



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

**REPORT OF EXAMINATION**  
*Change in Point of Diversion*  
**WRTS File No. CS3-\*28357J**

PRIORITY DATE The year 1890 (Class 28)	CLAIM NO.	PERMIT NO.	CERTIFICATE NO. Walla Walla River Adjudicated Certificate No. 357
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NAME Judson E. Hedine		
ADDRESS/STREET 3050 Reservoir Road	CITY/STATE Walla Walla, Washington	ZIP CODE 99362

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE Garrison Creek		
TRIBUTARY OF (IF SURFACE WATERS) Walla Walla River		
MAXIMUM CUBIC FEET PER SECOND 0.03	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR 6

QUANTITY, TYPE OF USE, PERIOD OF USE

0.02 cubic feet per second from April 1 to July 1, 0.015 cubic feet per second from July 1 to October 1, 0.03 cubic feet per second, when allowed, from October 1 to April 1, 6 acre-feet per year for the seasonal irrigation of 1.5 acres

**LOCATION OF DIVERSION/WITHDRAWAL**

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL  
440 feet East and 775 feet North from the W¼ corner of Section 23, T. 7 N., R. 36 E.W.M.

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) SW¼NW¼	SECTION 23	TOWNSHIP 7 N.	RANGE 36 E.W.M.	WRIA 32	COUNTY Walla Walla
PARCEL NUMBER 360723230050	LATITUDE 46.07336° N.	LONGITUDE 118.28196° W.	DATUM NAD 83		

**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.]

Beginning at a point 20 rods east of the SW corner of the SW¼ of the NW¼ of Sec. 23, T. 7 N., R. 36 E.W.M., running thence at right angles north 80 rods; thence at right angles east 8 rods; thence at right angles south 80 rods; thence west 8 rods to the place of beginning, LESS that portion lying south of Garrison Creek

**DESCRIPTION OF PROPOSED WORKS**

Pump diversion, main lines and solid set sprinklers

**DEVELOPMENT SCHEDULE**

BEGIN PROJECT BY THIS DATE Started	COMPLETE PROJECT BY THIS DATE October 1, 2012	WATER PUT TO FULL USE BY THIS DATE October 1, 2013
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### Measurements, Monitoring, Metering and Reporting

1. An approved measuring device shall be installed and maintained for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", chapter 173-173 WAC. <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
2. Water use data shall be recorded bi-weekly (every other week) and maintained by the property owner for a minimum of five years. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.
3. 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>

### Department of Fish and Wildlife

4. The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://www.wdfw.wa.gov/reg/regions.htm>

### Schedule and Inspections

5. 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 provisions, and to inspect at reasonable times any measuring device used to meet the above provisions.
6. The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of change 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 of change will reflect the extent of the project perfected within the limitations of the change authorization. Elements of the proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

### General Conditions

7. 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.
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.
9. The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used.
10. The water quantities and uses recommended and/or the number of acres to be irrigated may be reduced at the time of issuance of a final water right commensurate with the capacity of the installed system and the uses and/or the number of acres actually irrigated.
11. When the supply of water for irrigation purposes from April 1 to October 1 is insufficient in the Walla Walla Valley to fill any right contained in the foregoing schedule, the owner of such right is entitled to divert water during the period of October 1 to April 1.
12. The maximum instantaneous quantities under this portion of the right must be reduced to the following: 0.02 cubic feet per second (8.9 gallons per minute) from April 1 to July 1; 0.015 cubic feet per second (6.7 gallons per minute) from July 1 to October 1 and 0.03 cubic feet per second (13.5 gallons per minute), when allowed, from October 1 to April 1.

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**FINDINGS OF FACT AND ORDER**

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

Therefore, I ORDER the requested change of point of diversion under Walla Walla River Adjudicated Certificate No. 357, subject to existing rights and the provisions specified above.

You have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this document. 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 this document:

- File your appeal and a copy of this document 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 document on Ecology in paper form - by mail or in person. (See addresses below.) Email 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 4224 – 6th Avenue SE Rowe Six, Building 2 Lacey, WA 98503	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Please also send a copy of your appeal to:

Mr. Keith L. Stoffel  
Department of Ecology  
Eastern Regional Office  
4601 North Monroe Street  
Spokane, WA 99205-1295

*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://www.l.leg.wa.gov/CodeReviser>.*

Signed at Spokane, Washington, this            day of            2010.

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

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**INVESTIGATOR'S REPORT**

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**BACKGROUND**

**Description and Purpose of Proposed Change**

An application for change/transfer was submitted by Judson Hedine of Walla Walla, Washington, to Ecology on December 2, 2003. He proposes to add a point of diversion to his portion of the right, as granted under Walla Walla River Adjudicated Certificate No. 357 (Certificate No. 357).

## Attributes of the Certificate and Proposed Change

**Table 1** Summary of Proposed Change to Certificate No. 357

<i>Attributes</i>	<i>Documented</i>	<i>Proposed</i>
Name	George E. Kellough	Judson Hedine
Dates	Priority Date: 1890 (class 28)	Date of Application for Change: December 2, 2003
Instantaneous Quantity	0.053 cfs from April 1 to July 1 0.040 cfs from July 1 to October 1 0.080 cfs from October 1 to April 1	<i>No Change</i>
Annual Quantity	20 acre-feet	<i>No Change</i>
Source	Garrison Creek	<i>No Change</i>
Point of Diversion/Withdrawal	SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 23, T. 7 N., 36 E.W.M.	SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 23, T. 7 N., R. 36
Purpose of Use	Irrigation of 4 acres	<i>No change</i>
Period of Use	Continuously, when allowed	<i>No change</i>
Place of Use	Approximation: Portions of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 23, T. 7 N., R. 36	<i>No change</i>

### Legal Requirements for Proposed Change

The following is a list of requirements that must be met prior to authorizing the proposed change in point of diversion.

- **Public Notice**

A notice of application was duly published in accordance with RCW 90.03.280 in The Walla Walla Union-Bulletin on March 6<sup>th</sup> and the 12<sup>th</sup>, 2009 and no protests were received.

- **State Environmental Policy Act (SEPA)**

Environmental review under SEPA is required for many projects; however, some minor projects are categorically exempt from SEPA. Appropriations of one cfs or less of surface water, or of 2,250 gpm or less of ground water, for any purpose, and appropriations of 50 cfs or less for surface water used for irrigation are categorically exempt from SEPA. See WAC 197-11-305.

- **Water Resources Statutes and Case Law**

RCW 90.03.360 requires that the owner of any water diversion maintain substantial controlling works and a measuring device. It must be constructed and maintained to permit accurate measurement and practical regulation of the flow of water diverted. Technical requirements for the measuring and reporting of water use are described in WAC 173-173. This decision contains provisions requiring the measuring and reporting of the quantities of water withdrawn or diverted.

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

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 extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. R. D. Merrill v. PCHB and Okanogan Wilderness League v. Town of Twisp

### INVESTIGATION

In considering the proposed changes/transfers, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) Walla Walla Adjudicated Certificate No. 357, and other water rights/claims/permits in the vicinity; (3) diversion works; (4) USGS topographic maps, aerial photographs, State of

Washington Irrigation Guide (Natural Resources Conservation Service 1997) and; (5) discussions with Department of Ecology regional program staff.

Dan Tolleson with Judson Hedine conducted a site visit of the project on May 28, 2009. This project is located just to the east of the City of Walla Walla, Washington. The water right is located in the Walla Walla Basin, which is managed under Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32.

The authorized place of use, lies south of Reservoir Road and is bisected by Garrison Creek within portions of the W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 23, T. 7 N., R. 36 E.W.M. The portion of the place of use north of the creek is irrigated pasture and yard, with a home. This north portion is a single lot owned by Mr. Hedine. His irrigation system consists of solid set sprinkler for the pasture and yard. The portion of the place of use south of the creek is approximately half pasture and half paved yard. This south portion of the place of use is part of a larger lot owned by Harry Excavating Inc. Unused handlines were located in a stack near the edge of the pasture. This water right authorizes enough potential acreage to irrigate all of the irrigable land within the place of use. Because this water right has multiple owners, this change will only evaluate that portion of the water right proposed for change by Mr. Hedine.

### **History of Water Use**

Aerial photographs were used to help verify the extent of development, historical and beneficial use of this project. Historically, 4 acres were irrigated within the authorized place of use. The portion of the place of use, owned by Mr. Hedine, lying north of the creek, has historically been irrigated. This area lying north of the creek contains approximately 1.5 acres of irrigated yard and pasture.

The authorized water duty of this certificate is 5 acre-feet per year, per acre. Historically, it appears that this right has predominately been used to irrigate yards and pasture. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that an estimated 2.9 acre-feet, per acre, is required for grass/turf in the Walla Walla area. The current irrigation system of sprinkler is estimated at a 70% efficiency rate of application. With a 70% efficiency rate of application an estimated 4.2 acre-feet per acre would need to be applied for crops that use 2.9 acre-feet per acre. Continued irrigation of the lot owned by Mr. Hedine will require 6 acre-feet per, per year, for the irrigation of 1.5 acres. Generally, full water quantities are available from this portion of Garrison Creek.

The authorized point of diversion was located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 23, T. 7 N., R. 36 E.W.M. This was historically a gravity feed ditch diversion. This ditch was abandoned many years ago and pumps were put directly in the creek. Mr. Hedine's system consists of a centrifugal pump that is used for a pressurized sprinkler system with multiple zones. The capacity of the pump is estimated to produce 0.045-0.055 cubic feet per second (20-25 gallons per minute), which is significantly more than is authorized for this portion of the right. His propitiate share of the authorized instantaneous quantity is 0.02 cubic feet per second (8.9 gallons per minute) from April 1 to July 1; 0.015 cubic feet per second (6.7 gallons per minute) from July 1 to October 1 and 0.03 cubic feet per second (13.5 gallons per minute), when allowed, from October 1 to April 1. The system's instantaneous quantity must be reduced to authorized quantities. Currently, the system does not have an approved fish screen or meter, which is required. These are proposed to be installed under contract with the Conservation District.

According to the adjudication, when the supply of water for irrigation purposes from April 1 to October 1 is insufficient the owner of this right is entitled to divert water during the period of October 1 to April 1.

The place of use of Mr. Hedine's portion of the this right will be narrowed down to the smallest legal description possible which is described on Page 1 of this Report of Examination.

### **Other Rights Appurtenant to the Place of Use**

A review of Ecology records was conducted for existing water rights, permits, and claims in the area surrounding the project. The search focused primarily on Section 23, Township 7 North, Range 36 E.W.M. The review of Ecology records shows one water right that overlaps the portion of the authorized place of use owned by Mr. Hedine, which is as follows:

Ground Water Certificate No. G3-00566C authorizes 35 gallons per minute, 13 acre-feet: 2 acre-feet per year, continuously, for domestic supply and stockwater; and 11 acre-feet per year from March 1 to November 1, each year, for the irrigation of 2.96 acres. This right is less any water diverted under existing right. Approximately half of the place of use of this certificate overlaps the lot owned by Mr. Hedine. It appears that the irrigation portion of this right was used on Mr. Hedine's lot prior to his ownership of the lot, approximately eight years ago. He has no access to the authorized well and it appears that the portion appurtenant to his lot has been abandoned and/or relinquished.

*(The validity and extent of above listed water rights and claims are not determined in this report.)*

## 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.

The proposed point of diversion is located approximately 1500 feet downstream from the diversion authorized under the original certificate. No significant diversions or changes occur in Garrison Creek between the originally authorized point of diversion and the proposed point of diversion. No water is authorized to be diverted above what has been historically used, and it is not anticipated that the proposed change/transfer would cause impairment to existing water rights.

## Enhancement Considerations

The proposed change will not increase the amount of water diverted from Garrison Creek, nor will it increase or expand the right. No withdrawal of water over and above what has been historically authorized will be approved through this change.

## CONCLUSIONS

There is a water right available for change/transfer under Walla Walla River Adjudicated Certificate No. 357 in the amount of 0.02 cubic feet per second from April 1 to July 1, 0.015 cubic feet per second from July 1 to October 1, 0.03 cubic feet per second, when allowed, from October 1 to April 1, 6 acre-feet per year for the seasonal irrigation of 1.5 acres.

It is the conclusion of this examiner that, in accordance with Chapters 90.03, this application for change (to add a point of diversion, as granted under Walla Walla River Adjudicated Certificate No. 357) will not enlarge the quantity of water historically used under Mr. Hedine’s portion, nor will it impair existing rights provided the recommendations are followed.

## RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to the point of diversion be authorized, 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.

- 6 acre-feet per year
- Irrigation of 1.5 acres
- Instantaneous Quantities
  - 0.02 April 1 to July 1
  - 0.015 July 1 to Oct. 1
  - 0.03 Oct. 1 to April 1 (when allowed)

### Point of Diversion

SW<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>, Section 23, Township 7 North, Range 36 E.W.M.

### Place of Use

As described on Page 1 of this Report of Examination.

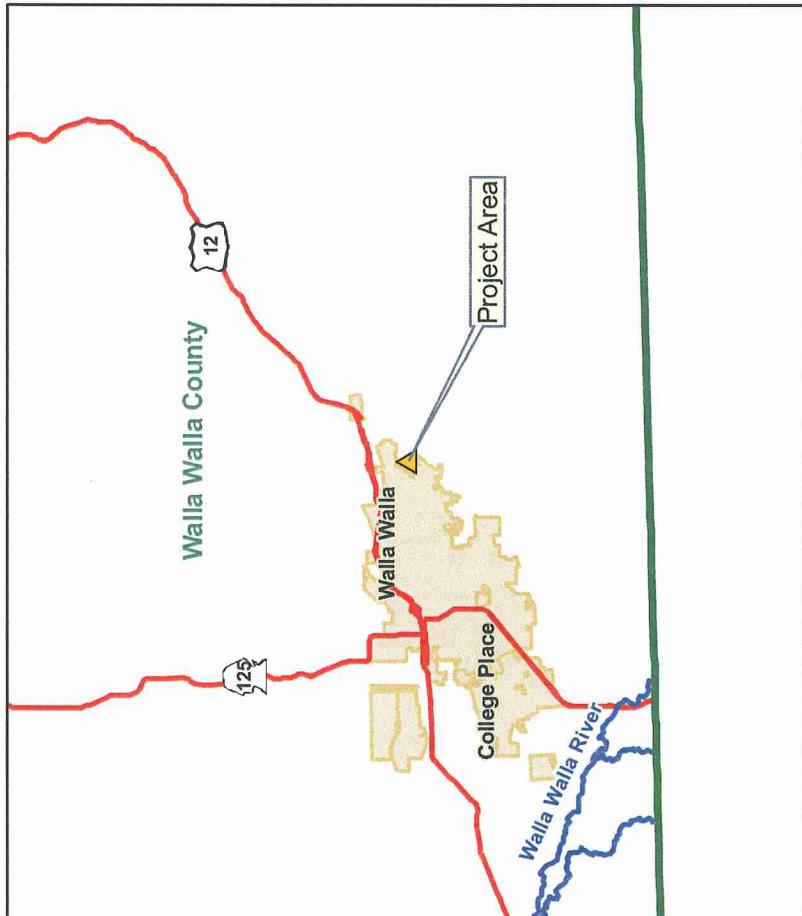
Report by: \_\_\_\_\_  
Dan Tolleson, Water Resources Program \_\_\_\_\_ Date

*If you need this publication in an alternate format, please call 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.*

# Attachment 1



Judson E. Hedine  
 Walla Walla Adjudicated Surface Water Certificate No. 357  
 Sec. 23, T 07N, R 36E, W.M.  
 WRIA 32 - Walla Walla County



- Legend**
- County
  - WRIA
  - Cities
  - Townships
  - Sections
  - Local Roads
  - Highways
  - Authorized Point of Diversion
  - Authorized Point of Withdrawal
  - Authorized Place of Use

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

