

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

**REPORT OF EXAMINATION**  
TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

- Surface Water (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)
- Ground Water (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE April 21, 1995	APPLICATION NUMBER G3-29822	PERMIT NUMBER	CERTIFICATE NUMBER
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NAME Fordair Water Co-op Inc.			
ADDRESS (STREET) PO Box 731	(CITY) Coulee City	(STATE) WA	(ZIP CODE) 99115

cc: Fordair Water Co-op Inc., 10300 Imperial Dam Road, Yuma, AZ 85365

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE Two Wells
TRIBUTARY OF (IF SURFACE WATERS)

MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE 75	MAXIMUM ACRE FEET PER YEAR 0
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QUANTITY, TYPE OF USE, PERIOD OF USE  
75 gallons per minute, 0 acre-feet per year, continuously, for municipal supply

The total withdrawal under this authorization G3-29822, Water Right Certificate No. 7638-A, and Water Right Claim No. 002732, shall not exceed 120 gallons per minute and 25 acre-feet per year for municipal supply.

**LOCATION OF DIVERSION/WITHDRAWAL**

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

Well 1) 330 feet North and 1035 feet West from the center of Section 26 (47.6350° N, -119.2710°W)  
Well 2) 340 feet North and 1035 feet West from the center of Section 26 (47.6350° N, -119.2711°W)

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) NE¼SW¼	SECTION 26	TOWNSHIP N. 25	RANGE, (E. OR W.) W.M. 28 E.	W.R.I.A. 42	COUNTY Grant
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**RECORDED PLATTED PROPERTY**

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION) Fordair
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**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED**

The place of use (POU) of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

**DESCRIPTION OF PROPOSED WORKS**

Two wells, distribution system for municipal supply

**DEVELOPMENT SCHEDULE**

BEGIN PROJECT BY THIS DATE: Started	COMPLETE PROJECT BY THIS DATE: May 1, 2015	WATER PUT TO FULL USE BY THIS DATE: May 1, 2025
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**REPORT**

**BACKGROUND**

An application to appropriate public ground water was submitted by Fordair Water Co-op Inc. to the Department of Ecology on April 21, 1995. The application was accepted and assigned Ground Water Application No. G3-29822. The applicant proposes to withdraw water from two wells in the amount of 75 gallons per minute for continuous community domestic supply. The proposed points of withdrawal are to be located within the NE¼SW¼ of Section 26, T. 25 N., R. 28 E.W.M.

A notice of application was duly published in accordance with RCW 90.03.280 in the Coulee City News-Standard on February 6 and 13, 2008 and no protests were received.

This application is exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW, due to the fact that the water requested is less than 2250 gallons per minute.

When an application for appropriation of public waters of the state is made, it is the responsibility of the Department of Ecology, Water Resources Program to determine whether or not the application meets the four tests listed in RCW 90.03.290(3):

1. is water available for appropriation,
2. is the proposed use a beneficial use, and
3. will the appropriation as proposed in the application not impair existing rights,
4. nor be detrimental to the public welfare

RCW 90.03.386(2) states that a municipal water supplier may change its service area through the water system plan approval process. As long as the municipal water supplier is in compliance with the approved plan, the place of use for the water right is the service area of the plan.

The “Wilson Creek – Coulee City Area” is a work area that was designated during the 1980s for new ground water applications. This work area is located primarily within the central portion of WRIA 42, with a small portion in western WRIA 43. See hydrogeologic “*Analysis: Coulee City*, dated October 3, 2012” for a current description.

## **INVESTIGATION**

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, claims, and applications in the vicinity; (3) USGS topographic maps; (4) air photographs; (5) Hydrogeologic Analysis: Coulee City dated October 3, 2012; and (6) discussions with Department of Ecology regional program staff.

A field investigation was conducted by Dan Tolleson on January 16, 2008, with a follow-up field examination on March 18, 2013, to verify any changes to the site. In addition, the Department of Health Sentry internet system was reviewed to verify any changes in the site. This site is located approximately one mile northeast of Coulee City, Washington. This proposed project lies within the Wilson Creek – Coulee City Study Area.

The proposed place of use is the area served by Fordair housing community lying just to the west of the junction of US Highway 2 and US Highway 155 within portions of Section 26. The community consists of trailers, manufactured homes, and permanent homes. Currently, twenty-five homes are year round residences and four homes are used by seasonal residents. Much of the land within the proposed place of use has been developed, either with homes or irrigated yards. According to the Health Department, Fordair currently approved for 32 connections under water system Id No. 25800.

The applicant proposes to withdraw 75 gallons per minute from two existing wells. Proposed Well No. 1 is the authorized source for both Ground Water Certificate No. 7638 and Water Right Claim No. 002732. Proposed Well No. 2 is the second authorized source for Ground Water Certificate No. 7638, and the primary well used for the system.

The Fordair water system serves more than fifteen residential service connections and meets the definition under RCW 90.03.015(4) for “municipal water supply purposes”. Therefore, Fordair qualifies as a “municipal water supplier” and is subject to Municipal Water Law. In addition, RCW 90.03.386(2) states that a municipal water supplier may change its service area through the water system plan approval process. As long as the municipal water supplier is in compliance with the approved plan, the place of use for the water right is the service area of the plan.

## **WATER QUANTITIES**

The Fordair community has 50 individual platted lots that at full build out are estimated to use approximately 0.5 acre-foot per lot, for a total of 25 acre-feet. Water Right Claim No. 002732 is interpreted to be for 25 acre-feet per year (see Overlapping and Adjacent Water Rights below). Ground Water Certificate No. 7638 authorizes 10 acre-feet per year, less any water withdrawn under the claim. The total annual quantity under both the claim and the existing certificate is 25 acre-feet per year for municipal supply. Since Fordair has sufficient annual quantity for continued development, this permit will be issued as non-additive for the annual quantity and additive for the instantaneous quantity by 75 gpm.

The total instantaneous quantities claimed and authorized under Water Right Claim No. 002732 and Ground Water Certificate No. 7638 are 45 gallons per minute. Currently, the instantaneous pumping capacity of this system is 70 gallons per minute. This application was submitted to obtain authorization to increase the instantaneous quantity. The quantity requested appears reasonable given the size and type of project.

## **OVERLAPPING AND ADJACENT WATER RIGHTS**

A review of Ecology records was conducted for existing water rights, permits, and claims in the area surrounding the proposed wells under this application. The search focused primarily on Sections 26 and 27 of T. 25 N., R. 28 E.W.M. The review of Ecology records shows multiple water right certificates and water right claims within the vicinity of the project. One claim and one certificate are appurtenant to the proposed place of use and are as follows:

Water Right Claim No. 002732 was filed for 45 gallons per minute, 200 acre-feet for community domestic supply. The claimed place of use is the Fordair community within Sec. 26, T. 25 N., R. 28 E.W.M. The quantities claimed are not valid, since it is physically impossible to pump the claimed acre footage (200 acre-feet) in a year at 45 gallons per minute every day of the year. The community has 50 individual platted lots that at full build out are estimated to use approximately 0.5 acre-foot per lot for a total of 25 acre-feet per year. The Department of Ecology recognizes that the final determination of the validity and extent associated with a claim registered in accordance with RCW 90.14 ultimately is with the Superior Court through the general adjudication process provided for by Sections 90.03.110 through 90.03.240 RCW.

Ground Water Certificate No. 7638 authorizes 45 gallons per minute, 10 acre-feet per year for community domestic supply. The place of use is the area served by Fordair Water Co-op. Inc. within Sec. 26, T. 25 N., R. 28 E.W.M. This right was issued as less any water withdrawn under Water Right Claim No. 007232 and added a second point of withdrawal to the system. The total quantities under Water Right Claim No. 002732 and Ground Water Certificate No. 7638 are 45 gallons per minute and 25 acre-feet, per year.

The community of Fordair qualifies as a “municipal water supplier” as defined under RCW 90.03.015 and has used water for municipal supply purposes under existing rights. Based on the water use data, the community has not perfected its full allocation of water, leaving inchoate (or unused) water rights available for future use. The inchoate water availability is consistent with the municipal legislation (SHB 1338) passed in 2003. This law became effective September 9, 2003, and allowed municipal water suppliers to grow into the remaining quantities of these “pumps and pipes” rights. The remaining unused portion of a right allows for certainty for future growth by municipal water suppliers. RCW 90.03.330(3) indicates that such water rights remain in good standing.

*(The extent and validity of the above listed overlapping rights are not determined in this report.)*

### **WILSON CREEK – COULEE CITY STUDY AREA**

The “Wilson Creek – Coulee City Area” is a work area that was designated during a hydrogeologic study conducted in the 1980s for new water right applications. The study indicated that there were essentially two aquifers within the area, the shallow Wanapum Basalt aquifer and the deep Grande Ronde Basalt aquifer. At that time there was significant public concern that water was not available and new uses would impair existing rights.

The Wanapum aquifer was determined to have limited physical capacity. It was determined that the proposed appropriations for new water from the shallow aquifer would exceed the capacity of the formation to yield water and would impair existing rights. A small quantity of water was held in reserve for exempt wells.

The Grande Ronde aquifer was deemed to have adequate water available, and water table declines in the 1980s were not considered significant. The declines were found to be from zero to a maximum two feet per year. The average was estimated to be less than one foot.

In the 1980s, applications for new water from the Grande Ronde aquifer requested a total of 18,900 acre-feet per year. The first water right issued after this study, in 1984, was G3-25926. Ecology’s decision was appealed to the PCHB, but the appeal was eventually withdrawn. The remaining applications were put on hold pending the PCHB case and further investigation of water availability in the study area. In 1987, 17 additional water rights were issued. To protect existing domestic and stockwater rights, all of the newly authorized wells were required to be cased and sealed into the deeper aquifer.

The majority of the approved water right permits issued in the 1980s were not developed and were subsequently cancelled. As of 2013, only seven of the original 18 water right approvals remained active. They authorized a total of 4,500 acre-feet. The extent and validity of these rights is not determined within this report.

Applications received for new water rights in the Wilson Creek – Coulee City Area after 1987 were put on hold until a new determination of water availability was made. The intent was to monitor the aquifer to determine actual impact of the water rights issued in 1984 and 1987. As of early 2012, there were 19 applications on file for new water rights requesting a total of 74,145 gallons per minute and 8,100 acre-feet per year.

A second water availability study of the area was conducted in recent years and is documented in an Ecology internal report entitled *Hydrogeologic Analysis: Coulee City*, dated October 3, 2012. This study indicated that water levels in the shallow and deep aquifers are declining at a rate of 0.25-3 feet per year, an increase in the rate of decline estimated in the 1980s study.

The only area not exhibiting water level declines is the shallow aquifer in the vicinity of Banks Lake and the main irrigation canal. The lack of decline is the result of leakage of waters from the US Bureau of Reclamation project. This leakage water is claimed by the US Bureau of Reclamation and is not available for appropriation through the state permitting system.

In the Fall of 2012, letters were sent to each of the 19 applicants on file for new water. The letters stated that applications would most likely be denied because water was not available for appropriation. Eight of the applications were rejected because applicants were no longer interested in obtaining water or the applicants could not be located by Ecology. The remaining 11 applicants, including the applicant for this permit, requested that a formal appropriation decision be made by Ecology. Each application will be evaluated on its own respective findings.

## **HYDROGEOLOGIC ANALYSIS**

The following hydrogeologic analysis was written by Tracy Band, Hydrogeologist, and was reviewed by Guy J. Gregory, L.G., L.Hg. Hydrogeologist and Unit Supervisor of the Water Resources Program Technical Unit in Ecology's Eastern Regional office.

The proposed points of withdrawal for this application are located within the Wilson Creek-Coulee City area. A detailed hydrogeologic analysis of this area was completed by Ecology Eastern Region Water Resource Program hydrogeologists in October 2012. This assessment of water availability for new water rights in this area is based on this report (and the referenced reports therein) including water level measurements made by Ecology staff over the last 30 years.

Well No. 1 (within the SE1/4 NW1/4 of Section 26, T. 25 N., R. 28 E.W.M.) was constructed in 1971 to a depth of 246 feet, and is used for community domestic supply. It is drilled through top soil and boulders and then into basalt. The well is cased to a depth of 27 feet. It's unknown if there is any surface seal in the well. The static water level in the well at the time of construction was 225 feet below land surface, and a pump test at this time yielded 50 gpm. The land surface elevation at the well site is approximately 1665 feet.

Well No. 2 (within the NE1/4 SW1/4 of Section 26, T. 25 N., R. 28 E.W.M.) was constructed in 1995 to a depth of 343 feet, and used for community domestic supply. It is drilled through gravel and clay and then in to basalt. The well is cased to a depth of 38 feet and has 18 feet of surface seal. The static water level in the well at the time of construction was 178 feet below land surface, and a one-hour pump test at that time yielded 150 gpm. The land surface elevation at the well site is approximately 1650 feet.

Several wells in the vicinity have been measured in the spring of many recent years by the Ecology staff. Hydrographs, or plots of these static water levels over time, were created from these measurements. The hydrographs of wells in the area show that the majority of wells in both the Wanapum and Grande Ronde aquifers are declining at a rate between 0.25 to 3 feet per year. This rate of decline indicates current use exceeds the rate of recharge to the aquifers in this area and the aquifers are being mined.

RCW 90.44.070 indicates that "No permit shall be granted for the development or withdrawal of public ground waters beyond the capacity of the underground bed or formation in the given basin, district, or locality to yield such water within a reasonable or feasible pumping lift in case of pumping developments, or within a reasonable or feasible reduction of pressure in the case of artesian developments. The department shall have the power to determine whether the granting of any such permit will injure or damage any vested or existing right or rights under prior permits and may in addition to the records of the department, require further evidence, proof, and testimony before granting or denying any such permits."

The applicant is not requesting an increase in the annual quantity of water withdrawn for municipal use. The applicant is only requesting to increase the instantaneous rate of withdrawal by 75 gpm. It is anticipated that the increased rate of withdrawal will not cause any detrimental impact to other water users in the area.

## **WATER AVAILABILITY**

For water to be available for appropriation, it must be both physically and legally available.

### **Physical availability**

For water to be physically available for appropriation there must be ground or surface water present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. In addition, the following factors are considered:

- Volume of water represented by senior water rights, including federal or tribal reserved rights or claims;
- Water right claims registered under Chapter 90.14 RCW
- Ground water uses established in accordance with Chapter 90.44 RCW, including those that are exempt from the requirement to obtain a permit; and
- Potential riparian water rights, including non-diversionary stock water.

Lack of data indicating water usage can also be a consideration in determining water availability, if the department cannot ascertain the extent to which existing rights are consistently utilized and cannot affirmatively find that water is available for further appropriation.

### **Legal availability**

To determine whether water is legally available for appropriation, the following factors are considered:

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.
- Fisheries and other instream uses (e.g., recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where further reducing the flow of surface water would be detrimental to existing fishery resources.
- The Department may deny an application for a new appropriation in drainages where adjudicated rights exceed the average low flow supply, even if the prior rights are not presently being exercised. Water would not become available for appropriation until existing rights are relinquished for non-use by state proceedings.

The applicant proposes to withdraw an additional 75 gallons per minute of water without increasing the annual quantity of 25 acre-feet per year previously authorized. This request is non-consumptive since only the rate of withdrawal of water will increase. The formation has adequate capacity available for the proposed increase in instantaneous withdrawal. Therefore, water is both physically and legally available for the proposed appropriation.

### **IMPAIRMENT ANALYSIS**

“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 flows 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 applicant proposes to withdraw an additional 75 gallons per minute of groundwater without increasing the annual quantity of water used. The request is non-consumptive because only the rate of withdrawal will increase. The formation has adequate capacity available for the proposed increase. The proposed water right is not anticipated to impair existing water rights.

### **BENEFICIAL USE**

The proposed use is a beneficial use of water.

### **PUBLIC INTEREST AND CONSIDERATION OF PROTESTS**

No protests were received against granting this water right permit, in response to the public notice. The Bureau of Reclamation has made the following comments about new applications in the Wilson Creek – Coulee City area.

#### **Bureau of Reclamation Comments**

The United States Department of the Interior, Bureau of Reclamation’s, comments were received on February 4, 2013. They indicated that they agree, absent further investigation, with Ecology’s Hydrogeologic *Analysis: Coulee City* dated October 3, 2012. In particular, Reclamation agrees with the conclusion in the report the shallow aquifer lying immediately east and southeast of Banks Lake is in direct continuity with Banks Lake. Reclamation has requested that Ecology deny applications for new water rights in these areas, on the basis that new water rights will impair Reclamation’s water rights. The Bureau of Reclamation has proposed to work with the applicants to secure an alternate water supply. Further information is available from Ms. Christi Davis-Kernan, Water & Contracts Specialist at [cdaviskernan@usbr.gov](mailto:cdaviskernan@usbr.gov) or by phone at 509-754-0227.

There has been a significant public expression of protest and concerns regarding the proposed applications for new water rights in the Wilson Creek – Coulee City area. This includes protests from many of the other new water right applicants within the work area. However, the proposed use for this application is non-consumptive and does not authorize any additional annual quantity of water to be used. Therefore, no impairment of Bureau of Reclamation or any other water rights is anticipated. Based on these facts and this investigation, there are no findings that indicate that there would be any detrimental impact to the public welfare through issuance of this permit.

### **CONCLUSIONS**

It is the conclusion of this examiner that: (1) public surface water is available for appropriation for 75 gallons per minute, 0 acre-feet per year, continuously, for municipal supply, (2) the water use is a beneficial use, and the appropriation (3) will not impair existing water rights, (4) nor will it 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 below. 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:

75 gallons per minute,  
0 acre-feet per year for continuous municipal supply

### Points of Withdrawal

Well Nos. 1 and 2 - NE¼SW¼ of Section 26, T. 25 N., R. 28 E.W.M.

### Place of Use

The place of use (POU) of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

## Provisions

### **Well, Well Log and Well Construction Standards**

All wells constructed in the state shall meet the "Minimum Standards for the Construction and Maintenance of Wells" (WAC 173-160) and "Water Well Construction" (RCW 18.104). In general, wells shall be located at least 100 feet from sources of contamination and at least 1,000 feet of the boundary of a solid waste landfill. Any well which is unusable, abandoned, or is an environmental, safety, or public health hazard shall be decommissioned.

All wells shall 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 shall 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 is required as described in WAC 173-160-291(3).

### **Municipal Supply and Public Water Systems**

Prior to any new construction or alterations of a public water supply system, the State Board of Health rules require public water supply owners to obtain written approval from the Office of Drinking Water of the Washington State Department of Health. Please contact the Office of Drinking Water prior to beginning (or modifying) your project at DOH/Division of Environmental Health, 16201 E. Indiana Avenue, Suite 1500, Spokane Valley, WA 99216, (509) 329-2100.

If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, the place of use of this water right reverts to the service area described in that document. If the criteria in RCW 90.03.386(2) are not met and no Water System Plan/Small Water System Management Program has been approved after September 9, 2003, the place of use reverts to the last place of use described by The Department of Ecology in a water right authorization.

### **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 data shall be recorded weekly, the data will be maintained by the property owner for a minimum of five years, and shall be promptly submitted to Ecology upon request.

### **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**

Use of water under this authorization will be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

**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.

**General**

The total withdrawal under this authorization G3-29822, Water Right Certificate No. 7638-A, and Water Right Claim No. 002732, shall not exceed 120 gallons per minute and 25 acre-feet per year for continuous municipal supply.

With regard to the annual quantity authorized for G3-29822, it is issued less any water withdrawn under Water Right Certificate No. 7638-A and Water Right Claim No. 002732.

If Water Right Claim No. 002732 is at a future date found to be invalid, then this authorization shall become a primary right, but will remain less any water, in regard to annual quantity, withdrawn under Water Right Certificate No. 7638-A.

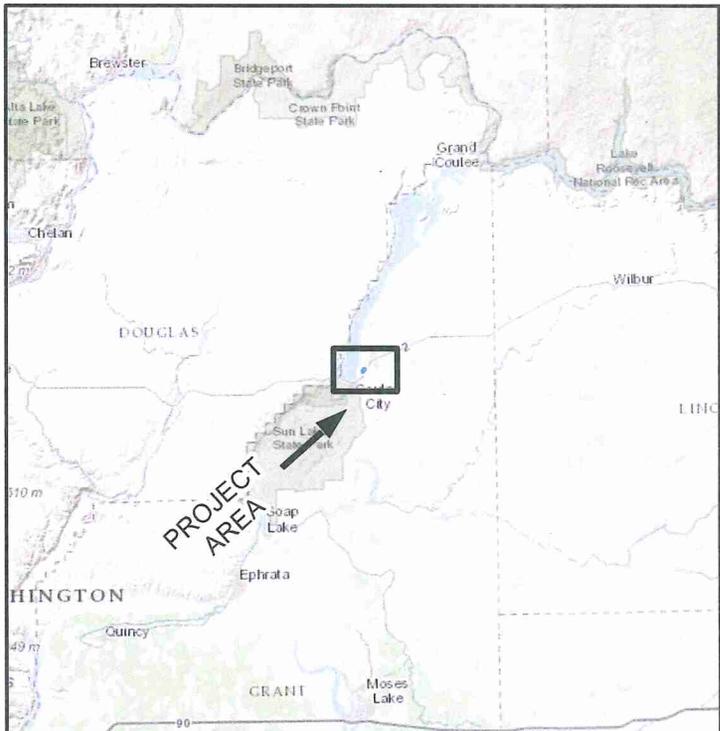
Signed at Spokane, Washington this \_\_\_\_ day of \_\_\_\_\_, 2013.

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Dan Tolleson  
Water Resources Program  
Department of Ecology

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Fordair Water Co-op Inc.  
 G3-29822  
 T25N/R28E



Basemap - (ESRI US Topographic Maps)

**Legend**

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



Basemap - (NAIP 2011 1m color)



Map Date: 4/15/2013



**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.