State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

DEPARTMENT OF ECOLOGY
State of Washington

PRIORITY DATE	WATER RIGHT NUMBER
11/19/1999	S3-30218

MAILING ADDRESS
CHINA BEND VINEYARDS
c/o BARTON ALEXANDER
3596 NORTHPORT-FLATCREEK ROAD
KETTLE FALLS WA 99141-8746

SITE ADDRESS (IF DIFFERENT)

Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.2	CFS	33.6

Purpose

PURPOSE	DIVERSION RATE ADDITIVE	DIVERSION RATE NON-ADDITIVE	UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Irrigation of 20 acres	0.2		CFS	33.6		04/01 - 10/31

(Approximately 17.5 acres of agricultural irrigation and 2.5 acres of lawns and gardens)

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
STEVENS	UNNAMED STREAM	COLUMBIA RIVER	61-UPPER LAKE ROOSEVELT

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
UNNAMED STREAM	2378300	39 N.	39 E.	19	NE¼SE¼	48.86406	117.89165

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)
2378900, 2378992

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
Parcel 2 according to Stevens County Document Number 9706910, recorded on the 11th day of July 1997 in Book 17 of Surveys at Page 114 records of Stevens County Washington.
Parcel C and Parcel D according to Stevens County Document Number 9807091, recorded on the 24th day of June 1997 in Book 18 of Surveys at Page 88 records of Stevens County Washington.

Proposed Works

A 4 foot high dam, diversion through a gravity feed 3 inch pvc pipe to the property. Irrigation of the vineyards by micro irrigation and drip systems, yard and ground are irrigated with impact, and micro irrigations systems

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	January 1, 2022	January 1, 2024

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually during the development of the permit
What volume should be reported?	Weekly readings and Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

Measurements, Monitoring, Metering and Reporting

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.

WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

In addition, a measuring device or weir shall be required to be installed to measure the bypass flows of the creek in order to maintain the base flows necessary to maintain riparian habitat and a live flowing stream across the property of the adjacent land owners, at no time shall the diversion of water exceed half the flow of the stream or divert water to the point that a live flowing stream no longer exists to the mouth of the creek. The design/construction of the bypass measurement device/weir shall be submitted for the record prior to additional development of the project.

In addition to the weekly measurement of the diversion, measurements of the bypass condition must also be recorded and submitted annually during the development of this permit.

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

Proof of Appropriation
The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, 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, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Family Farm
That portion of this authorization relating to agricultural irrigation is classified as a Family Farm Permit in accordance with Chapter 90.66 RCW. 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 the definition of a family farm.

Hydraulic Project Approval
As requested by the department of Fish and Wildlife, the construction of the facilities for the appropriation of water under the application requires removal of material from or adjacent to a stream channel or watercourse. A Hydraulic Approval may be obtained from the Department of Fish and Wildlife prior to commencing work. Please contact the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, Attention: Habitat Management Division, Phone (360) 902-2534, to obtain specific requirements for your project.

Findings of Facts
Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S3-30218, 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 17th day of February 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 S3-30218.

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 Statesman Examiner on September 27 and October 4, 2000 and no protests were received.

Consultation with the Department of Fish and Wildlife

RCW 90.03.280 requires the Department to send notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. The Department of Fish and Wildlife provided written comments November 29. 2000. Additional comments were provided in December of 2014. These comments will be addressed later in the report.

State Environmental Policy Act (SEPA)

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

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

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

INVESTIGATION

A site visit was conducted October 21, 2014. The applicant was present.

The applicant has two residences, a Bed and Breakfast, Winery and approximately 2.5 acres of lawn and garden. In addition, approximately 6.5 acres of vineyard is planted and they propose to expand the vineyard and orchard to a total of approximately 17.5 acres. These blocks of orchard and vineyard are currently irrigated with a drip and micro irrigation system. Some of the yard and garden have impact sprinklers, micros and drip lines.

The existing vineyards and orchards have been established for some time. The operation of the irrigation system is described as operating at approximately 35 gallons per minute. The established vineyard and orchard requires irrigation on an average 2-3 times per year while dry years may require more. The irrigation system is designed to operate at 35 gpm. It takes approximately ten days to irrigate the existing vineyard and orchard property.

The domestic water is supplied by an exempt well (ACM925) serving the domestic units, the bed and breakfast and the industrial and domestic need at the winery.

The original application identified the source as a spring. Multiple springs originate in the SE¼NE¼ of Section 19 along a bench above the Columba River. The springs converge and create a small unnamed stream that flows southwest and eventually turns southeast and flows into the Columbia River. The diversion is from the creek are in the NE¼SE¼ of Section 19. A dam is constructed using ecology blocks. The dam is approximately 8 feet across and 4 feet high. At the time of the field investigation water was not being diverted for irrigation purposes. The overflow was approximately 1/10 foot over a 12 inch notch. Estimating the flow using the calculations for a standard contracted rectangular weir indicate approximately 0.103 cfs (46 gallons per minute). The creek flows across this property and across the neighboring property to the Columbia River. It does not cross the applicant's land.

The applicant does not own the property on which the diversion is located. It is currently owned by Peter Guglielmino (Steven County Parcel No. 2378300). In this application the applicant claims to have an easement in his deed for access. A second land owner is located between the applicant and the point of diversion (Clinton Halbert). The applicant and Mr. Halbert have a water user agreement. The agreement allows for Mr. Halbert to divert 5 gpm from the mainline for his parcel of land (Stevens County Parcel No. 2378800). Although these two have a water user agreement, there does not appear to be any authorization for the Halbert property to use the water. No water right application is on file that would authorize his use. This proposed application did not include Halbert's property. Use of water on Mr. Halbert's property is unauthorized.

Additional concerns were provided from a potential purchaser of the property on which the diversion is located. As stated above, right-of-way and access to the source are matters between the applicant and the landowner. This diversion and use has been in operation for a long time. The applicant is advised to discuss these issues with the owner to ensure adequate easements and access are available.

Proposed Development:

The applicant plans on continuing to develop approximately 11 more acres of vineyard and/or orchard. Development of the project will take approximately 8 years to complete the planting and raising the tree/vine stock. Each block of orchard or vineyard will take approximately 2 years to develop and complete. As these blocks mature they will require less water to maintain, allowing for more development to occur.

Beneficial Use

Irrigation of lawn/garden irrigation, vineyard/orchard are beneficial uses.

Ninety gallons per minute (0.2 cfs), 33.6 acre-feet per year should be sufficient for agricultural irrigation of 17.5 acres of vineyard and/or orchard and 2.5 acres of lawn/garden using micro and drip irrigation practices. To divert this quantity of water, the delivery system would need to be modified. The diversion currently diverts approximately 35 gallons per minute.

The application requested 0.44 cfs (197 gallons per minute). The current diversion and operation is described as capable of approximately 35 gallons per minute (3.8 gpm/acre). A reasonable volume of water for this type of irrigation system is 4.5 gpm/acre. Using 4.5 gpm/acre for 20 acres would require 90 gpm (0.2 cfs). The stream is unlikely to produce this volume of water most of the season. The actual amount diverted may be reduced upon completion of the project during the Proof Examination.

At the time of the field examination the creek overflow at the dam was approximately 0.103 cfs (46 gpm). There may be times during the spring that more water could be diverted. Metering of the diversion will be required and at no time will the diversion be authorized to dry up the stream. (See public interest section below). It is noted that this authorization will probably not be fully satisfied for most of the season if meeting the bypass conditions (see public interest section below).

A review of the Washington State Irrigation Guide establishes crop requirements in the Northport area for grapes requiring up to 1.6 acre-feet per acre (28 acre-feet for agricultural irrigation of 17.5 acres) and 2.25 acre-feet for pasture/turf (5.6 acre-feet for non-agricultural irrigation of the lawn and garden).

Consideration of Comments

The Department of Fish and Wildlife submitted comments on November 29, 2000. The recommendation indicated the need spring/stream does not support fish so the proposed use will not affect fish habitat. After the field investigation and the finding that the diversion was actually from an unnamed creek, the information was again submitted to the Department of Fish and Wildlife. Since the stream was not listed as a fish habitat stream, the department only expresses concern over the riparian habitat.

The requirement to maintain flows for habitat are listed in the Public Interest Section of this report.

A Hydraulic Project Approval (HPA) is required when working in the stream. The applicant may contact the Habitat Division to ensure compliance with the requirement. This will be required for any modification to the diversion, dam or to install weirs. (See provisions for contact information.)

Water Availability

An analysis of water availability must take into account not only the physical limitations on the source of supply, but the legal availability as well. There may be sufficient water for irrigation of 20 acres during portions of the year. Storage may be required to satisfy irrigation requirement at full build-out.

Existing Water Right Documents

A review of department records was conducted for the applicant's property.

One Short Form Water Right Claim is on file for Section 19. The claim was filed indicating the use of a spring for fire fighting and dust abatement on the W½ and the W½NE¼ of Section 19.

No other active water right documents are on file for Section 19. No other water right documents are appurtenant to the applicant's property.

Surface Water Certificate 10112 confirms a use of 0.35 cfs, 134 acre-feet per year for irrigation of 34 acres from a point of diversion in Section 30 on adjacent property. The authorized point of diversion is located in Section 30 and is diverted from the Columbia River. This pump station is currently used by the neighbors for a portion of the SW¼ of Section 19 and a portion of Section 30 lying south of Rattlesnake Creek. A review of the water right record confirms the original authorized place of use was not on the applicant's property, although a portion of his land was included in the legal description. No water from this authorization (SWC 10112) has been used on the applicant's property for more than five years.

The intent of the Claims Registration Act, Chapter 90.14 RCW, was to document those uses of surface water in existence prior to the adoption of the State Surface Water Code, Chapter 90.03 RCW, which was adopted in 1917, and those uses of ground water in existence prior to the adoption of the State Ground Water Code, Chapter 90.44 RCW, which was adopted in 1945. Since each code(s) adoption, the only means of acquiring a water right within the state is by filing for, and receiving, a permit from the Department of Ecology or one of its predecessors or is allowed under the domestic exemption to the ground water code (RCW 90.44). 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 lies with the Superior Court through the general adjudication process.

Impairment Considerations

A review of department records was conducted for existing water rights, permits, and claims within the vicinity of the proposed diversion.

No water right documents are found for the unnamed creek in Section 19.

No other applications are on file from the unnamed creek.

Public Interest Considerations

Chapter 90.54 RCW provides that water allocation shall secure maximum net benefits to the people of the state, **while also requiring that perennial rivers of the state shall be retained with base flows necessary to provide for the preservation of fish and other environmental values**. The Department of Fish and Wildlife has determined there are no fish in the unnamed stream. However, to maintain the base flows necessary to maintain riparian habitat and a live flowing stream across the property of the adjacent land owners, at no time shall the diversion of water exceed half the flow of the stream or divert water to the point that a live flowing stream no longer exists to the mouth of the creek. To achieve this requirement, a measuring device will be required on the bypass/overflow of the dam. Should the bypass flow not be sufficient to maintain a live flowing stream, the diversion of water shall be curtailed.

The approval of this application for this quantity and use will not be detrimental to the public interest provided the diversion of water does not exceed half the flow of the creek or dewater the creek to the point it no longer flows to the mouth of the creek.

There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be any detrimental impact to the public welfare through issuance of the proposed appropriation provided the diversion does not dry up the stream.

Conclusions

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

It is the conclusion of this examiner that surface water is available for 2.5 acres of lawn and garden, and agricultural irrigation of 17.5 acres. This appropriation is considered a beneficial use and will not impair existing water rights or be detrimental to the public welfare.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

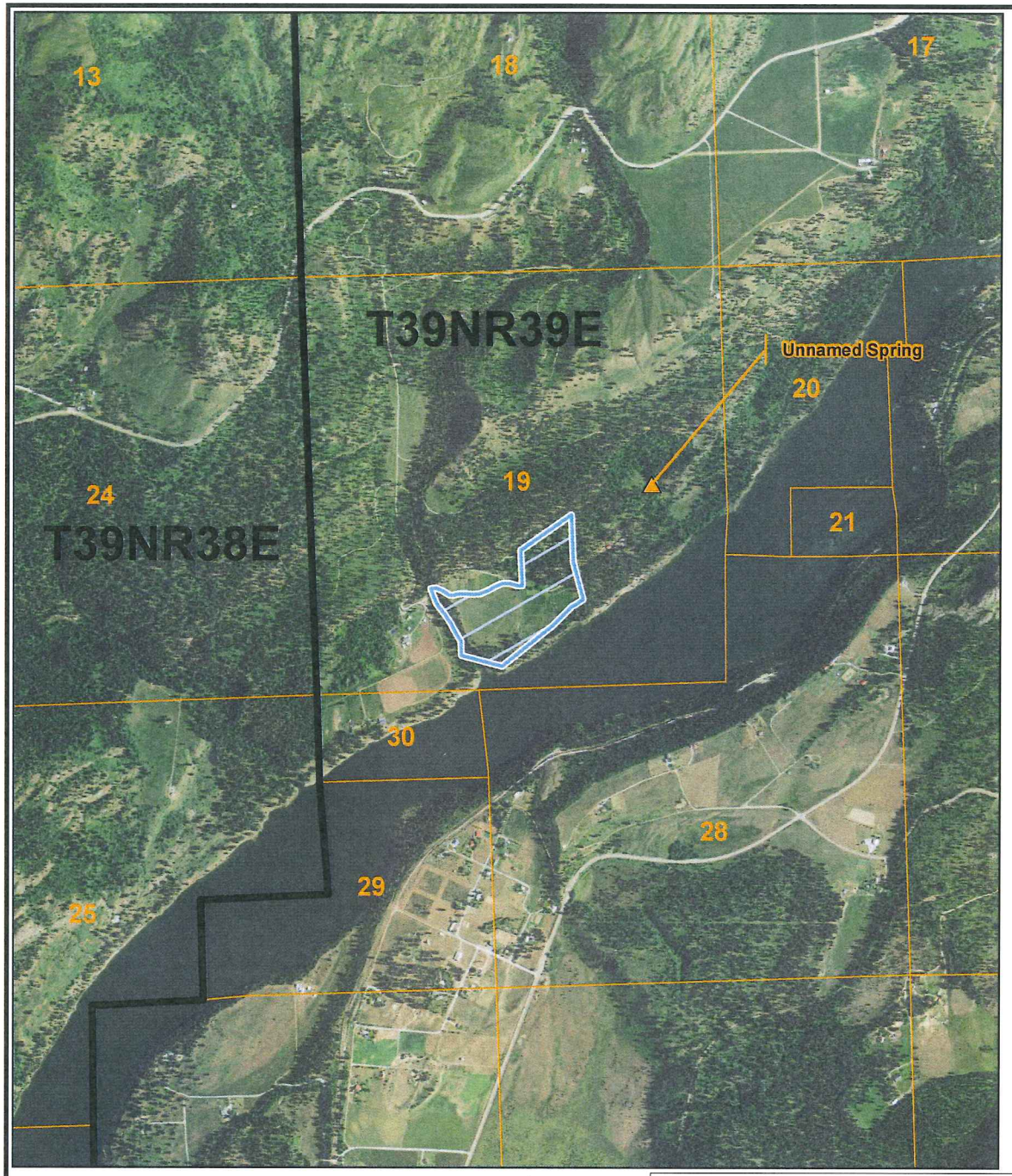
0.2 cubic feet per second
33.6 acre-feet per year

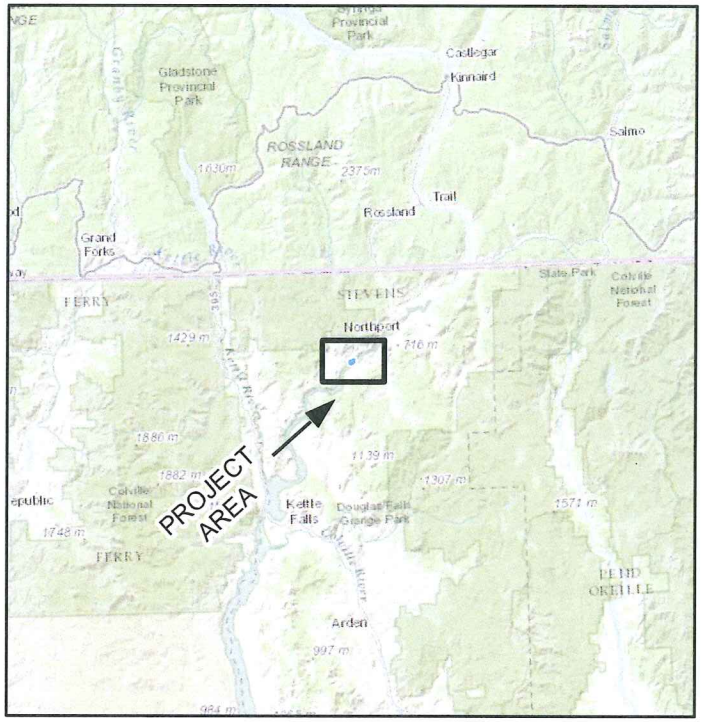
Kevin Brown 2·17·15

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.

China Bend Vineyards
S3-30218
T39N/R39E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Diversion

0 660 1,320 2,640 3,960 5,280 6,600 Feet

Basemap - (NAIP 2013 1m color)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 2/3/2015

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