STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CHANGE REPORT OF EXAMINATION

Ground Water Certificate 385-A

PRIORITY DATE	APPLICATION NO.	PERMIT NO.	CERTIFICATE NO.
October 14, 1947	650	737	385-A

NAME
City of Davenport

ADDRESS/STREET	CITY/STATE	ZIP CODE
P. O. Box 26	Davenport, WA	99122

PUBLIC WATERS TO BE APPROPRIATED

SOURCE

Two (2) wells

TRIBUTARY OF (IF SURFACE WATERS)

CUBIC FEET PER SECOND (cfs)	GALLONS PER MINUTE (gpm)	ACRE FEET PER YEAR (ac-ft/yr)
---	350	425

QUANTITY, TYPE OF USE, PERIOD OF USE

350 gallons per minute, 425 acre-feet per year, continuously, for municipal supply

Existing water rights for the City of Davenport authorize a total withdrawal of 3130 gallons per minute and 2503 acre-feet per year, continuously, for municipal supply.

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

Well Locations:
6) NE¼SW¼ of Sec. 21, T. 25 N., R. 37 E.W.M.
7) NE¼NE¼ of Sec. 21, T. 25 N., R. 37 E.W.M.

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY
	21	25 N.	37 E.W.M.	53	Lincoln

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.]

Area served by the City of Davenport Municipal Supply System within Lincoln County, Washington. The place of use (POU) of this water right is the service area described in the most recent Water System Plan approved by the Washington State Department of Health, so long as the City of Davenport is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

DESCRIPTION OF PROPOSED WORKS

Two wells, pumps, reservoirs and pressure distribution system

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
complete	In use	

PROVISIONS

Quantity Limits, Flow and Regulation:

1. This change authorizes two (2) points of withdrawal in the amounts of 350 gallons per minute; 425 acre-feet per year, continuously, each year, for municipal supply under Ground Water Certificate No. 385-A.

2. Existing water rights for the City of Davenport authorize a total withdrawal of 3130 gallons per minute and 2503 acre-feet per year, continuously, for municipal supply (Under Ground Water Certificate Nos. G3-21733C, G3-00702C, 3677-A, 385-A, 788-D).

Municipal Supply and Public Water Systems:

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

4. 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.

5. The definition and 'good standing' sections of the Municipal Water Use Efficiency Act of 2003 have been deemed unconstitutional by King County Superior Court. Ecology has appealed this decision to the Washington State Supreme Court. A final decision from the Supreme Court may not be issued for some time. The Supreme Court's decision may impact the status of the inchoate water currently held by the City of Davenport in its water right certificates. The status of the remaining quantity of inchoate ground water under these water rights is in question until the Supreme Court decisions are rendered.

Wells, Well logs and Well Construction Standards:

6. All wells constructed in the State shall meet the construction requirements of chapter 173-160 WAC entitled "Minimum Standards for the Construction and Maintenance of Wells" and chapter 18.104 RCW titled "Water Well Construction".

7. In accordance with chapter 173-160 WAC, wells shall not be located within certain minimum distances of potential sources of contamination. These minimum distances shall comply with local health regulations, as appropriate. In general, wells shall be located at least 100 feet from sources of contamination. Wells shall not be located within 1,000 feet of a solid waste landfill.

General Conditions:

8. 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:

9. 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.

Measurements, Monitoring, Metering and Reporting:

10. 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, and shall be promptly submitted to Ecology upon request.

11. 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".

12. 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.

13. 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.

Therefore, I ORDER approval of the recommended change to add two points of withdrawal under Ground Water Certificate No. 385-A, 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 17th day of June, 2009.

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

BACKGROUND

An application for change was submitted by the City of Davenport (City), Washington to the Department of Ecology on February 28, 2008. The applicant proposes to add two points of withdrawal as granted under Ground Water Certificate 385-A.

A notice of application was duly published in accordance with RCW 90.03.280 in the Davenport Times on April 10 and 17, 2008 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 No. 385-A

Recorded Name:	City of Davenport
Priority Date:	October 14, 1947
Instantaneous Quantity – Q(i):	350 gallons per minute
Annual Quantity – Q(a):	425 acre-feet per year
Source:	a well
Purpose of Use:	Municipal Supply
Place of Use:	City of Davenport

INVESTIGATION

A field investigation for this change application was conducted by Kevin Brown with Fred Bell on March 19, 2009. In considering the proposed change, the investigation included, but was not limited to, research and review of: appropriate rules and statutes, water rights/claims/applications in the vicinity, water well reports for the applicant's wells, USGS topographic maps, Comprehensive Water System Plan and discussions with Department of Ecology regional staff and hydrogeologists.

Historically seven wells have been constructed over the years to supply municipal water for the City. Currently only wells 6 and 7 are in service. Wells 3, 4, and 5 have been decommissioned. Wells 1 and 2 are capped and not in use. The subject application proposes to add wells 6 and 7 to each right and consolidate these rights.

Rights Appurtenant to the Place of Use

The City has five ground water certificates for municipal supply purposes are as follows:

WATER RIGHTS

WATER RIGHT	PRIORITY DATE	Q(i)	Q(a)	USE
788-D	1913	500	525	Domestic Supply and industrial uses
385-A	October 14, 1947	350	425	Municipal Supply
3677-A	September 18, 1957	280	336*	Municipal Supply
G3-00702C	July 24, 1970	450	396	Municipal Supply
G3-21733C	September 11, 1973	1550	1157	Municipal Supply
TOTAL:		**3130**	**2503**	

*Annual quantity under this right was listed as non-additive.

In addition to the municipal rights, the City has Ground Water Certificate 4317-A in the amount of 120 gallons per minute, 48 acre-feet per year for the irrigation of 12 acres for the Mountain View Cemetery. This right is not incorporated in the city system.

The City filed Ground Water Claim No. 000700 during the claims registration act. They claimed a use of 450 gallons per minute, 396 acre-feet per year for domestic supply. The point of withdrawal is listed as a well within Lot 10 Block 21, Dillon's Addition. The date of first use is described as 1962. Certificate G3-00702 issued for this source well (No. 5) in 1973. It appears this claim is duplicative to the state issued ground water certificate.

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 by establishing a right under the "domestic exemption" under the ground water code (RCW 90.44.050). 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 provided for by Sections 90.03.110 through 90.03.240 RCW.

Well No. 5 was constructed in 1962. The claimed use was not prior to 1945 and does not appear to represent a valid right. However, this well was certificated under G3-00702C in the amount described above.

TENTATIVE DETERMINATION OF EXTENT AND VALIDITY OF WATER RIGHTS

The City has served water to residential service connections under each of the water rights and Ecology considers it a municipal water supplier at this time. Ground Water Certificates were issued to the City as so-called "pumps and pipes" certificates. They were issued based on water system capacity, rather than on the actual beneficial use of water.

The existing ground water rights for the City authorize a total withdrawal of 3130 gallons per minute and 2503 acre-feet per year, continuously, for municipal supply purposes. The individual wells (1, 2, 3, 4, and 5) were capable of pumping the individual instantaneous water quantities. Annual water use is approximately 700 acre-feet per year. Wells 6 and 7 are currently capable of pumping 2126 gallons per minute. At this time the instantaneous quantity is adequate to meet current needs. The City indicated that it may drill another well if the demand requires it. The water use data demonstrate that the City has continued to use the portions of its water rights that it has perfected so that no relinquishment or abandonment of its perfected rights has occurred.

The annual water use data indicate that the City has not perfected its full allocation of water, leaving approximately 1803 acre-feet of inchoate (or unused) water the City is claiming for future use under its water rights. The City has stated that it needs this water for future development.

Water right holders must meet requirements in the Water Code such as due diligence in project development. The Department recognizes that cities often grow at uneven rates and need to be able to serve their growing populations. Over the last ten years, the population of the City of Davenport has been relatively stable, as has its use of water. The City's desire is to retain the remaining inchoate portions available under all its water rights in good standing.

ADVISORY

The definition and 'good standing' sections of the Municipal Water Use Efficiency Act of 2003 have been deemed unconstitutional by King County Superior Court. Ecology has appealed this decision to the Washington State Supreme Court. A final decision from the Supreme Court may not be issued for some time. The Supreme Court's decision may impact the status of the inchoate water currently held by the City of Davenport in its water right certificates. The status of the remaining quantity of inchoate ground water under these water rights is in question until the Supreme Court decisions are rendered.

Hydrologic/Hydrogeologic Evaluation

Applications for change 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 existing City wells are further described as follows:

DAVENPORT WELLS

Well#	*Certificate*	*Year*	*Depth*	*Diameter*	*Casing*	*SWL*	*Decommissioned*
1	788-D	1912	500	12	?	165	Capped
2		1948	503	15	50	172	Capped
3	385-A	1948	722	16	15	90	Yes
4	3677-A	1958	302	12	235	50	Yes
5	G3-00702C	1962	495	12	60	89	Yes
6	G3-21733C	1975	975	18	445	220	On-line
7	G3-21733C	1995	959	16	447	265	On-line

The City of Davenport wells are described as follows:

Well #1 is located in the N½SW¼ of Section 21, T. 25 N., R. 37 E.W.M. The well was reportedly drilled in 1912 to a depth of 500 feet, and is 12" in diameter. The static water level was reported as 165 feet below land surface. No well log is available for this well. The well appears to have been constructed into both the Wanapum and Grande Ronde Formations of the Columbia River Basalt Group and was open to both aquifers.

Well #2 is located in the N½ SW¼ of Section 21, T. 25 N., R. 37 E.W.M. The well was drilled in 1948 to a depth of 503 feet, and is 15" in diameter. The static water level was reported as 172 feet below land surface. Casing was installed to a depth of 50 feet. The well appears to have been constructed into both the Wanapum and Grande Ronde Formations of the Columbia River Basalt Group and was open to both aquifers.

Well #3 is located in the NE¼ NE¼ of Section 21, T. 25 N., R. 37 E.W.M. The well was drilled in 1948 to a depth of 722 feet, and is 16" in diameter. The static water level was reported as 90 feet below land surface. Casing was installed to a depth of 16 feet. The well was decommissioned in 1995. The well appears to have been constructed into both the Wanapum and Grande Ronde Formations of the Columbia River Basalt Group and was open to both aquifers.

Well #4 is located in the SE¼ SE¼ of Section 16, T. 25 N., R. 37 E.W.M. The well was drilled in 1958 to a depth of 302 feet, and is 12" in diameter. The static water level was reported as 50 feet below land surface. Casing was installed to a depth of 235 feet. The well was decommissioned in 1999. The well appears to have been constructed thru the Wanapum Formation and 20 feet into the Grande Ronde Formation of the Columbia River Basalt Group. It was producing from the Wanapum aquifer.

Well #5 is located in the NE¼ SW¼ of Section 21, T. 25 N., R. 37 E.W.M. The well was drilled in 1962 to a depth of 495 feet, and is 12" in diameter. The static water level was reported as 89 feet below land surface. Casing was installed to a depth of 60 feet. The well was decommissioned in 1999. The well appears to have been constructed into both the Wanapum and Grande Ronde Formations of the Columbia River Basalt Group and was open to both aquifers.

Well #6 is located in the NE¼ SW¼ of Section 21, T. 25 N., R. 37 E.W.M. The well was drilled in 1975 to a depth of 975 feet, and is 18" in diameter. The static water level was reported as 220 feet below land surface. Casing was installed to a depth of 445 feet. The well appears to have been constructed into the Grande Ronde Formation of the Columbia River Basalt Group.

Well #7 is located in the NE¼ NE¼ of Section 21, T. 25 N., R. 37 E.W.M. The well was drilled in 1995 to a depth of 959 feet, and is 16" in diameter. The static water level was not reported. Casing was installed to a depth of 447 feet. The well appears to have been constructed into the Grande Ronde Formation of the Columbia River Basalt Group.

All of the City's wells were completed within the Columbia River Basalt Group and produce or produced water from the same body of public groundwater.

Wells 1 and 2 appear to be double completed into both the Wanapum and Grande Ronde aquifers. The City should evaluate decommissioning these wells in the future. If wells 1 and 2 are reconditioned or deepened, these wells must be in compliance with Chapter 18.104 RCW and Chapter 173-160 WAC.

Any reconstruction of wells shall be conducted in compliance with Chapter 18.104 RCW and Chapter 173-160 WAC. Particularly, any reconstruction of these wells shall ensure the casing is sealed into competent basalt, any cascading water encountered shall be cased and sealed, and no interaquifer transfer of water shall be allowed. Sealing shall be accomplished by constructing a borehole that is 4 inches in diameter greater than the permanent casing. Following installation of the casing within the borehole, the annular space will be pressure grouted from bottom to top with neat cement until undiluted surface return is achieved.

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.

A review of the well logs confirmed 6 wells in the area for domestic supply. The wells are all relatively shallow and don't exceed 110 feet below land surface. It appears these wells are all completed into the Wanapum aquifer.

A review of Ecology records was conducted for existing water rights, permits, applications and claims in the vicinity of the City. The search found no existing water rights in the area which would be impaired through issuance of this application for change to integrate the wells. The City production wells are currently completed into the Grande Ronde aquifer and have been continuously used for many years with no reported well interference problems. It is not anticipated that the proposed change to integrate the wells will cause impairment.

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

Findings

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. Factors considered when determining potential impact include the following:

No Impairment to Existing Rights
There has been no documented history of pumping interference problems between existing wells in this area, and it is not anticipated that this change 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 detrimental impact to the public welfare through issuance of the proposed change.

No Enhancement of the Original Right
No withdrawal of water over and above what has been authorized to beneficial use and/or originally authorized under existing rights will be allowed through approval of this change.

Same Source of Water
The ground water withdrawn at all well locations is considered to be from the same body of public water.

CONCLUSIONS

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, this application to add two points of withdrawal under Ground Water Certificate 385-A 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 add two points of withdrawal under Ground Water Certificate 385-A 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:

- 350 gallons per minute
- 425 acre-feet per year
- Municipal supply purposes

Existing water rights for the City of Davenport authorize a total withdrawal of 3130 gallons per minute and 2503 acre-feet per year, continuously, for municipal supply.

Points of Withdrawal
As described on Page 1 of this Report of Examination.

Place of Use
As described on Page 1 of this Report of Examination.

Report by: Kevin Brown _____ 5/26/09 _____
Kevin Brown Date
Water Resources Program

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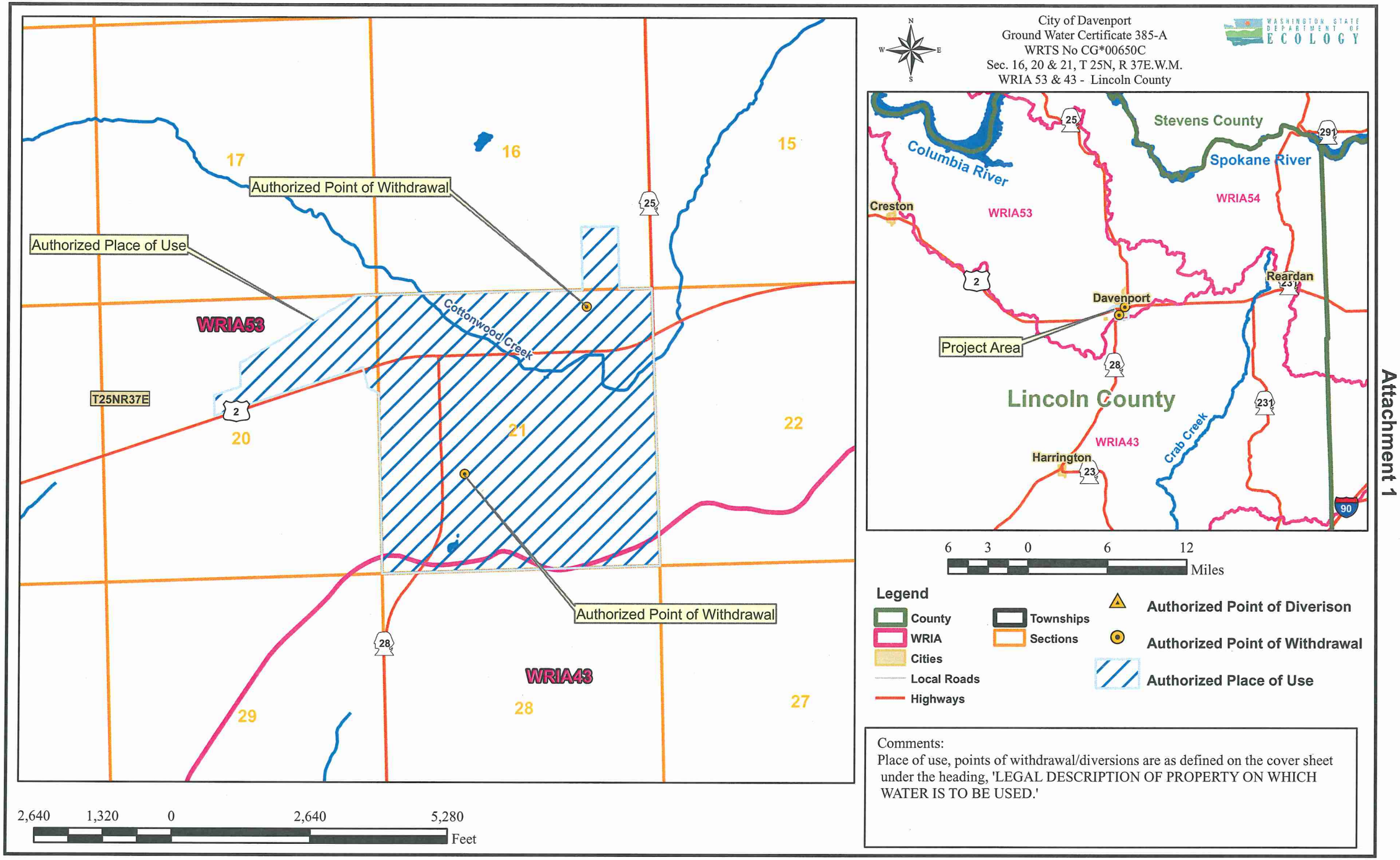
Y/Final docs/ROEs/Brown 2009/385-A Davenport



Attachment 1