State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

DEPARTMENT OF ECOLOGY
State of Washington

Changed Place of Use
Changed Point of Withdrawal

PRIORITY DATE	WATER RIGHT NUMBER
May 17, 1977	G3-25373(A)

MAILING ADDRESS	SITE ADDRESS (IF DIFFERENT)
DRAGOON LAKE, LLC & SHORT ROAD DP 8908 N. KENSINGTON DRIVE SPOKANE WA 99208	

Total Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
128.25	GPM	100.32

Purpose

PURPOSE	WITHDRAWAL RATE ADDITIVE	WITHDRAWAL RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Agricultural irrigation of 45.68 acres	128.25		GPM	100.32		04/01 - 10/1

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Spokane	GROUNDWATER		55-LITTLE SPOKANE

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well 1	29341.9052	BIO136	29 N.	42 E.	34	SE¼NE¼	47.9703175	117.4806255
Well 2	293419057	BIO139	29 N.	42 E.	34	NE¼NE¼	47.9745357	117.4839513
Well 3	29341.9052	TBD	29 N.	42 E.	34	SE¼NE¼	TBD	TBD

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)
29341.9057, 29341.9052

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
Beginning at the NE corner Section 34, Township 29 North, Range 42 East Willamette Meridian; thence west along the north line of section 34, S87-38-28W 719.095 feet to the point of beginning for this legal description; thence S87-38-28W 1,064.342 feet; thence S2-20-8E 1,398.759 feet; thence N87-51-7E 206.435 feet; thence S14-42-6E 1,279.473 feet; thence N88-2-34E 376.265 feet; thence N17-30-55E 19.106 feet; thence N17-30-58E 450.19 feet; thence N17-30-58E 425.671 feet; thence N87-35-38E 116.452 feet; thence N87-35-38E 387.521 feet; thence N87-35-40E 6.214 feet; thence N0-10-41E 285.85 feet; thence N0-10-41E 195.543 feet; thence S87-50-52W 499.004 feet; thence S87-39-52W 128.576 feet; thence N2-20-8W 1,326.836 to the point of beginning for this legal description.

Proposed Works

3 wells, wheel lines and drip and micro irrigation

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	November 1, 2017	November 1, 2018

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 (gpm)

Provisions

This authorization relating to irrigation is classified as a Family Farm Permit in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm – a geographic area including not more than 6,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 6,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to this definition of a family farm.

This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations."

Wells, Well Logs and Well Construction Standards

All wells constructed in the state must meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water

Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard must be decommissioned.

All wells must be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag must remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

Measurements, Monitoring, Metering and Reporting
An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Water Use Efficiency
The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation
The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include contracting with a Certified Water Rights Examiner to confirm the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections
Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Real Estate Excise Tax
This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: http://dor.wa.gov/. E-mail: REETSP@DOR.WA.GOV.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that a valid water right exists; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. CG3-25373(A)@2, 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 day of 2015.

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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

An application for change/transfer was submitted on March 24, 2014. The applicant proposed to change the point of withdrawal, place of use, and add purposes of use to Ground Water Certificate G3-25373(A). The applicant has withdrawn the request to add purposes of use to this change request.

A notice of application was duly published in accordance with RCW 90.03.280 in the Deer Park Tribune (Spokane County) and the Chewelah Independent (Stevens County) on July 23 and 30, 2014 and no protests were received. The notice contained an error and was republished on May 6 and 13, 2015 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 Ground Water Certificate G3-25373(A)

Recorded Name:	PUD No.1 of Stevens County
Priority Date:	May 17, 1977
Instantaneous Quantity – Q(i):	128.25 gallons per minute
Annual Quantity – Q(a):	100.32 acre-feet per year
Source:	A well
Point(s) of withdrawal:	SE¼SW¼ of Sec. 20, T. 29 N., R. 42 E.W.M.
Purpose of Use:	Agricultural irrigation of 45.68 acres

INVESTIGATION

Certificate G3-25373(A) authorized the use of 128.25 gallons per minute, 100.32 acre-feet per year for agricultural irrigation of 45.68 acres. The authorized well is located as described. This right was evaluated in a previous water right change application conducted by the Stevens County Water Conservancy Board in 2013. The original right was split and a portion of the right was transferred to supply water for the Town of Clayton to be administered by the Stevens County PUD No. 1. The above described portion of the original water right was split under the conservancy board decision and remained in agricultural irrigation. This portion of the right was then donated into a Temporary Trust. The right was accepted into the trust in January of 2014. The right was withdrawn from Trust Donation in March of 2014 upon filing a Seasonal Change Application to temporarily transfer this right to the applicant. Seasonal Change Applications were filed for 2014 and 2015 and approved.

The PUD allowed for the seasonal transfer of this irrigation right to Dragoon Creek LLC for the 2014 and 2015 irrigation season. The applicant requested a permanent change to his lands. The PUD signed the application for change. The actual ownership of this right is the PUD No. 1 of Stevens County. They have allowed the applicant to file the application and exercise the right in this new place under a lease agreement.

The existing well is located in the SE¼SW¼ of Section 20, T. 29 N., R. 42 E.W.M. The original well is described as constructed to a depth of 190 feet.

One of the proposed wells is a 6 inch well that was constructed in the SE¼NE¼ of Section 34. This well serves the residence, stockwater and irrigation of the green houses on parcel 29341.9052. This well replaced the old domestic well. The old house is in the process of being refurbished. This replacement well will be used for domestic supply, stockwater and non-commercial lawn and garden under RCW 90.44.050 and agricultural irrigation under this authorization to irrigate the green houses and gardens.

An eight inch well was constructed in the NE¼NE¼ of Section 34. This well will be the primary irrigation well for the wheel lines. The wheel lines and mainline were in the construction phase in the summer of 2015.

The proposed third well is not yet constructed.

Rights Appurtenant to the current Place of Use

There do not appear to be any valid water right documents associated with the lands subject to this authorization.

Evaluation of the Water Right and Beneficial Use Analysis:

The Washington State Supreme Court, in Okanogan Wilderness v. Town of Twisp and Department of Ecology, 133 Wn.2d 769, 947 P.2d 732 (1997), found that applications for change may be granted only to the extent the water has been historically put to beneficial use, as beneficial use determines the measure of a water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been lost for non-use before the Department can approve a change or transfer of the water right.

Ground Water Certificate G3-25373(A) was evaluated in the 2013 under the conservancy board decision. The evaluation was accepted as evidence of a valid right.

Based on the analysis conducted by the conservancy board in December of 2013, 128.25 gallons per minute, 100.32 acre-feet per year for the irrigation of 45.68 acres appears to be valid for the purposes of this change request. Full use of the water did not occur in 2014 or 2015 under the seasonal change authorizations.

Hydrologic/Hydrogeologic Evaluation

Applications for change/transfer of water right permits and certificates are governed by RCW 90.44.100, which states in part that: the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued by the Department only on the conditions that: (1) the additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate;

and (4) other existing rights shall not be impaired. The Department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment.

The applicant proposes to change the point of withdrawal and place of use of G3-25373(A). The original point of withdrawal is a 275' deep well drilled in 1979 in the SE¼SW¼ of Section 20, T. 29 N., R. 42 E.W.M. This well drilled through unconsolidated sediments to a depth of 89' and then into basalt. The well drilled out of the basalt at 150' and into various clays and salt and pepper sands to its total depth. They gravel packed off most of the sedimentary beds below the basalt because of heaving (275' to 194'). They installed 58' of casing and a 20' surface seal. The static water level was reported at 10'. The well air-tested 300 gpm.

The proposed points of withdrawal are three wells to be located in the E½NE¼ of Section 34, T. 29 N., R. 42 E.W.M. Two of these wells are already constructed. One is a 6" hole drilled to 285' in 1977. It drilled through unconsolidated sediments to a depth of 89' and then into basalt. It drilled out of basalt at 191' and into clay and heaving sands at total depth. It was completed back at 270' to avoid the heaving sands. It has 90.5' of 6" casing and an 18' surface seal. The static water level was reported at 41'. It tested 9 gpm. The second existing well is an 8" hole drilled to 165' in 1978. It drilled through 69' of unconsolidated material and into basalt to its total depth. The well produces 35 to 40 gpm from multiple horizons within the basalt sequence. It has 69' of casing and an 18' surface seal. Its static water level was reported at 30'. The third point of withdrawal has not been drilled. The original and two existing new points of withdrawal are all completed in the basalt aquifer (and weathered bedrock below the basalt formation). As such they are all producing from the same body of public groundwater. The proposed third well will need to be completed in the basalt and/or weathered bedrock below the basalt sequence that is known to exist in this area.

Existing Rights

Certificate G3-25216 confirmed a right of 1700 gallons per minute, 1048.3 acre-feet per year for irrigation of 267 acres. The right is located north of the applicant proposed place of use in the east half of Section 27. The well(S) are located near the E¼ corner of Section 27 approximately ½ mile to the north.

Multiple exempt wells are constructed in the area, ranging from 20 feet to 260 feet in depth.

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 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.

There may be seasonal fluctuation in the water table at this location. These potential seasonal fluctuations are not considered to be impairment. The proposed well location change and change in place of use will not impair existing water rights.

The proposed change to change the point of withdrawal and place of use will not enlarge the quantity of water identified above. The proposed well is required to be constructed into the same body of public ground water.

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

CONCLUSIONS

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, a valid right exists. This application for change to change the point of withdrawal and change the place of use will not enlarge the quantity of water identified, nor will it impair existing rights or be detrimental to the public welfare provided the terms and conditions are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to Ground Water Certificate G3-25373(A) be approved in the amounts and within the limitations listed below and subject to the provisions.

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:

- 128.25 gpm
- 100.32 acre-feet per year
- Agricultural irrigation of 45.68 acres

Points of Withdrawal

- E½NE¼ of Section 34, T. 29 N., R. 42 E.W.M.

Place of Use

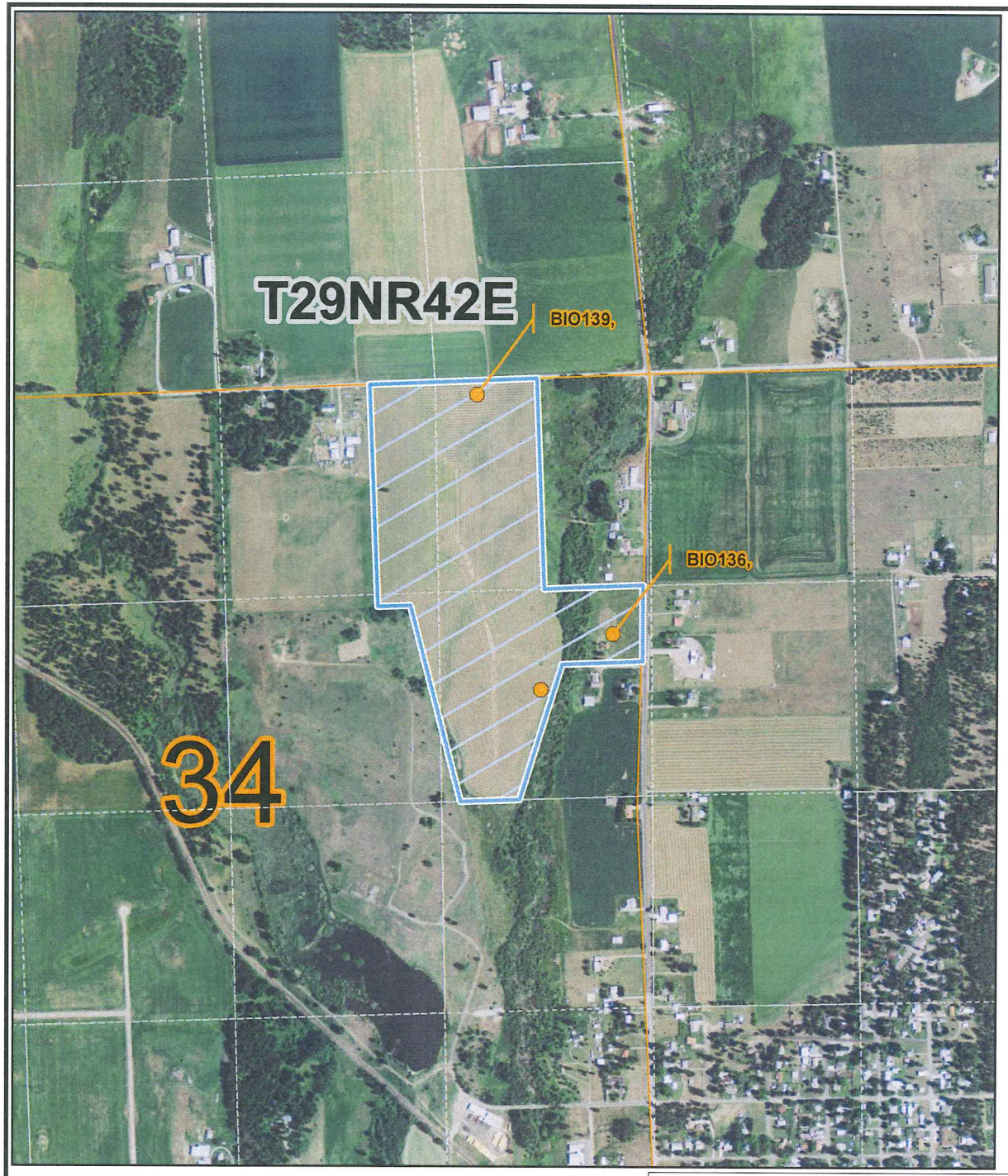
Beginning at the NE corner section 34, Township 29 North, Range 42 East Willamette Meridian; thence west along the north line of section 34, S87-38-28W 719.095 feet to the point of beginning for this legal description; thence S87-38-28W 1,064.342 feet; thence S2-20-8E 1,398.759 feet; thence N87-51-7E 206.435 feet; thence S14-42-6E 1,279.473 feet; thence N88-2-34E 376.265 feet; thence N17-30-55E 19.106 feet; thence N17-30-58E 450.19 feet; thence N17-30-58E 425.671 feet; thence N87-35-38E 116.452 feet; thence N87-35-38E 387.521 feet; thence N87-35-40E 6.214 feet; thence N0-10-41E 285.85 feet; thence N0-10-41E 195.543 feet; thence S87-50-52W 499.004 feet; thence S87-39-52W 128.576 feet; thence N2-20-8W 1,326.836 to the point of beginning for this legal description.

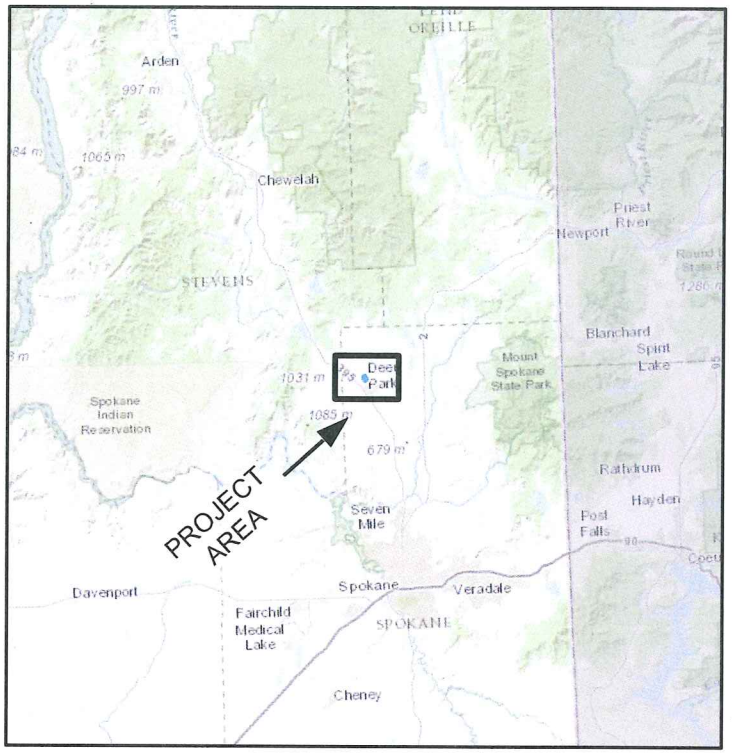
Report by: _____ _____

Kevin Brown
Water Resources Program

Date

Dragoon Lake, LLC & Short Road DP
G3-25373(A)
T29N/R42E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Withdrawal

Authorized Point of Diversion

(Source locations may vary in their accuracy and precision as stated within the body of the report.)

Feet
0 660 1,320 2,640

Basemap - (NAIP 2013 1m color)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 12/15/2015

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