



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

REPORT OF EXAMINATION

Application for Change to:

Surface Water Certificate No. 520 (together with Certificate of Change Vol. II-3, PP. 34)

PRIORITY DATE	APPLICATION NO.	PERMIT NO.	CERTIFICATE NO.		
June 27, 1929	2629	1385	520 (Chg. Vol. II-3, PP. 34)		
NAME					
Larry L. and Donna M. Kent					
ADDRESS/STREET			CITY/STATE	ZIP CODE	
72 Matsen Creek Road			Kettle Falls, WA	99141	
PUBLIC WATERS TO BE APPROPRIATED					
SOURCE					
Matsen Creek					
TRIBUTARY OF (IF SURFACE WATERS)					
Kettle River					
MAXIMUM CUBIC FEET PER SECOND (cfs)	MAXIMUM GALLONS PER MINUTE (gpm)		MAXIMUM ACRE FEET PER YEAR (ac-ft/yr)		
0.49			64.5		
QUANTITY, TYPE OF USE, PERIOD OF USE					
TOTAL DIVERSION = 0.49 cubic feet per second; 64.5 acre-feet per year and more specifically:					
0.15 cubic feet per second; 7.5 acre-feet per year, continuously, for group domestic supply of eight (8) homes* (*In-house only for Lot Twenty (20) of BOYDS ACRE TRACTS - Williams property)					
0.06 cubic feet per second; 3 acre-feet per year, seasonally, for domestic supply of three (3) homes					
0.28 cubic feet per second; 54 acre-feet per year, seasonally, for the irrigation of 17 acres					
LOCATION OF DIVERSION/WITHDRAWAL					
APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL					
950 feet south and 2075 feet west from the NE corner of Section 6.					
LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY
Government Lot 2 (NW¼NE¼)	6	37 N.	37 E.W.M.	60	Ferry
PARCEL NUMBER	LATITUDE	LONGITUDE		DATUM	
	48.73777° N.	118.15891° W.		WGS84	
RECORDED PLATTED PROPERTY					
LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)			
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED					
[Attachment 1 shows location of the authorized place of use and point(s) of diversion or withdrawal.]					
GROUP DOMESTIC SUPPLY - eight (8) homes (Legal Description):					
<u>KENT (3):</u> Lots 1, 2 and 3 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264					
<u>ANDERSON (3):</u> Lots 4, 5 and 6 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264					
<u>DONEY (1):</u> That part of the SE¼ of the SW¼ and West 170 feet of the South 990 feet of the SW¼ of the SE¼, Section 5, Township 37, North, Range 37 E.W.M., in Ferry County, Washington, described as follows: Commencing at the Southwest corner of said SE¼ of the SW¼; thence along the South line thereof North 88°04'14" East, 689.5 feet to the point of beginning for this description; thence leaving said South line North 3°10'48" West 142.05 feet; thence North 12°26'58" East 202.17 feet; thence North 71°59'53" East 137.88 feet to the centerline of Matsen Creek County Road No. 480; thence along said centerline Southeasterly 418.87 feet to the South line of the SE¼ of the SW¼ of said Section 5; thence leaving said County Road centerline and along said South line South 88° 04'14" West, 361.93 feet to the point of beginning.					

WILLIAMS (1) – in-house use only: That portion of Lot Twenty (20) of BOYDS ACRE TRACTS as per Plat Volume 1, Page 71, records of Ferry County, lying and being South and West of the Matsen Creek County Road No. 480, as located in September 1966. Said Lot 20 also having been described as the South half of the Northwest quarter of the Northeast quarter (S½NW¼NE¼) of Section 8, Township 37 North, Range 37 E.W.M., situated in the County of Ferry, State of Washington

GROUP DOMESTIC SUPPLY - three (3) homes - seasonal use only - (Legal Description):

KENT (1): A tract of land described as follows: Beginning at the quarter corner of Sections 5 and 8, Township 37 North, Range 37 E.W.M.; thence East 170 feet; thence North 990 feet; thence West 462 feet; thence Southwesterly 300 feet (58° Southwesterly) to the Matsen Creek County Road as now established; thence South 858 feet, along said Matsen Creek County Road, to a point 252 feet West of the point of beginning; thence East to point of beginning. All in Section 5, Township 37 North, Range 37 E.W.M., in the County of Ferry, State of Washington.

PASSMORE (1): Lot 7 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264

CLENDENNEN (1): From the NE corner of NW¼NE¼ of Section 8, South 89°49'47" West 40 feet along north line of Section 8 to point of beginning. Thence South 0°34'52" East 662.47 feet. Thence South 89°52'45" West 328.77 feet. Thence North 0°34'52" West 662.18 feet. Thence North 89°49'47" East 328.77 feet, more or less, to the point of beginning.

IRRIGATION – seasonal irrigation of 17 acres (Legal Description):

KENT: A tract of land described as follows: Beginning at the quarter corner of Sections 5 and 8, Township 37 North, Range 37 E.W.M.; thence East 170 feet; thence North 990 feet; thence West 462 feet; thence Southwesterly 300 feet (58° Southwesterly) to the Matson Creek County Road as now established; thence South 858 feet, along said Matson Creek County Road, to a point 252 feet West of the point of beginning; thence East to point of beginning. All in Section 5, Township 37 North, Range 37 E.W.M., in the County of Ferry, State of Washington.

GARRICK: From marked ¼ corner stone between Sections 5 and 8, South 89°59'51" East 170 Feet. Thence North 0°28'36" East 800 feet, to point of beginning. Thence North 0°28'36" East 529.52 feet to north line of SW¼SE¼ of said Section 5; Thence South 89°59'30" East 1772.99 feet along said North line. Thence South 0°17'40" West 665.02 feet. Thence North 89°59'39" West 661.69 feet. Thence North 0°22'21" East 135.45 feet. Thence South 89°59' 30" West 1113.17 feet to point of beginning. Contains 23.62 acres, more or less.

CHURCHILL: From marked ¼ corner stone between Sections 5 and 8, South 89°59'51" East 170 feet along section line to point of beginning. Thence North 0°28'36" East 800 feet. Thence North 89°59'30" East 1113.17 feet. Thence South 0°22'21" West 800.20 feet to section line between Sections 5 and 8. Thence North 89°59'51" West 1114.62 feet to point of beginning. Contains 20.46 acres, more or less.

KENT, ANDERSON AND PASSMORE: Lots 1, 2, 3, 4, 5, 6 and 7 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264.

DESCRIPTION OF PROPOSED WORKS

Gravity fed surface water diversion, reservoir, distribution system

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
Started	April 1, 2010	April 1, 2015

Quantity Limits, Flow and Regulation:

This change authorizes one point of diversion from Matsen Creek in the amounts of 0.49 cubic feet per second and 64.5 acre-feet per year under Surface Water Certificate No. 520 (together with Certificate of Change Vol. II-3, PP. 34).

- **TOTAL DIVERSION = 0.49 cubic feet per second; 64.5 acre-feet per year and more specifically:**
 0.15 cubic feet per second; 7.5 acre-feet per year, continuously, for group domestic supply of eight (8) homes*
 (*In-house only for Lot Twenty (20) of BOYDS ACRE TRACTS – Williams property)
 0.06 cubic feet per second; 3 acre-feet per year, seasonally, for domestic supply of three (3) homes
 0.28 cubic feet per second; 54 acre-feet per year, seasonally, for the irrigation of 17 acres
- **Total amount authorized under existing rights for domestic supply (including Surface Water Certificate No. S3-26269C and Surface Water Certificate No. 520 together with Certificates of Change Vol. I-3, PP. 282 and 202) shall not exceed 0.21 cubic feet per second and 13.5 acre-feet per year (3 acre-feet per year are authorized under Surface Water Certificate No. S3-26269C and the remaining 10.5 acre-feet are authorized under this change).**
- **Total amount authorized under existing rights for irrigation (including Surface Water Certificate No. 520 together with Certificates of Change Vol. I-3, PP. 282 and 202) shall not exceed 0.28 cubic feet per second and 54 acre-feet per year, seasonally, for the irrigation of 17 acres.**
- **This Change Authorization for the irrigation portion (17 acres) supersedes that which was issued under Surface Water Certificate No. 520 together with Certificates of Change Vol. II-3, PP. 34, Vol. I-3, PP. 282 and 202 (20.5 acres).**
- **Domestic supply shall take priority over all irrigation use. In times of water shortage in Matsen Creek, all outside watering should cease or be reduced accordingly to assure adequate water for in-house domestic supply.**

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 Eastern Drinking Water Operations, 23403 E. Mission Avenue Suite 114, Liberty Lake, WA 99019, (509) 456-3115.

Department of Fish and Wildlife

This authorization is subject to Washington Department of Fish and Wildlife fish screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Fish screening criteria are attached to this Report of Examination. 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/hab/engineer/habeng.htm>

General Conditions:

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.

Use of water under this authorization shall 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.

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 wells or diversions and associated distribution systems for compliance with water law.

The water right holder shall file the notice of Proof of Appropriation of water (under which the superseding document 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 superseding document will reflect the extent of the project perfected within the limitations of the change authorization. Elements of the proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Measurements, Monitoring, Metering and Reporting:

An approved measuring device shall be installed and maintained for each of the sources identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use," Chapter 173-173 WAC. Water use data shall be recorded weekly and maintained by the property owner for a minimum of five years, and shall be promptly submitted to Ecology upon request.

The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".
<http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>

FINDINGS OF FACT AND ORDER

Upon reviewing the investigator's report, I find all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, I find the change of water right as recommended will not be detrimental to existing rights.

Therefore, I ORDER approval of the recommended change of a portion of the purpose of use and place of use under Surface Water Certificate No. 520 (together with Certificate of Change Vol. II-3, PP. 34), subject to existing rights and the provisions listed above.

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals & Application for Relief
Coordinator
PO Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals & Application for Relief
Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Keith L. Stoffel
Department of Ecology
Eastern Regional Office
4601 North Monroe Street
Spokane, WA 99205

Signed at Spokane, Washington, this day of 2009.

Keith L. Stoffel, Section Manager
Water Resources Program
Eastern Regional Office

INVESTIGATOR'S REPORT

BACKGROUND

An application for change/transfer was submitted by Larry L. and Donna M. Kent of Kettle Falls, Washington to the Department of Ecology on April 23, 2007. A previous application had been submitted by the applicants but was later withdrawn and replaced by this application. The applicant proposes to change a portion of the purpose of use and change the place of use as granted under Surface Water Certificate No. 520 (together with Certificate of Change Vol. II-3, PP. 34). The authorized point of diversion is from Matsen Creek, tributary of the Kettle River located within Government Lot 2 of Section 6, Township 37 N., Range 37 E.W.M. The applicants propose to change a portion of the purpose of use by reducing the place of use by 8 acres to be 0.28 cubic feet per second for the seasonal irrigation of 12.5 acres. The domestic supply is currently authorized under Surface Water Certificate No. 520 together with Certificates of Change Vol. I-3, PP. 282 and 202. The domestic supply after the proposed change would be 0.06 cubic feet per second for seasonal domestic supply and 0.15 cubic feet per second for continuous domestic supply to be within a portion of Sections 5 and 8, ALL WITHIN T. 37 N., R. 37 E.W.M.

A notice of application was duly published in accordance with RCW 90.03.280 in the Republic-News Miner on May 24 and May 31, 2007 and no protests were received.

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW.

Attributes of Surface Water Certificate No. 520 (Vol. II-3, PP. 34):

Recorded Name: Donna Kent
Priority Date: June 27, 1929
Instantaneous Quantity - QI: 0.49 cubic feet per second
Source: Matsen Creek
Point of Diversion: Government Lot 2, Sec. 6, T. 37 N., R. 37 E.W.M.
Purpose of Use: Irrigation of 20.5 acres
Period of Use: Seasonal
Place of Use: SEE Certificate of Change Vol. II-3, PP. 34

INVESTIGATION

History of Water Use

A field investigation was conducted by Gene Drury of the Water Resources Program on March 13, 2007. As noted above, a previous application had been submitted but was withdrawn. A corrected application was submitted after the examination. On this day, I met with Larry Kent and viewed the existing diversion, reservoir, homes currently using water, irrigated areas and proposed areas of water use. Water was being diverted from Matsen Creek at the authorized point of diversion and piped to a reservoir and then gravity fed downstream to the authorized place of use. The point of diversion is located in Government Lot 2 (NW¼NE¼) Sec. 6, T. 37 N., R. 37 E.W.M. From the Kent place, the diversion is approximately one mile up Matsen Creek Road, right on Mikalson Road - go about 0.1 mile and an access road is on your left. The reservoir (8' x 16' and 4' deep) is located next to the access road. A two foot high concrete dam and diversion box with plywood cover is located on the creek. The diversion is screened and approximately 0.50 to 0.75 cubic feet per second was bypassing the diversion on this day.. A four

inch pipe diverts the water downstream where it is used for domestic supply and irrigation of pasture, lawn and gardens. The pipe was completely submerged and diverting water on this day to the reservoir which was full and overflowing back to the creek.

There are currently six homes using water from this diversion, however only three homes are actually authorized to divert water from this point of diversion on Matsen Creek. The six homes currently using water are Larry and Donna Kent's home, Kent's rental property, and the Doney, Clendennen, Passmore and Williams homes. According to Mr. Kent, the Churchill and Garrick place each have a well for domestic water.

The existing three (3) homes which already have the water rights for domestic supply are:

- 1) "Kent" home property, 0.02 cfs - domestic supply (includes lawn and garden)
- 2) "Clendennen" property, 0.02 cfs - domestic supply (includes lawn and garden)
- 3) "Passmore" property, 0.02 cfs - domestic supply (includes lawn and garden)

GROUP DOMESTIC SUPPLY OF THREE (3) HOMES

The existing three homes that are authorized are located on the following property:

KENT (1): A tract of land described as follows: Beginning at the quarter corner of Sections 5 and 8, T. 37 N., R. 37 E.W.M.; thence East 170 feet; thence North 990 feet; thence West 462 feet; thence Southwesterly 300 feet (58° Southwesterly) to the Matsen Creek County Road as now established; thence South 858 feet, along said Matsen Creek County Road, to a point 252 feet West of the point of beginning; thence East to point of beginning. All in Section 5, T. 37 N., R. 37 E.W.M., in the County of Ferry and State of Washington

PASSMORE (1): Lots 7 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264

CLENDENNEN (1): From the NE corner of NW¼NE¼ of Sec. 8, S 89°49'47" W 40 feet along north line of Sec. 8 to point of beginning. Thence S 0°34'52" E 662.47 feet. Thence 89°52'45" W 328.77 feet. Thence N 0°34'52" W 662.18 feet. Thence N 89°49'47"E 328.77 feet, more or less, to the point of beginning.

Water is used on these lots for domestic supply, lawn and garden. Approximately 11 acres of pasture and grass are also irrigated on the Kent parcel. This was determined through the field visit and previous visits by Kevin Brown of this office. Aerial photographs of the area also confirmed the irrigation. Additional parcels are irrigated by Mr. Kent and the other homes using water to irrigate lawn and gardens with the exception of the Williams place. Williams uses water for in-house use only. The total irrigated area within the authorized place of use is around 20.5 acres. Wheel lines, handlines with impact sprinklers and two traveling guns are used to irrigate these areas.

Proposed Water Use

The Kents propose to give up some of their irrigated land and change the purpose of use to domestic supply and cover the existing water use. Five additional vacant lots could potentially receive domestic water from this Matsen Creek diversion bringing the domestic supply to a total of eleven (11) homes under this water right.

Under this application, the irrigated 20.5 acres is proposed to be reduced to irrigated 12.5 acres. The application proposes to change the seasonal irrigation of eight (8) acres to continuous domestic supply for eight (8) homes.

The original right did not allocate an annual acre-footage and there are no metered water use records to establish a quantity of water available for change. An estimate of water use will be derived based on the State of Washington Irrigation Guide (WA210-VI-WAIG, Amended November 1990). The Irrigation Guide states that 26.6 inches of water or 2.22 acre-feet per acre per year of water is required for pasture in this area. Using a 70% efficiency rate, water applied to pasture land would be calculated at 3.17 acre-feet per acre. For 8 acres, the consumptive quantity would be approximately 17.76 acre-feet (8 acres x 2.22 acre-feet). Therefore, 17.76 acre-feet is available for change to domestic supply however, this entire amount is not needed for domestic supply. Using these calculations, ceasing the irrigation of about 3.5 acres of land on the Kent property would equate to about 7.77 acre-feet per year. This amount would be sufficient to supply water for the 8 homes including lawn and garden irrigation with the exception of the "Williams" place. Williams uses water for in-house domestic supply only. One acre-foot per home will be allowed for seven homes located on Lots 1-6 and the Doney place. An additional 0.50 acre-foot will be allowed for the Williams place for in-house use only. Therefore, only 3.5 acres will be required to be changed to domestic supply. This would leave 17 acres available for irrigation under this water right.

Approximately 0.15 cubic feet per second has been requested by Mr. Kent to serve the proposed 8 lots. The calculated 7.5 acre-feet will be sufficient for domestic supply for these eight homes. This quantity has been diverted from Matsen Creek for irrigation. The 8 lots and associated quantities are to be as follows:

GROUP DOMESTIC SUPPLY OF EIGHT (8) HOMES

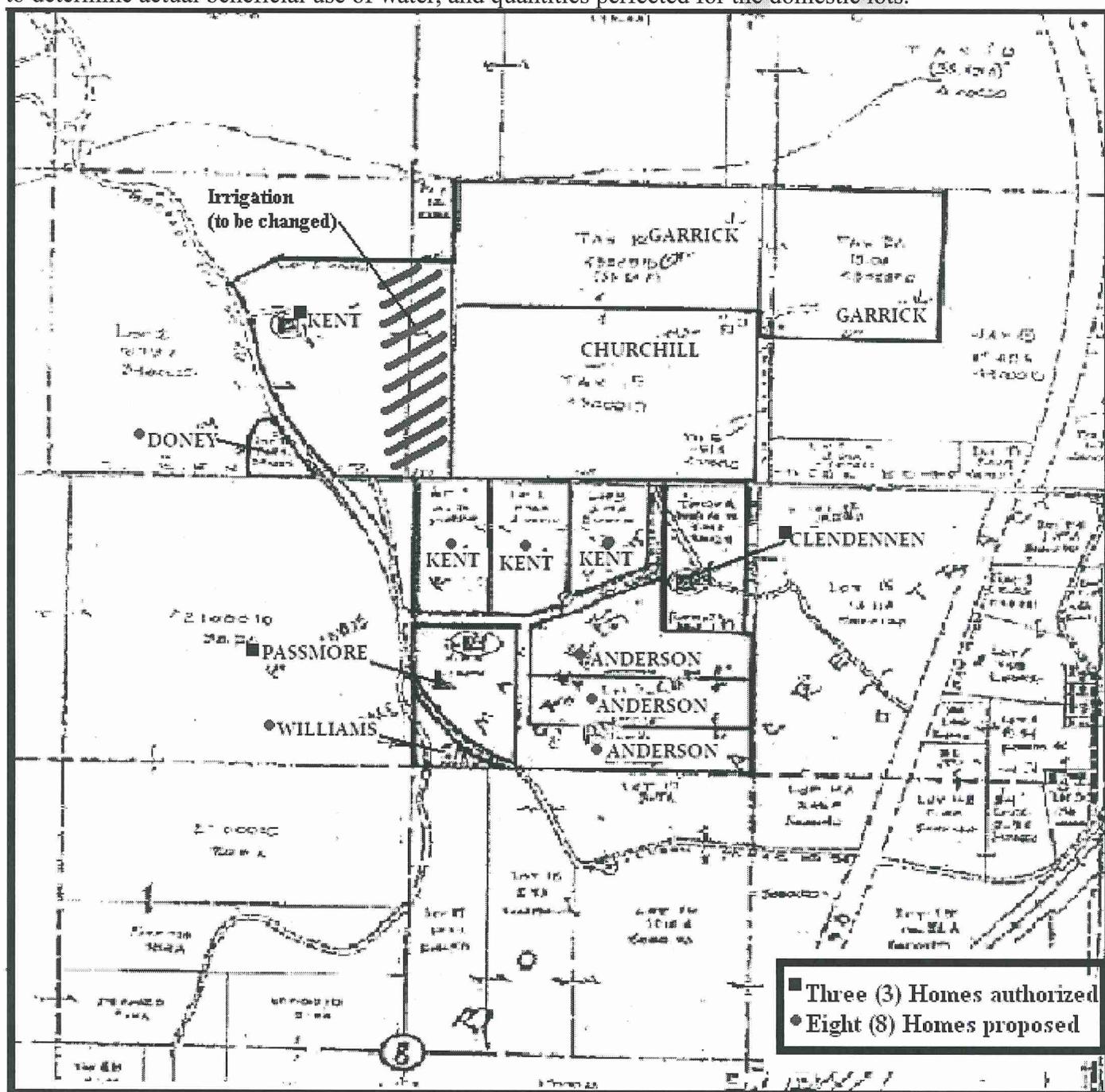
The proposed eight (8) homes to use water in the amount of 0.15 cubic feet per second are identified as follows:

- 1) Lot 1, Kent - vacant, 0.02 cfs - domestic supply (includes lawn and garden)
- 2) Lot 2, Kent - vacant, 0.02 cfs - domestic supply (includes lawn and garden)
- 3) Lot 3, Kent - home built 2006 (renter), 0.02 cfs - domestic supply (includes lawn and garden)
- 4) Lot 4, Anderson - vacant, 0.02 cfs - domestic supply (includes lawn and garden)
- 5) Lot 5, Anderson - vacant, 0.02 cfs - domestic supply (includes lawn and garden)
- 6) Lot 6, Anderson - vacant, 0.02 cfs - domestic supply (includes lawn and garden)
- 7) "Doney" place located in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 5 - west of road, 0.02 cfs - domestic supply (includes lawn and garden)
- 8) "Williams" place located in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 8 - west of road, 0.01 cfs (in-house domestic water use only)

Note: The "Garrick" place and "Churchill" place (formerly "Merrit") will not receive water under this change proposal. No in-house water will be allowed for these two lots from Matsen Creek under this change. These two lots have separate domestic exempt wells. A portion of the irrigation right includes these two lots.

Therefore, after the proposed change, a total of eleven (11) lots will receive domestic water from Matsen Creek under Surface Water Certificate No. 520 (8 new, 3 existing for seasonal use only).

This change will be provisioned so that if there is insufficient water for all uses, outside watering for the 8 lots shall cease or be reduced accordingly. The Certificate will not issue until a final Proof Examination is conducted to determine actual beneficial use of water, and quantities perfected for the domestic lots.



LEGAL DESCRIPTION OF EIGHT (8) HOMES:

The legal description for the eight homes to receive water under this change are identified as follows:

KENT (3): Lots 1, 2 and 3 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264

ANDERSON (3): Lots 4, 5 and 6 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264

DONEY (1): That part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and West 170 feet of the South 990 feet of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 5, Township 37, North, Range 37 E.W.M., in Ferry County, Washington, described as follows: Commencing at the Southwest corner of said SE $\frac{1}{4}$ of the SW $\frac{1}{4}$; thence along the South line thereof North 88°04'14" East, 689.5 feet to the point of beginning for this description; thence leaving said South line North 3°10'48" West 142.05 feet; thence North 12°26'58" East 202.17 feet; thence North 71°59'53" East 137.88 feet to the centerline of Matsen Creek County Road No. 480; thence along said centerline Southeasterly 418.87 feet to the South line of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 5; thence leaving said County Road centerline and along said South line South 88° 04'14" West, 361.93 feet to the point of beginning

WILLIAMS (1): That portion of Lot Twenty (20) of BOYDS ACRE TRACTS as per Plat Volume 1, Page 71, records of Ferry County, lying and being South and West of the Matsen Creek County Road No. 480, as located in September 1966. Said Lot 20 also having been described as the South half of the Northwest quarter of the Northeast quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 8, Township 37 North, Range 37 E.W.M. Situated in the County of Ferry, State of Washington

IRRIGATION - legal description of 3.5 acres (to be discontinued)

As explained above, the Kents will only need to cease irrigation of 3.5 acres located on their parcel (see "Kent" legal description below) and change the use to domestic supply. They will retain approximately 7.5 acres of irrigation on the west part of the property. The remaining irrigated 9.5 acres under this water right is located on the other parcels. The Kent property is described as follows:

KENT property (legal description):

A tract of land located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 5, T. 37 N., R. 37 E.W.M., more particularly described as follows: Beginning at the quarter corner of Sections 5 and 8, T. 37 N., R. 37 E.W.M., thence east 170 feet; thence north 990 feet; thence west 462 feet; thence southwesterly 300 feet (58° southwesterly) to the Matsen County Road as established and in use April 12, 1968; thence South 858 feet along said Matsen County Road, to a point of beginning; thence east to the point of beginning.

IRRIGATION - legal description for remaining 17 acres

This water right was for a total of 20.5 acres of irrigation. After the proposed change to cease irrigation of 3.5 acres, the remaining irrigation portion for 17 acres will be within the following lands in the amounts of 0.28 cubic feet per second and 54 acre-feet per year as calculated as the quantity beneficially used and required for the 17 acres. The 17 acres to remain irrigated is located on the following lands:

KENT: A tract of land described as follows: Beginning at the quarter corner of Sections 5 and 8, T. 37 N., R. 37 E.W.M.; thence East 170 feet; thence North 990 feet; thence West 462 feet; thence Southwesterly 300 feet (58° Southwesterly) to the Matson County Road as now established; thence S 858 feet, along said Matson County Road, to a point 252 feet West of the point of beginning; thence East to point of beginning. All in Section 5, T. 37 N., R. 37 E.W.M., in the County of Ferry and State of Washington

GARRICK: From marked $\frac{1}{4}$ corner stone between Sections 5 and 8, S 89°59'51" E 170 Feet. Thence N 0°28'36" E 800 feet, to point of beginning. Thence N 0°28'36" E 529.52 feet to north line of SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 5; Thence S 89°59'30" E 1772.99 feet along said North line. Thence S 0°17'40" W 665.02 feet. Thence N 89°59'39" W 661.69 feet. Thence N 0°22'21" E 135.45 feet. Thence S. 89°59' 30" W 1113.17 feet to point of beginning. Contains 23.62 acres, more or less.

CHURCHILL: From marked $\frac{1}{4}$ corner stone between Sections 5 and 8, S 89°59'51" E 170 feet along section line to point of beginning. Thence N 0°28'36" E 800 feet. Thence N 89°59'30" E 1113.17 feet. Thence S 0°22'21" W 800.20 feet to section line between Sections 5 and 8. Thence N 89°59'51" W 1114.62 feet to point of beginning. Contains 20.46 acres, more or less.

KENT, ANDERSON and PASSMORE: Lots 1, 2, 3, 4, 5, 6 and 7 of Matsen Creek Subdivision, No. 84-059, Auditor No. 197264.

Hydrologic/Hydrogeologic Evaluation

Matsen Creek is a perennial tributary of the Kettle River and within Water Resource Inventory Area (WRIA) 60. The headwaters of Matsen Creek begin in the Thompson Ridge area of Sections 35 and 36, T. 38 N., R. 36 E.W.M. The creek flows east just over four miles to the mouth where it enters the Kettle River in the NE $\frac{1}{4}$ of Sec. 5, T. 37 N., R. 37 E.W.M.

Other Rights Appurtenant to the Place of Use

A search was conducted for existing water rights, permits, applications and claims from Matsen Creek at or downstream of the existing point of diversion. The following water rights and claims were found to be recorded from Matsen Creek:

Matsen Creek Recorded Water Rights/Claims

<i>File #</i>	<i>Name</i>	<i>Doc</i>	<i>Priority Date</i>	<i>Purpose</i>	<i>CFS</i>	<i>Ir Acres</i>	<i>TRS ¼¼ Location</i>
CL #138017(Cert Chg #1-3-281)	Kent G.H. and Reid J.R.	CertChg	CL 1905	ST,IR			37.0N 37.0E 05
SWC #520 (Cert Chg #1-3-282)	Kent G	CertChg	6/27/1929	IR,DM	0.41	41	37.0N 37.0E 05
SWC #520 (Cert Chg #202)	Matsen Mats	CertChg	6/27/1929				37.0N 37.0E 06
SWC #520	Pearson D	Cert	6/27/1929	IR,DS	0.9	44	37.0N 37.0E 05
SWC #2636	Roots T	Cert	11/22/1938	PO	0.3		37.0N 37.0E 05
Cert Chg #725	Schusted Larry	CertChg	9/10/1962				37.0N 37.0E 06
S3-26269C	Kent G H ET AL	Cert	6/11/1979	DM	0.06		37.0N 37.0E 06
S3-27971C	Kisman M L and J L	Cert	2/27/1985	DS	0.02		37.0N 37.0E 06
CL #072841	McKern Dennis M.	Claim S	Not Listed	ST,IR			37.0N 37.0E 05

The existing point of diversion used by Kent is the most senior on Matsen Creek at this location. The existing water rights which authorize the irrigation and the three homes of Kent, Clendennen and Passmore are recorded under Surface Water Certificate Nos. S3-26269C and Surface Water Certificate No. 520 (together with Certificates of Change Vol. I-3, PP. 282 and 202). Through this investigation there were no water rights found that would be affected by this proposed change. No additional water will be authorized to be diverted under this change. The applicant will give up irrigation use for some additional domestic supply. Due to the fact that some of the above referenced water rights overlap the proposed place of use for domestic supply and irrigation, this change authorization will need to be provisioned as follows:

DOMESTIC SUPPLY provision:

The total amount authorized under existing rights for domestic supply (including Surface Water Certificate No. S3-26269C and Surface Water Certificate No. 520 together with Certificates of Change Vol. I-3, PP. 282 and 202) shall not exceed 0.21 cubic feet per second and 13.5 acre-feet per year (3 acre-feet per year are authorized under Surface Water Certificate No. S3-26269C and the remaining 10.5 acre-feet are authorized under this change).

IRRIGATION provision:

The total amount authorized under existing rights for irrigation (including Surface Water Certificate No. 520 together with Certificates of Change Vol. I-3, PP. 282 and 202) shall not exceed 0.28 cubic feet per second and 54 acre-feet per year, seasonally, for the irrigation of 17 acres.

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.

No additional water is proposed to be diverted under this application. Only the consumptive portion is being changed to the new purpose of use, domestic supply. The majority of the water which was used during the summer period and times of low flow for irrigation will now be spread out throughout the entire year. Water use will be required to be metered to assure water used is within the authorized limits. As long as all conditions are met, this change will have no negative impacts on existing water rights or stream flows.

CONCLUSIONS

It is the conclusion of this examiner that, in accordance with Chapters 90.03 RCW, this application to change a portion of the purpose of use under Surface Water Certificate No. 520 (together with Certificate of Change Vol. II-3, PP. 34) will not enlarge the quantity of water historically authorized, nor will it impair existing rights provided the terms and conditions below are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request to change a portion of the purpose of use under Surface Water Certificate No. 520 (together with Certificate of Change Vol. II-3, PP. 34) be approved in the amounts and within the limitations listed below and subject to the provisions beginning on Page 2.

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:

- **TOTAL DIVERSION = 0.49 cubic feet per second; 64.5 acre-feet per year and more specifically:**
 0.15 cubic feet per second; 7.5 acre-feet per year, continuously, for group domestic supply of eight (8) homes
 (In-house water use only for Lot Twenty (20) of BOYDS ACRE TRACTS - Williams)
 0.06 cubic feet per second; 3 acre-feet per year, seasonally, for domestic supply of three (3) homes
 0.28 cubic feet per second; 54 acre-feet per year, seasonally, for the irrigation of 17 acres

Point of Diversion

Matsen Creek, tributary of Kettle River
 Government Lot 2 (NW¼NE¼) in Section 6, Township 37 North, Range 37 E.W.M.

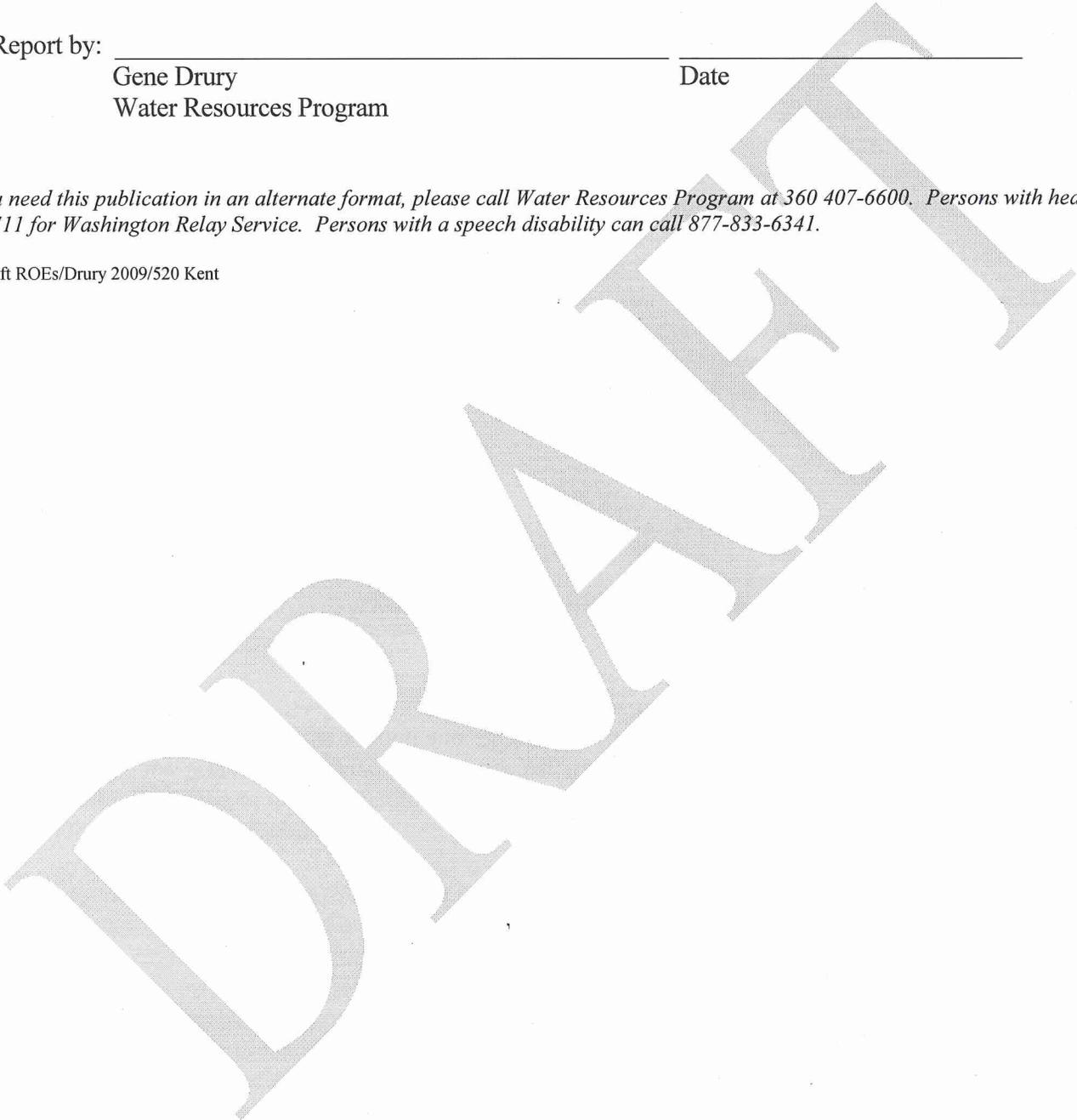
Place of Use

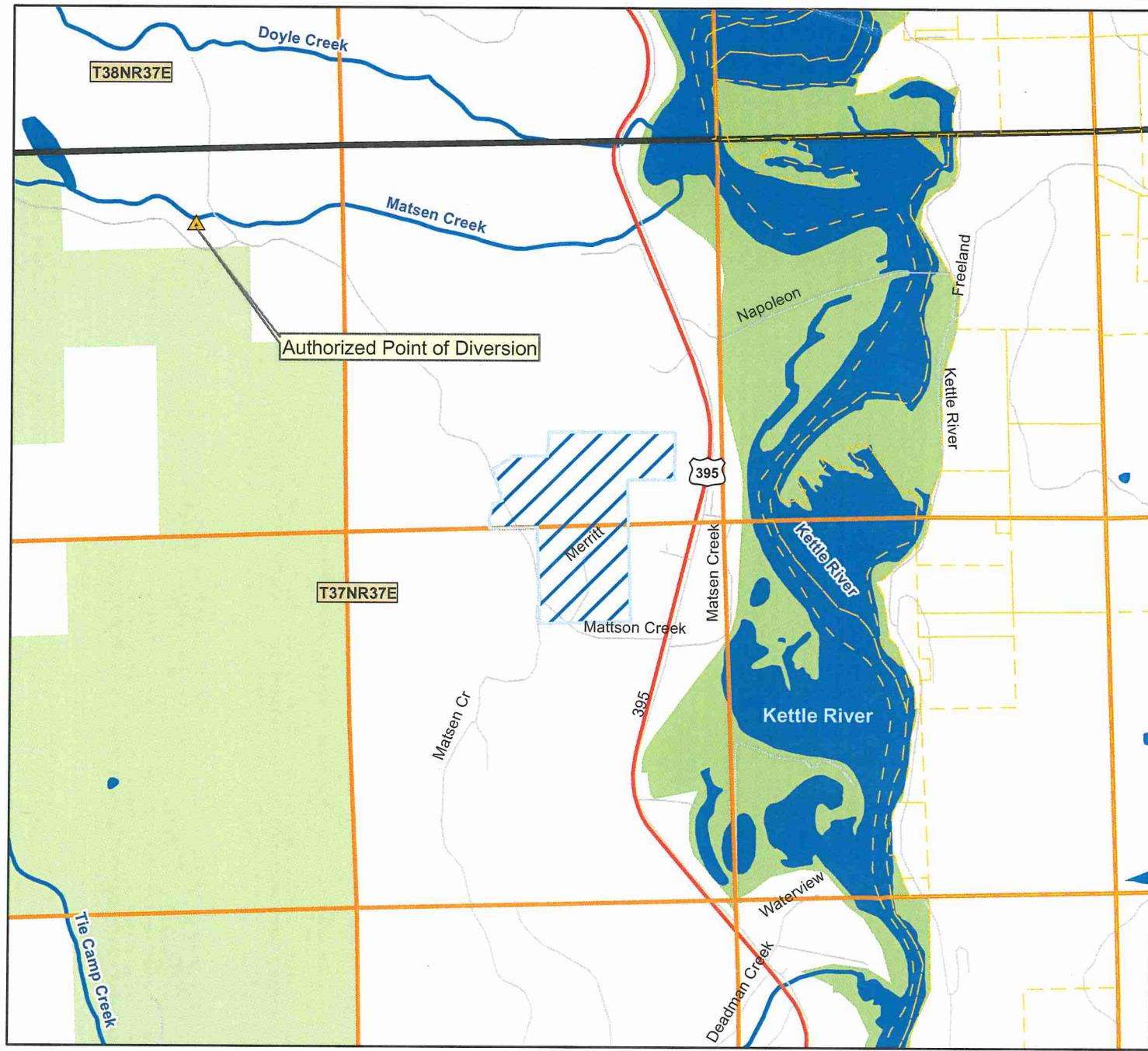
As described on Page 1 of this Report of Examination.

Report by: _____ Date _____
 Gene Drury
 Water Resources Program

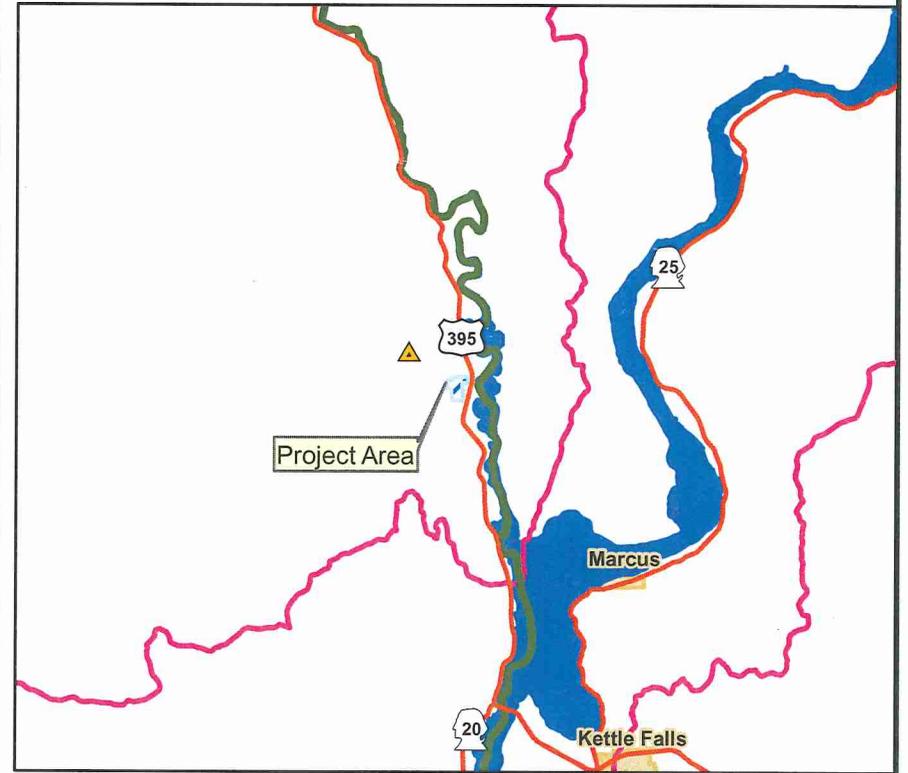
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W/Draft ROEs/Drury 2009/520 Kent





Larry L. & Donna M Kent
 Certificate No. 520 (Chg. Vol. II-3, PP. 34)
 Sec. 6, T 37N, R 37E.W.M.
 WRIA 60 - Ferry County



Legend

- County
- WRIA
- cities
- Local Roads
- Townships
- Sections
- Parcels
- Authorized Point of Diversion
- Authorized Place of Use

Comments:
 Place of Use, points of withdrawal/diversions are as defined on the cover sheet under the heading, 'LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED.'