State of Washington
REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Changed Point of Withdrawal

PRIORITY DATE	WATER RIGHT NUMBER
May 19, 1986	G3-28166

MAILING ADDRESS
SUNRISE WATER ASSOCIATION
C/O KIRK WILSON
7010 BELLEVUE STREET SE
OTHELLO, WA 98501

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
300	GPM	57.1

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)
Municipal Water Supply Purposes		300	GPM	57.1		01/01 - 12/31

PUBLIC WATER SYSTEM INFORMATION

WATER SYSTEM ID	CONNECTIONS
16177	128

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
GRANT	GROUNDWATER		41-LOWER CRAB

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Proposed well	07133011		17 N.	28 E.	18	SE¼SE¼ or NE¼SE¼	TBD	TBD

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

All lots within Marine View Heights per plat recorded in Vol. 10 of Plats Pages 66, 67, 68 records of Grant Co, Washington except Lots 1-22 Phase I and Lots 7-10 Phase II supplied by G3-25110, all within the S½ of Farm Unit 48, Block 80, Columbia Basin Project, Section 17 and 18 T. 17 N., R. 28 E.W.M.

Proposed Works

New well, storage and municipal water system

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
April 1, 2016	March 1, 2017	March 1, 2020

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

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.

The original well shall be decommissioned in accordance with RCW 18.104 and WAC 173-160.

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.

Department of Health Requirements
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.

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.

These lands lie within the Columbia Basin Project. Should contracts or water rights be issued from the Project that include lands developed under this authorization, these lands will be subject to RCW 90.44.510.

If water from facilities of any legally formed irrigation district or contracts with the USBR is used on any or all of the lands described for irrigation and developed herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduced to correspond to the acreage for which district water is not available.

RCW 90.44.510 confirms that should water be supplied to these lands and replaced with Columbia Basin Project Water, the permit or certificate, or portion thereof shall be designated as a standby or reserve water right. The total number of acres irrigated must not exceed the quantity of water authorized by the Bureau of Reclamation (USBR) and the authorized number of acres under the permit.

This authorization is expressly subject to WAC 173-134A-080(1) and WAC 173-134A- 070.

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 Right Examiner (CWRE) 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; the proposed well is in the same body of groundwater; 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. CG3-28166, 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 25th day of June, 2015.

Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: http://www.eho.wa.gov. To find laws and agency rules visit the Washington State Legislature Website: http://www1.leg.wa.gov/CodeReviser.

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CG3-28166C. An application for change/transfer was submitted by the Sunrise Water Association, to the Department of Ecology, Water Resources Program on January 15, 2015. The applicant proposes to change the point of withdrawal.

Ground Water Certificate G3-28166C documents a groundwater right from a well for a maximum of 300 gallons per minute (non-additive), 155 acre-feet per year (additive) for continuous group domestic supply for 170 mobile home sites. In addition to this right, Water Right Certificate G3-25110 was issued to allow the withdrawal of water from the same well for a maximum of 300 gallons per minute, 22.4 acre-feet per year for group domestic supply for 26 lots. Both of these rights are exercised by the Sunrise Water Association to provide water service for the Marine View Heights. A separate application for change was filed for Water Right Certificate G3-25110 and will be addressed in a separate decision.

The Department of Health requested that Ecology expedite processing of these applications in order to address health and safety concerns for the existing Sunrise Water Association system, which is identified as Public Water System #16177. The applications will allow the applicant to construct a new source well for the water system. The original well was constructed in 1980. The well pump was pulled in December of 2014. A video of the well found the well in poor condition and a portion of the well collapsed during pump removal. The well was flushed and re-videoed a second time. The debris was removed, but the production of the well was significantly diminished, which resulted in the need to truck water in for the system. The Department of Health confirmed the source well does not produce sufficient capacity for the water system. The Department of Health confirmed this is the only source well for the system and that the need to replace this failing well constitutes a public health emergency. Expedited processing was approved by Keith Stoffel, Section Manager for the Water Resources Program, on January 23, 2015.

This application is being considered for priority processing under WAC 173-152-050 as a public health and safety priority.

A Temporary Permit Authorization was issued February 19, 2015 authorizing the association to begin construction of the well. The well construction and piping would require construction underneath the USBR/District irrigation canals. Construction is only authorized during non-irrigation periods unless other arrangements are made with the district and the USBR. In light of this, the Temporary Authorization was approved to allow the association to pursue the necessary permits and authorizations to begin the needed construction.

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 Columbia Basin Herald on February 13 and 20, 2015 and no protests were received.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

(a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
(b) It is a groundwater right application for more than 2,250 gallons per minute;
(c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
(d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
(e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.44.100 allows Ecology to amend a groundwater right to (1) allow the user to construct a replacement or additional well at a new location outside of the location of the original well, if:

(a) The additional or replacement well taps the same body of public ground water as the original well. RCW 90.44.100(2)(a),
(b) Where a replacement well is approved, the user must discontinue use of the original well and properly decommission the original well. RCW 90.44.100(2)(b),
(c) Where an additional well is constructed, the user may continue to use the original well, but the combined total withdrawal from all wells shall not enlarge the right conveyed by the original permit or certificate. RCW 90.44.100(2)(c),
(d) Other existing rights shall not be impaired. RCW 90.44.100(2)(d),
(e) The change will not be detrimental to the public welfare (RCW 90.44.100(2) ("findings as prescribed in the case of an original application" are required).

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of the extent and validity of the right. This is necessary to establish whether the right is eligible for change. *R .D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp.* Thus, in reviewing the subject water right change application, Ecology must first determine the extent and validity of the water right that is eligible for change. Then, Ecology must determine whether the requested change would cause impairment of other existing water rights or be detrimental to the public welfare.

RCW 90.03.386(3) requires a municipal water supplier to apply cost-effective water conservation measures as part of its water system planning. The water supplier must also evaluate the effects of delaying the use of inchoate water rights before it may increase use of those inchoate rights. RCW

90.03.320 requires Ecology to consider the public water supplier's use of conserved water when establishing a surface or ground water right construction schedule.

This right meets the definition of a water right for municipal water supply purposes under RCW 90.03.015(4)(a) because it is being exercised to serve residential purposes through 15 or more residential service connections. When a water right qualifies as being a right for municipal supply purposes, RCW 90.03.560 requires the department to amend the water right document and related records to reflect the purpose of use as municipal water supply purposes when processing an application for change or amendment of the water right. Accordingly, the purpose of use of this right is amended to state that it is for be Municipal Water Supply Purposes.

Tentative Determination of Extent and Validity of Certificate No. G3-25110 and G3-28166

Ground Water Application G3-25110 was filed November 15, 1976 requesting a permit for 300 gallons per minute, 180 acre-feet per year for group domestic supply of 200 mobile homes within the S½ of Farm Unit 48, Block 80. Upon Proof of Appropriation in 1982, the permit was reduced to 300 gallons per minute, 22.4 acre-feet for group domestic supply for 26 lots within Marine View Heights. Ground Water Application G3-28166 was filed May 19, 1986 requesting a permit for 300 gallons per minute (non-additive), 155 acre-feet (additive) for group domestic supply of 170 additional mobile home sites within Marine View Heights. This right was issued subject to the reservation of water under WAC 173-134A-080. Upon Proof of Appropriation in 1988, pipes had been installed to the lots and a Certificate was recommended under the pumps and pipes analysis for 300 gallons per minute, 155 acre-feet per year for 170 mobile home sites. Certificate No. G3-28166 is a so-called "pumps and pipes certificate" because it was issued based on system capacity rather than the actual beneficial use of water.

There are approximately 196 lots within the Marine View Heights.

Ground Water Certificate No. G3-25110C was issued to Clarence Hobble in July of 1982 and Certificate G3-28166C was issued to Metropolitan Mortgage in October 1988 based on the installed system capacity at the time ("pumps and pipes"). These rights have been exercised to provide water for community domestic use as the population within the place of use has increased.

At the time these Certificates were issued, it was a common practice of the State of Washington to issue certificates to water purveyors that were quantified based on system capacity rather than actual beneficial use of water. In *Department of Ecology v. Theodoratus, 135 Wn.2d 582, 957 P.2d 1241*(1998), the Washington Supreme Court held that state statutory and common law did not allow the State to issue a vested water right certificate based on water system capacity. However, although the *Theodoratus* decision did not involve a municipality, the Court recognized that under Washington's statutes there are significant differences between municipal water use and other water uses. The Court stated in this decision that municipal water rights often receive separate treatment under water law. Notwithstanding this distinction, the *Theodoratus* decision cast uncertainty over the status of water right certificates that were issued to public water suppliers based on the "pumps and pipes" standard.

In response to the *Theodoratus* decision, the legislature enacted Washington's Municipal Water Law (MWL), which became effective on September 9, 2003. In 2010, the Supreme Court upheld the

constitutionality of the MWL in *Lummi Indian Nation v. State of Washington, 170 Wn.2d 247, 241 P.3d 1220 (2010).*

Under the MWL, the Sunrise Water Association qualifies as a "municipal water supplier" as defined under RCW 90.03.015(3), and Certificate No. G3-25110 and G3-28166 qualify as water rights for municipal water supply purposes under RCW 90.03.015(4) because they have been continuously exercised to provide water service to 15 or more residential connections.

RCW 90.03.330(3) provides that water rights for municipal water supply purposes documented by "pumps and pipes" certificates issued prior to September 9, 2003 are "rights in good standing." These water rights may include inchoate quantities that have not yet been exercised. Such rights may continue to be exercised to serve the municipal water supplier's reasonably anticipated future needs.

RCW 90.03.330(2) provides that Ecology cannot revoke or diminish certificated water rights for municipal water supply purposes, except under certain limited circumstances. One such circumstance is "for the issuance of certificates following the approval of a change, transfer, or amendment under RCW 90.03.380 or 90.44.100." Thus, Ecology may revoke or diminish a water right during the process of evaluating a groundwater right change application under RCW 90.44.100, based on the tentative determination of extent and validity of the water right, or to prevent impairment of other water rights or detriment to the public welfare.

Accordingly, in reviewing the application(s), Ecology must perform a tentative determination of the extent and validity of the water rights and, first, determine, what quantity of water has been perfected through actual beneficial use. Then, Ecology must determine how much of the remaining inchoate quantity remains "in good standing" through reasonable diligence in perfecting the water right. *Cornelius v. Washington Dept. of Ecology*, 182 Wn.2d 574, 344 P.3d 199 (2015) ("When individuals apply to amend their water right certificates under RCW 90.44.100, rights represented by system capacity certificates for municipal supply purposes are 'rights in good standing', ... However, although the water need not actually have been put to beneficial use for the rights to remain in good standing, the water rights must still be 'prosecuted with reasonable diligence' to remain valid.")

The original development consisted of approximately 196 lots in the Marine View Heights. The two certificates authorized the use of 300 gallons per minute, 177.4 acre-feet per year for 196 lots within the subdivision. These authorizations used an approximate value of 0.9 acre-feet per unit as an estimate of water use.

It appears that approximately 185 lots are currently developed. These homes are typically seasonal in nature although some are year round residences. The well log data base indicates nine wells have been constructed under the ground water exemption within the subdivision and assumed used for domestic supply although the use of these domestic wells is undetermined. This would calculate to an actual use for 176 lots from the authorized well. Limited records of the water use for Sunrise Water Association was provided for 2010, 2012 and 2013, and are shown below:

Year	Gallons	Acre-feet
2010	18,376,286	56.4
2012	15,573,012	47.8
2013	16,642,101	51.1

The current water use is approximately 286 gallons per day for an estimated 176 active lots. An average water use of approximately 300 gallons per day per unit or 0.336 acre-feet per lot is reasonable for this area. Based on this water duty, completing the original development would require the use of 65.8 acre-feet to provide water service for 196 lots. For Ground Water Certificate G3-25110, 8.7 acre-feet per year is determined to be valid and eligible for change. The remainder needed to fully develop the original project and serve Sunrise Water Association's reasonably anticipated future needs would be 57.1 acre-feet. Therefore, for Ground Water Certificate G3-28166, it is determined that the annual quantity of water that is valid and eligible for change is 57.1 acre-feet. This includes 9.4 acre-feet of inchoate (unperfected) water in addition to the 56.4 acre-feet which has been perfected through actual beneficial use under the two water rights.

Hydrologic/Hydrogeologic Evaluation

Applications for change of water right permits and certificates are governed by RCW 90.44.100, which requires that "the additional or substitute well or wells shall tap the same body of public ground water as the original well or wells." The Department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment.

The existing well is located in the NW¼SW¼ of Section 17, T. 17 N., R. 28 E.W.M. The well log indicates the well is a 10 inch well constructed to a depth of 515 feet. The log indicates casing and sealing was installed to a depth of 380 feet and that basalt was encountered at two feet. This existing well is constructed in the Wanapum Formation of the Columbia River Basalt Group (CRBG).

The proposed well is to be located within the SE¼SE¼ or the NE¼SE¼ of Section 18, T, 17 N, R. 28 E.W.M. approximately 1500 feet southwest of the original well. This well is required to be completed in the Columbia River Basalt Group (CRBG) because, by rule (WAC 173-124-070), basalt wells in this area are defined to be within the same body of public groundwater. Based on this condition, this application meets the requirement that the new well location must tap water from the same body of public groundwater as the original well.

The well will be required to be constructed to meet the requirements of RCW 18.104 and WAC 173-160.

Impairment Considerations

"Impair" or "impairment" means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200); and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

This proposed change in the point of withdrawal will not increase the amount of water withdrawn from the aquifer nor will it increase the quantities or expand the right described above.

The existing well is located near the southerly edge of the Quincy Basin. The proposed point of withdrawal is to be located approximately 1500 feet southwest of the original well.

The closest, existing, basalt well to the proposed location is likely 325' away. Using hydraulic properties that are typical for Wanapum wells, the calculated drawdown at the end of one year's continuous pumping to produce the authorized annual quantity listed under both G3-25110 and G3-28166 is 10 feet. The additional drawdown for existing wells at a greater distance from this new point of withdrawal would be less than 10 feet. Using those hydraulic properties and calculating the theoretical drawdown that occurs at what would be the nearest, existing well from the pumping at the original point of withdrawal suggests that there would be less than three additional feet of drawdown at this closest well (325' away) than what is currently happening from pumping at the original point of withdrawal. Adding this much drawdown to existing nearby wells in the vicinity of the new point of withdrawal should not lead to impairment issues between wells in the area. Discontinuing use of the original well will remove that pumping stress from the aquifer at the original point of withdrawal. The net effect will not be an enlargement of the right nor should it create impairment issues for existing basalt wells in the area.

Public Interest Considerations

The proposed change in point of withdrawal will not be contrary to the public interest. No additional water quantities are proposed to be withdrawn from the aquifer.

Conclusions

There is a water right that is valid and available for change/transfer under Ground Water Certificate G3-28166 in the amount of 300 gallons per minute, 57.1 acre-feet per year. This annual quantity of 57.1 acre-feet per year is additive to the 8.7 acre-feet per year authorized for use under Ground Water Certificate G3-25110.

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

No Impairment to Existing Rights:
It is not anticipated that the proposed change/transfer would cause impairment to existing water rights.

No Detriment to the Public Welfare:
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 change/transfer.

No Enhancement of the Original Right:
No withdrawal of water over and above what has been authorized for beneficial use under the original water right would be authorized through approval of this change.

Same Source of Water:
The ground water to be withdrawn from the proposed well will be supplied by the same body of public water.

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:

300 gpm
57.1 acre-feet per year continuously for municipal water supply purposes

Place of Use

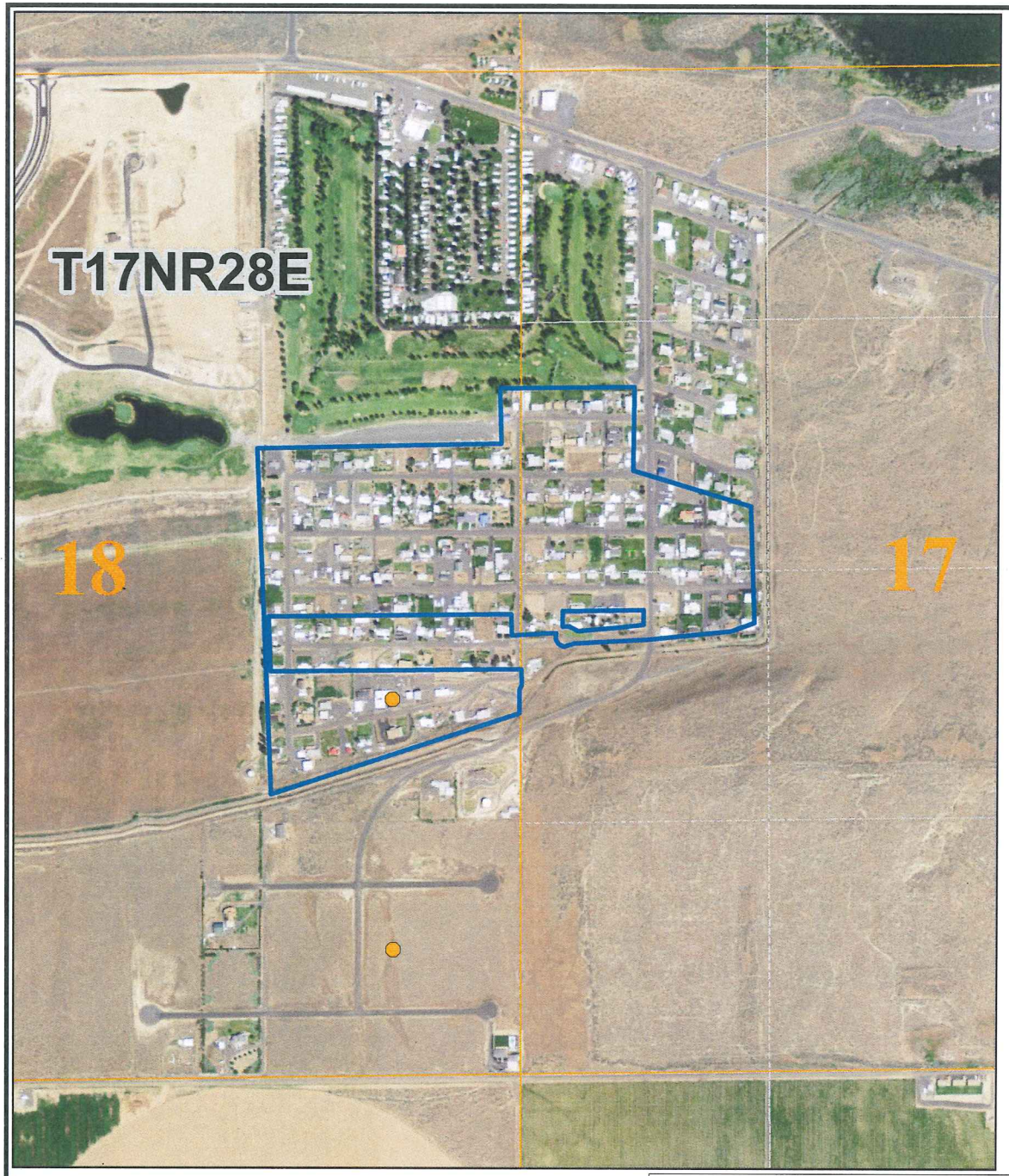
As described on Page 2 of this Report of Examination.

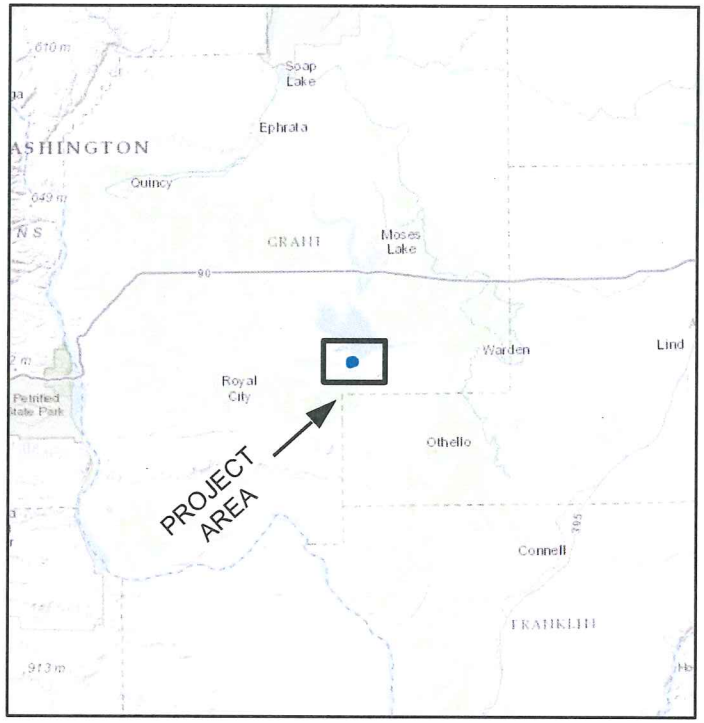
Kevin Brown — 6/25/15

Kevin Brown, Report Writer — *Date*

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Sunrise Water Association
G3-28166
T17N/R28E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Withdrawal

(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: 6/16/2015

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