. Water is available for this request and it appears that the minimal request for 0.02 cfs will not impact the flow of the creek at this location.

Hydrogeologic Analysis: Tacoma Creek flow directly into the Pend Oreille River. The Department of Ecology has not closed the Pend Oreille River to further consumptive appropriations, however all diversions shall cease when the flow of the Pend Oreille River falls below 7700 cfs at U.S. Geological Survey (U.S.G.S.) gage #12395500. This low-flow is a recommendation from the Washington State Department of Fish and Wildlife (WDF&W) and applies to surface and ground water in hydraulic continuity with the Pend Oreille River since October 18, 1999.

Water is available for appropriation however, all irrigation shall cease when the Pend Oreille River falls below the low flow recommendation from the Washington State Department of Fish and Wildlife.

The Washington State Irrigation Guide (WA210-Vi-WAIG, AMEND.1NOVEMBER1990 at Newport, Washington) estimates that 34.44 inches of water (or 2.87 acre-feet of water per acre) is required based on 70% system efficiency. Therefore, 1.44 acre-feet of water should be adequate for the irrigation of the ½ acre (lawn and garden) under this permit. An additional 0.50 acre-foot per year will be allocated for the two single wide mobile homes for a total of 1.94 acre-feet per year for all uses.

Beneficial Use

The proposed use of water is defined in statute as a beneficial use (RCW 90.54.020(1)).

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 appropriation.

Chapter 90.54 RCW provides that water allocation shall secure maximum net benefits to the people of the state, while also requiring that perennial rivers of the state shall be retained with base flows necessary to provide for the preservation of fish and other environmental values. To maintain these values the irrigation portion of this authorization shall be subject to the minimum instream flow of 7700 cfs on the Pend Oreille River. The approval of this application for 0.02 cfs will not be detrimental to the public interest.

Conclusions

Under Chapter 90.03.290 RCW, an application for permit may be approved if water is available for appropriation, and the proposed use would be a beneficial use, would not impair existing water rights, and would not be detrimental to the public welfare.

It is the conclusion of this examiner that public surface water, from the Tacoma Creek, is available for domestic supply for two mobile homes (including ½ acre lawn and garden). This appropriation is considered a beneficial use and will not impair existing water rights or be detrimental to the public welfare.

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:

Quantities and Purpose of Use: 0.02 cubic foot per second; 1.94 acre-feet per year, for domestic supply for two mobile homes (including ½ acre lawn and garden.)

Point of Diversion: NE¼SW¼, Section 34, Township 34 North, Range 43 E.W.M.

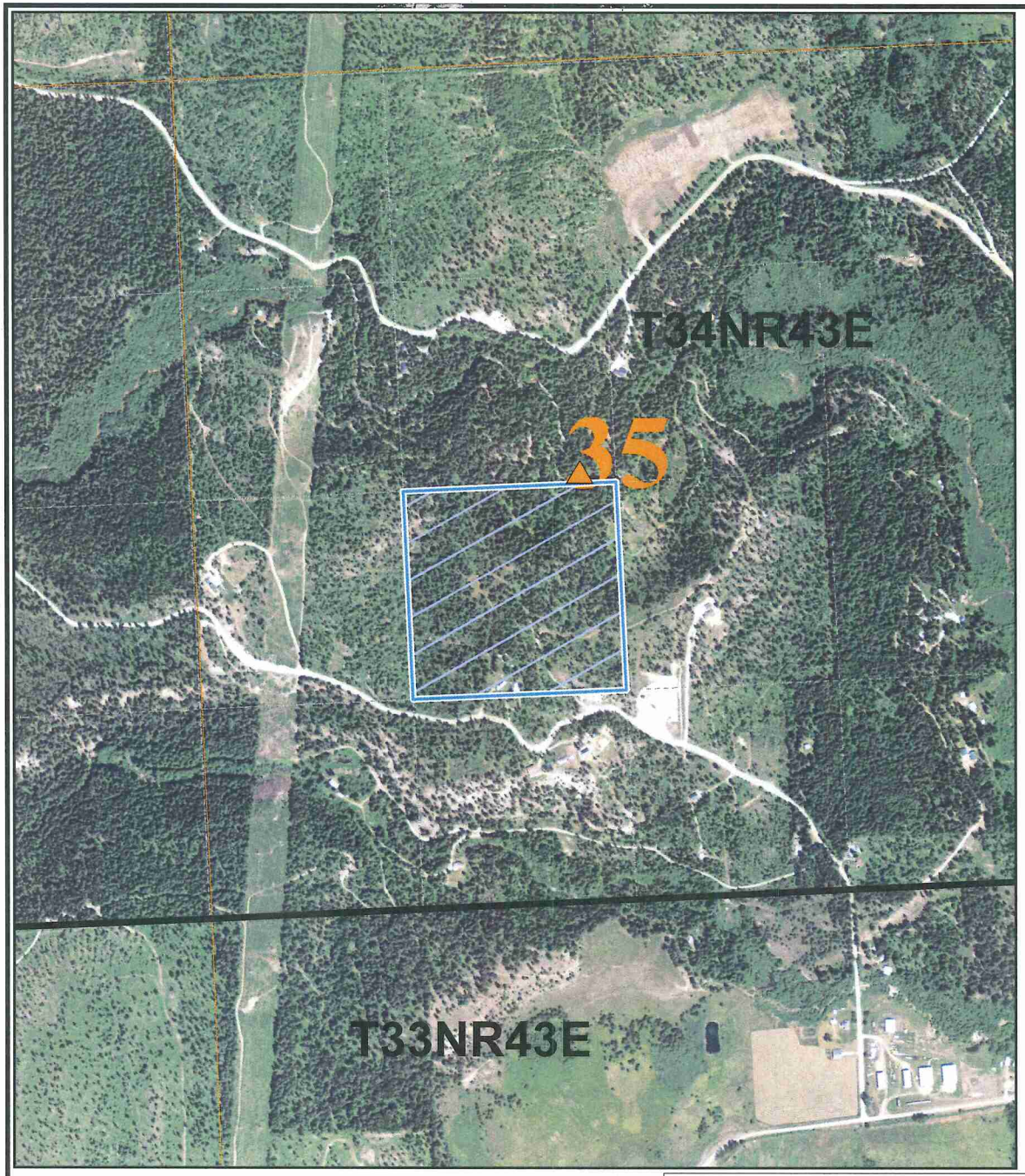
Place of Use: Lot 19, Tacoma Creek Acres in the W½NE¼SW¼ of Sec. 35 (Parcel #433435510019); Lot 20, Tacoma Creek Acres in the W½E½NE¼SW¼ of Sec. 35 (Parcel #433435510020); Lot 21, Tacoma Creek Acres in the E½E½NE¼SW¼ of Sec. 35 (Parcel #433435510021); ALL IN Township 34 North, Range 43 E.W.M.

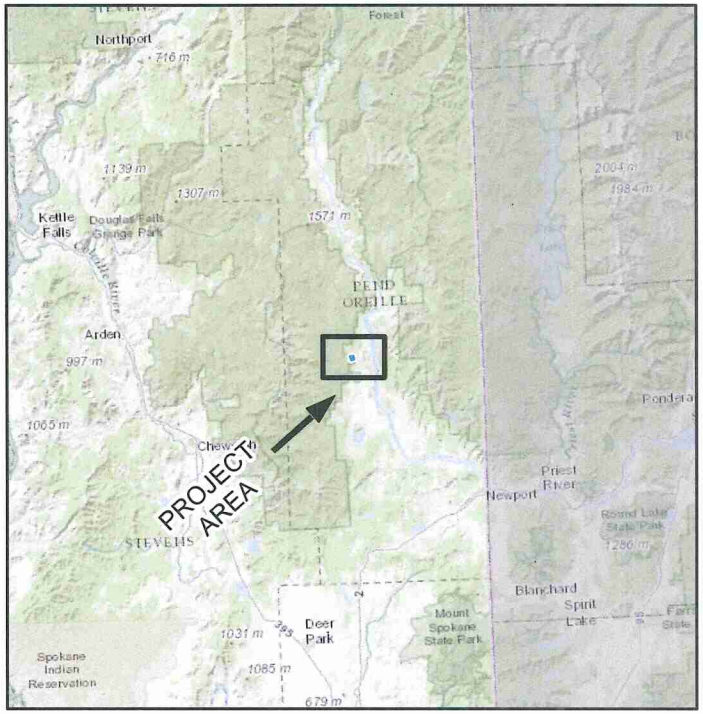
1-8-2013

Gene Drury, 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.

Elsie & Doug Graham
S3-30517
T34N/R43E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Diversion

Feet
0 165330 660 990 1,320 1,650
Basemap - (NAIP 2011 1m color)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 12/14/2012

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