

STATE OF WASHINGTON
 DEPARTMENT OF ECOLOGY
REPORT OF EXAMINATION
Change of Diversion
 WRTS File No. CG3-*00071S@1

PRIORITY DATE	CLAIM NO.	PERMIT NO.	CERTIFICATE NO.
The year 1915			293-D

NAME		
Louis Ruzicka		
ADDRESS/STREET	CITY/STATE	ZIP CODE
1633Ruzicka Road	Walla Walla, Washington	99362

PUBLIC WATERS TO BE APPROPRIATED

SOURCE
A well

TRIBUTARY OF (IF SURFACE WATERS)

MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR
	17	16

QUANTITY, TYPE OF USE, PERIOD OF USE

17 gallons per minute, 16 acre-feet per year, from March 1 to November 30, each year, for the seasonal irrigation of 4 acres

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

1300 feet East and 1050 feet South from the NW corner of Section 7, T. 6 N., R. 36 E.W.M.

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY
NW¼NW¼	7	6 N.	36 E.W.M.	32	Walla Walla
PARCEL NUMBER	LATITUDE		LONGITUDE	DATUM	
360607220011	46.0174° N		118.3622° W	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 the northwest corner of Section 7 in Township 6 north, of range 36 east of the Willamette Meridian, and running thence south, along the west line of said Section 7, a distance of 966.0 feet; thence south 89°36' east 1180.9 feet; thence north 00°14' west 25.8 feet; thence north 89°46' east 245.90 feet to a point in the east line of Government Lot 1 (fractional NW¼NW¼) of said Section 7, the true point of beginning for this legal description. From said true point of beginning run thence south 89°46' west 245.90 feet; thence south 00°14' east, parallel to the east line of said Government Lot 1, a distance of 378-2 feet more or less to the south line of said subdivision; thence north 89°35' east, along said south line, a distance of 245.90 feet more or less to the southeast corner of said subdivision; thence north 00°14' west 377.8 feet to the point of beginning. Subject to existing county road along east side of said premises.

Beginning at a point in the west line of Section 7 in Township 6 north, Range 36 East of the Willamette Meridian, which point is 966 feet south, measured along said west line, from the northwest corner of said Section 7; and running thence south 89°36' east 1180.9 feet; thence south 00°14' east 352.4 feet, more or less, to a point in the south line of the northwest quarter of the northwest quarter of said Section 7; thence South 89°35' west, along south line, to the southwest corner of said northwest quarter of northwest quarter; thence north, along the west line of said section 7 to the point of beginning.

DESCRIPTION OF PROPOSED WORKS

Well, pump, big gun and hand lines

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
Started	August 1, 2014	August 1, 2015

PROVISIONS

Wells, Well logs and Well Construction Standards

1. All wells constructed in the state shall 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 shall be decommissioned.
2. The originally authorized, well known as Well No. 1 lying within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 7, T. 6 N., R. 36 E.W.M. shall be decommissioned.
3. Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.
4. The new well approved thru this change application must be constructed into the Columbia River Basalt Group. The overlying gravel aquifer will have to be effectively sealed off to prevent gravel aquifer water from entering the borehole.

Measurements, Monitoring, Metering and Reporting

5. 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>
6. 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 monthly rate of diversion/withdrawal and the monthly total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.
7. Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Eastern Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Eastern Regional Office for forms to submit your water use data.

Schedule and Inspections

8. 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.
9. The water right holder shall file the notice of project completion 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 beneficial use within the limitations of the change authorization. Elements of the project completion inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and compliance with provisions.

General Conditions

10. 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.
11. 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.

12. 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.
13. 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.

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. Furthermore, I find the change of water right as recommended will not be detrimental to existing rights or public interest.

Therefore, I ORDER the requested change of withdrawal under Ground Water Certificate No. 293-D, 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.

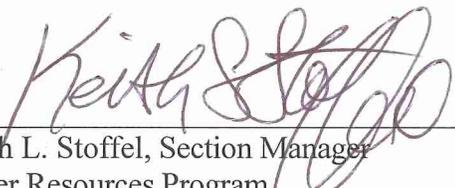
Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Suite 301 Tumwater, WA 98501	Pollution 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://www1.leg.wa.gov/CodeReviser>.

Signed at Spokane, Washington, this 25th day of August, 2011.



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

INVESTIGATOR'S REPORT

BACKGROUND

Description and Purpose of Proposed Change

An application for change/transfer was submitted by Louis Ruzicka of Walla Walla, Washington, to Ecology on December 31, 2003. Mr. Ruzicka proposes to add one point of withdrawal to a portion of Water Right Certificate No. 293-D.

Attributes of the Certificate and Proposed Change

Table 1 Summary of Proposed Changes to Ground Water Right No. 293-D

<i>Attributes</i>	<i>Documented</i>	<i>Proposed</i>
Name	Lawrence A. Preso, Sr.	Louis Ruzicka
Dates	Priority Date: The year 1915	Date of Application for Change: December 31, 2003
Instantaneous Quantity	300 gallons per minute	<i>no change</i>
Annual Quantity	320 acre feet per year	<i>no change</i>
Source	Two (2) wells	Add a well
Point of Diversion/Withdrawal	SW ¹ / ₄ NW ¹ / ₄ NW ¹ / ₄ and NE ¹ / ₄ NW ¹ / ₄ NW ¹ / ₄ of Section 7, T. 6 N., R. 36 E.W.M.	NW ¹ / ₄ NW ¹ / ₄ of Section 7, T. 6 N., R. 36 E.W.M.
Purpose of Use	Irrigation of 80 acres	<i>no change</i>
Period of Use	March 1 to November 30	<i>no change</i>
Place of Use	Approximation: portions of the N ¹ / ₂ NW ¹ / ₄ of Section 7, T. 6 N., R. 36 E.W.M. and NE ¹ / ₄ NE ¹ / ₄ of Section 12, T. 6 N., R. 35 E.W.M.	<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 withdrawal, by adding a well.

- **Public Notice**

A notice of application was duly published in accordance with RCW 90.03.280 in the Union Bulletin on February 13th and 20th, 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 90.03.380(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

RCW 90.44.100(2) requires that any well or wells added to a ground water permit must tap the same body of public ground water as the original well on the permit.

“RCW 90.14.140- Sufficient cause” for non-use defined — Rights exempted. (1) For the purposes of RCW 90.14.130 through 90.14.180, "sufficient cause" shall be defined as the non-use of all or a portion of the water by the owner of a water right for a period of five or more consecutive years where such non-use occurs as a result of: ... (c) If such right is claimed for a determined future development to take place either within fifteen years of July 1, 1967, or the most recent beneficial use of the water right, whichever date is later;...”

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) Ground Water Certificate Nos. 293-D, 4671-A and G3-01015C, and other water rights/claims/permit in the vicinity; (3) wells; (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.

A site visit of the project was conducted on June 9, 2009, by Dan Tolleson, with Nancy Del La Rosa, the contact for Louis Ruzicka. This project is located approximately 1½ miles southwesterly 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.

History of Water Use

Ground Water Certificate No. 293-D was originally issued in 1947 with a priority date of 1915. Ground Water Certificate Nos. G3-01015C and 4761-A were issued at later dates to supplement this right. Over time, the place of use was subdivided into various parcels of land with several owners. In 1998, changes were approved on Ground Water Certificate Nos. G3-01015C and 4761-A, which in part delineated the acreage of the various water users. The proportionate share listed for Mr. Ruzicka was 4.5 acres of irrigation. The total under Ground Water Certificate Nos. 293-D, G3-01015C and 4761-A was also limited to 910 gallons per minute, 360 acre-feet per year, for the seasonal irrigation of 90 acres. A Certificate of Change issued in 2009 to Clifford and Lila Paffile states “Water Right Certificate No. 4761-A is the only water right appurtenant to the subject 10 acres” which effectively removed 10 acres of the legal description from Certificate No. 293-D. This leaves Certificate No. 293-D with a legal description equal to the acres authorized. Because of multiple landowners and water users, this change will only address that portion of the water right appurtenant to Mr. Ruzicka’s land.

Historically, the authorized well under Certificate No. 293-D which was referred to as No. 1, was the only source used to irrigate Mr. Ruzicka’s parcel of land. In 2002, this well collapsed and became unusable. In 2003, Mr. Ruzicka filed an application to add a well for his use under this right, since he had no access to authorized Well No. 2. No irrigation occurred under Mr. Ruzicka’s portion of the right from the time of the well collapse until the spring of 2009 when he was given limited access to the second authorized well. Although, more than 5 years of non-use has occurred, this right did not relinquish since the applicant had sufficient cause. Sufficient cause in this case applies since the applicant had no access to water and filed an application for change to accomplish his plan. The plan and application were devised before the water right was relinquished from nonuse and has remained fixed. This future determined plan, to add one irrigation well to his property, has been in place since 2003. The well is proposed to be completed within three years of the date it is approved.

The applicant’s instantaneous share of the right was based on 4.5 acres of irrigation. Ground Water Certificate No. 293-D was originally issued for 3.75 gallons per minute per acres. At 4.5 acres the instantaneous share would be 17 gallons per minute.

Aerial photographs were used to help verify the extent of development, historical use and beneficial use of Ground Water Certificate No. 293-D. It appears that approximately 4 acres have been irrigated and remain irrigable within Mr. Ruzicka’s lot. The remainder of his lot is not irrigable since it is currently covered by two houses, out buildings and roads.

The maximum authorized water duty of this certificate is 4 acre-feet per year, per acre. Historically, it appears that this right has been used to irrigate various crops with pasture having the highest water duty. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that a 2.9 acre-feet, per acre, for pasture is required in the Walla Walla area. The existing irrigation system consists of a combination of hand lines and a big gun that has an estimated efficiency of 70%. 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. This water right may not be capable of providing sufficient water in dry years for the proposed crops with the existing irrigation system. Continued irrigation of the lot owned by Mr. Ruzicka will require 16 acre-feet per, per year, for the irrigation of 4 acres.

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 7, T. 6 N., R. 36 E.W.M. and Section 12, T. 6 N., R. 35

E.W.M. The review of Ecology records shows three water rights that overlap the authorized place of use, which are as follows:

Walla Walla Adjudicated Surface Water Certificate No. 754 authorizes up to 0.15 cubic feet per second, 37.5 acre-feet per year for the irrigation of 7.5 acres. The authorized place of use of this right overlaps a portion of the place of use of Certificate 293-D, but not that portion owned by Mr. Ruzicka.

Ground Water Certificate No. 4761-A with existing Certificates of Change (1-3-51 and II-3-43) authorizes 300 gallons per minute, 360 acre-feet per year for single domestic supply, stockwater and the seasonal irrigation of 90 acres. This certificate was provisioned with the following restriction: Ground Water Certificate Nos. 293-D, G3-01015C and 4761-A shall not exceed 910 gallons per minute, 360 acre-feet per year, for the seasonal irrigation of 90 acres. Ground Water Certificate Nos. 293-D, G3-01015C and 4761-A share approximately the same 90 acre place of use. It appears that water under this right may have been historically used on Mr. Ruzicka's land but has had no use in more than five years. The portion of this right appurtenant to Mr. Ruzicka's land appears to be relinquished from non-use.

Ground Water Certificate No. G3-01015C authorizes 310 gallons per minute, 124 acre-feet per year for the irrigation of 31 acres. This certificate was provisioned with the following restriction: Ground Water Certificate Nos. 293-D, G3-01015C and 4761-A shall not exceed 910 gallons per minute, 360 acre-feet per year, for the seasonal irrigation of 90 acres. Ground Water Certificate Nos. 293-D, G3-01015C and 4761-A share approximately the same 90 acre place of use. It is unknown if water under this right was historically used on Mr. Ruzicka's land but has had no use in more than five years. The portion of this right appurtenant to Mr. Ruzicka's land appears to be relinquished from non-use.

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

Hydrologic/Hydrogeologic Evaluation

John Covert, of the Technical Unit provided the following 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. Any amendment shall be issued by the Department of Ecology (Ecology) only under the conditions that (1) an 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) all existing water rights shall not be impaired. Ecology may specify an approved manner of well construction and shall require a showing of compliance with the provisions of the amendment.

The point of withdrawal for this change application is located within the Walla Walla Basin, a hydrologic sub basin of the Columbia Plateau. This basin developed as a structural trough within the Columbia River Basalt Group that was later overlain by unconsolidated sediments. The lowermost sediment unit is referred to as the "blue clay" which rests directly on the basalt basement rock. Directly overlying the "blue clay" and interfingered with it, is the gravel unit. The various unconsolidated gravels serve as the aquifer material which forms the uppermost, unconfined, water table aquifer. Aquifers are also present within the consolidated, Tertiary-aged, Columbia River Basalt Group. These predominately confined basalt aquifers are separated from the gravel aquifer by the "blue clay" unit.

Information from well drilling logs throughout the basin indicates that the gravel aquifer is generally unconfined. Long-term water level measurements (on the order of half a century) collected by both the USGS and the Oregon Water Resources Program indicate that the gravel aquifer is experiencing a slow, gradual, decline in the water table surface. This is occurring on top of the seasonal variation in water level that typically occurs in unconfined aquifers.

The basalt aquifer system is comprised of a series of zones, some of which easily conduct water. These high-conductivity zones alternate with zones of dense basalt, which impede the flow of water and are considered to have low hydraulic conductivity. The highly permeable basalt zones range in thickness from a few feet to 25 feet or more. It is the composite of these permeable, water conducting zones that constitutes the "basalt aquifer" within the sub basin.

Well #1 was reportedly drilled in 1915. No well log exists for this well. The water right file for Certificate 293-D, prepared in 1946, suggests that the well was either drilled to a depth of 560 feet (based on the application) or 650 feet (based on the report of findings). Both documents indicate the well was 6 inches in diameter. In either case, based on well logs on file for the immediate vicinity, this well was completed into the Columbia River Basalt Group. As indicated above, 90.44.100 requires the new well to be completed within the same body of public

groundwater. As such, the new well approved through this change application must be constructed into the Columbia River Basalt Group. The overlying gravel aquifer will have to be effectively sealed off to prevent gravel aquifer water from entering the borehole.

Impairment Considerations

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, not including earlier filed applications (HB 1832), 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).

The proposed change to add a point of withdrawal will not enlarge the quantity of water withdrawn from the aquifer, nor increase the irrigated acres. Several wells already exist in the vicinity of the proposed location. The instantaneous rate of withdrawal for the new well at the proposed location will not exceed what is already being exercised. There has been no documented history of pumping interference problems between existing wells in this area, and it is not anticipated that the proposed change would cause any impairment to existing water rights. In the unforeseen event that the new well will cause impairment to these existing rights, it will be treated as a junior appropriator and regulated accordingly.

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.

Enhancement Considerations

No withdrawal of water over and above what has been authorized for beneficial use would be authorized through approval of this change.

CONCLUSIONS

There is a water right available for change/transfer under Ground Water Certificate No. 293-D in the amount of 17 gallons per minute, 16 acre-feet per year, from March 1 to November 30, each year for the irrigation of 4 acres.

Based on the above Hydrologic/Hydrogeologic Evaluation, the existing and proposed well will withdraw water from the same source or body of public ground water, provided the well is properly constructed.

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, this application (proposing to add a point of withdrawal under Water Right Certificate No. 293-D) will not enlarge the quantity of water historically used, nor will it impair existing rights, or be detrimental to the public welfare provided the recommendations are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to add a point of withdrawal 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.

- 17 gallons per minute
- 16 acre-feet per year
- 4 acres of irrigation

Point of Withdrawal

NW¼NW¼ of Section 7, Township 6 North, Range 36 E.W.M.

Place of Use

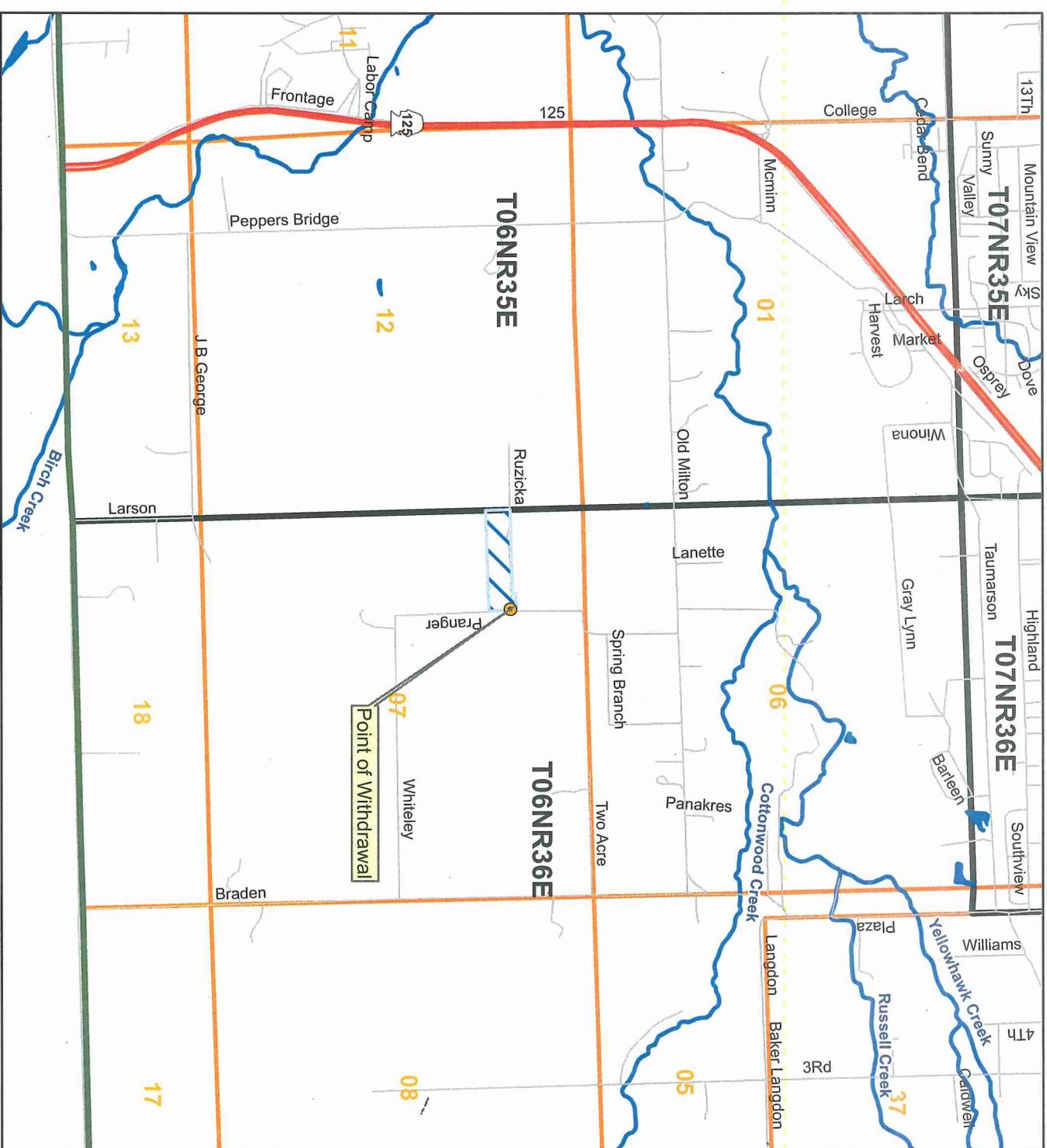
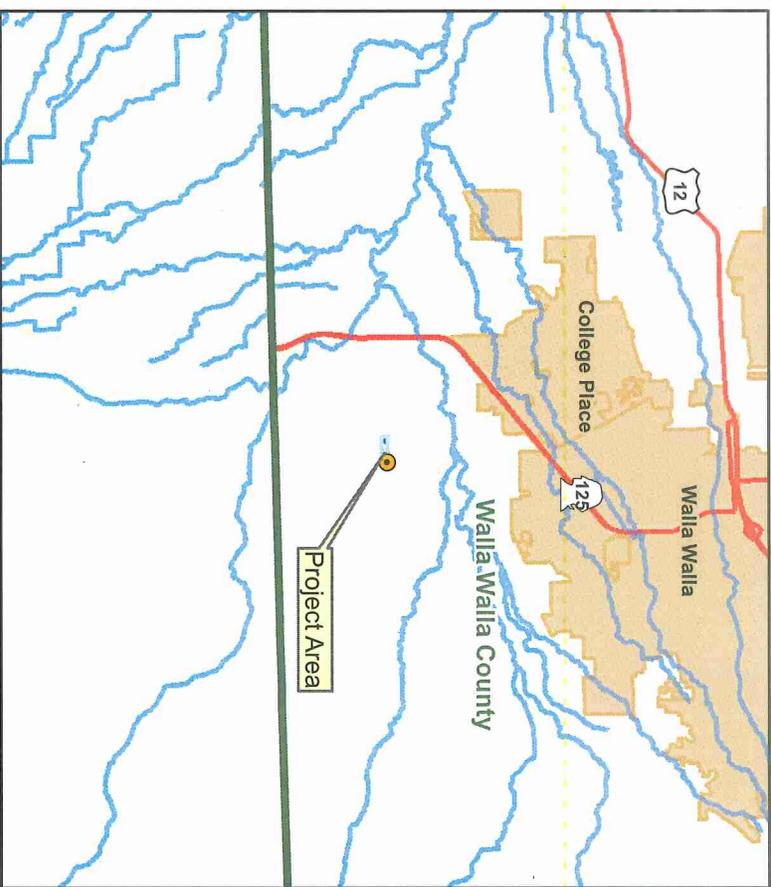
As described on Page 1 of this Report of Examination.

Report by: Dan Tolleson 8-25-2011
 Dan Tolleson, Water Resources Program Date

Y/Final Docs/ROEs/2011/Tolleson/293-D Ruzicka

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.

Mr. Louis Ruzicka, Jr.
Ground Water Certificate 293-JD
WRIS No. CG3-*00071S@1
Sec. 07, T 06N, R 36E, W.M.
WRIA 32 - Walla Walla County



Legend

- County
- WRIA
- Cities
- 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.'

