



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

October 9, 2008

CERTIFIED MAIL 7003 1680 0007 1588 2895

Mr. Charles Maiden
4609 Touchet North Road
Touchet, WA 99360

Re: Application for Change under Touchet River Adjudicated Certificate No. 355
w/change Vol. 2, pg. 537

Dear Mr. Maiden:

Enclosed is a copy of the Department of Ecology's *Report of Examination for Change*. This report constitutes our decision regarding the above-referenced application.

Your application has been approved. A superseding permit will be issued consistent with the enclosed *Report of Examination for Change* after the appeal period has expired, if no appeals have been filed.

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



Mr. Charles Maiden
October 9, 2008
Page 2

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Deliver your appeal in person to:

OR

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

Deliver your appeal in person to:

OR

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

*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> .*

If you have any questions, please contact Dan Tolleson at 509 329-3526.

Sincerely,



Keith L. Stoffel
Section Manager
Water Resources Program

KLS:DT:ka

Enclosures: *Report of Examination
Your Right To Be Heard*

I certify that I mailed this letter or an identical copy thereof; postage prepaid, to the above
addressee(s) this 9th day of October, 2008.
Water Resources Program, Secretary Lead, Kay Allhiser KA.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
APPLICATION FOR CHANGE/TRANSFER
REPORT OF EXAMINATION
 TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

- Surface Water** (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)
- Ground Water** (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE Unknown Date (Class 64)	APPLICATION NUMBER ---	PERMIT NUMBER ---	CERTIFICATE NUMBER Touchet River Adj. Certificate No. 355 w/chg. Vol. 2, pg. 537
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NAME Charles Maiden			
ADDRESS (STREET) 4609 Touchet North Road	(CITY) Touchet	(STATE) Washington	(ZIP CODE) 99360

PUBLIC WATERS TO BE APPROPRIATED

SOURCE Touchet River		
TRIBUTARY OF (IF SURFACE WATERS) Walla Walla River		
MAXIMUM CUBIC FEET PER SECOND 0.123 cfs from April 1 to Sept. 15 0.160 cfs from Sept. 15 to April 1	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE FEET PER YEAR 31

QUANTITY, TYPE OF USE, PERIOD OF USE

0.123 cfs from April 1 to Sept. 15 and 0.160 cfs from Sept. 15 to April 1, 31 acre feet per year, for any one year beginning September 15, for the irrigation of 8 acres

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

Diversion No. 1- NE¹/₄SE¹/₄, of Sec. 3
 1330 feet North and 100 feet West from the SE corner of Sec. 3

Diversion No. 2- NE¹/₄NE¹/₄ of Sec. 10
 200 feet South and 175feet West from the NE corner of Sec. 10

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) ---	SECTION ---	TOWNSHIP N. 7	RANGE, (E. OR W.) W.M. 33 E.	W.R.I.A. 32	COUNTY Walla Walla
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RECORDED PLATTED PROPERTY

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)
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LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

8 acres within the W¹/₂SW¹/₄SW¹/₄ of Sec. 2, T. 7 N., R. 33 E.W.M., lying east of the Touchet River

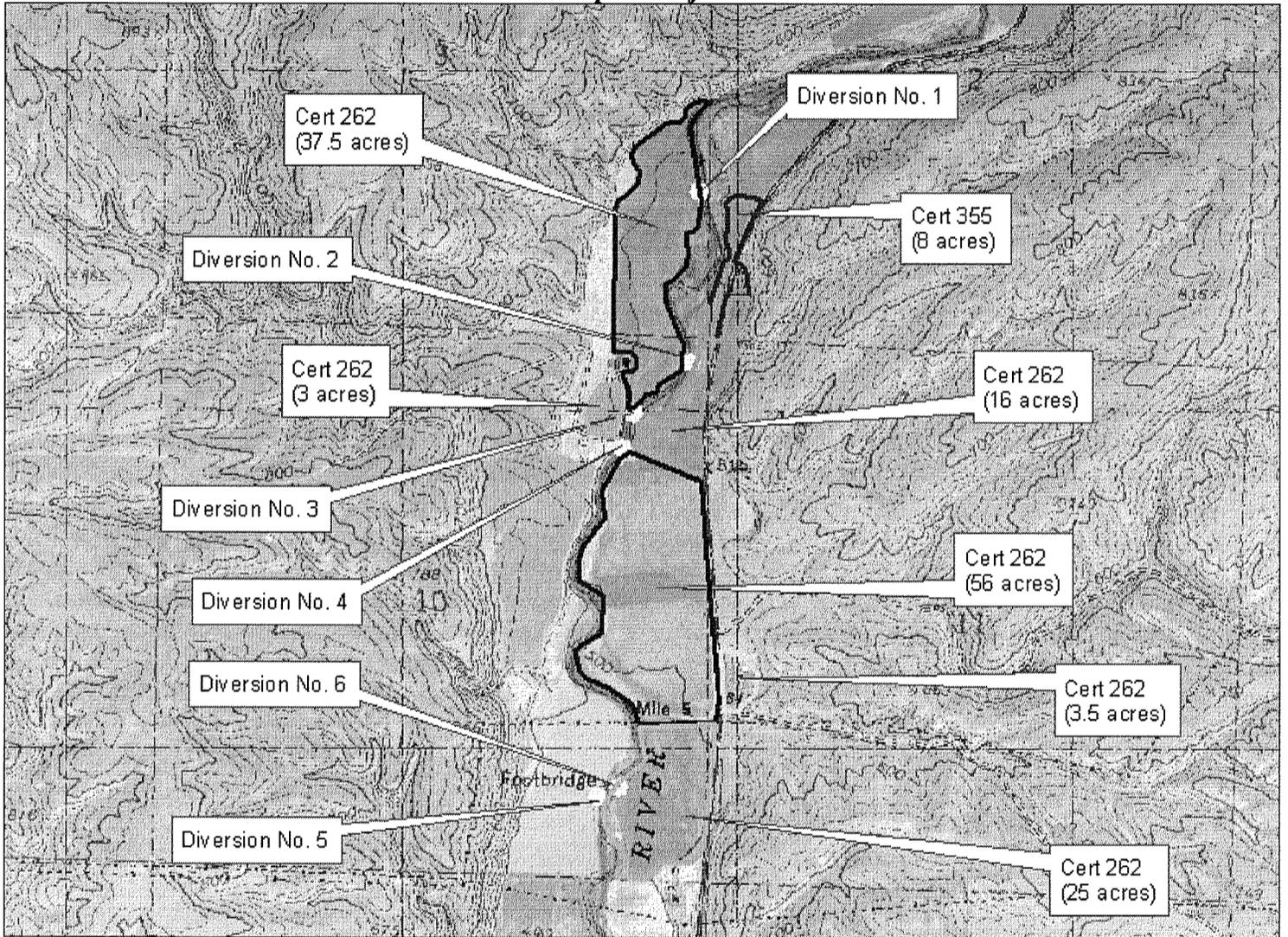
The place of use authorized under Certificate 355 w/537 is 8 acres within the SW¼SW¼ of Sec. 2, all within T. 7 N., R. 33 E.W.M. The irrigated parcels of land are basically the bottom land along both sides of the Touchet River, less riparian vegetation. All of the upland within the authorized place of use is not irrigated. The irrigation system consists of hand lines.

One point of diversion is authorized under Certificate 355 w/537 which is located within the E½SE¼ of Sec. 3 (Diversion No. 1). Mr. Maiden proposes to retain this point of diversion and add a second existing diversion located in the NE¼NE¼ of Sec.10 (Diversion No. 2). Both located within T. 7 N., R. 33 E.W.M.

Diversion Specifications

Diversion	Pump Status	Meter Status	Pump	Fish Screen
No. 1	Online	Operational	25 HP cent.	Yes
No. 2	Online	Operational	15 HP cent.	Yes

Map of Project



All within Sections 2 and 3, T. 7 N., R. 33 E.W.M.

EVALUATION OF THE RIGHT AND BENEFICIAL USE ANALYSIS

Touchet River Adjudicated Certificate No. 355 was issued on January 12, 1938 with a decreed class of 64 and priority date unknown. One certificate of change was authorized for Touchet River Adjudicated Certificate No. 355 on June 16, 1958. This authorization moved the point of diversion down stream approximately 13,590 feet, to the current point of diversion, known as Diversion No. 1.

Aerial photographs were used to help verify the extent of development, historical use and beneficial use of Certificate 355 w/537. The authorized place of use is approximately 40 acres with an authorization to irrigate 8 acres. It should be noted that additional acres are authorized under Certificate 262 w/539, within the authorized place of use. Historically, a gravity feed ditch diversion was used to supply water, and because of the varied terrain only about a quarter of the place of use was historically irrigable. Approximately 10 acres are currently irrigable and are developed for irrigation within the place of use. Taking into account historical use and additional acres authorized under Certificate 262 w/539 it appears that an estimated 8 acres have been historically and beneficially irrigated under this right. The acreage irrigated within the place of use is consistent with that authorized by the certificate and the certificate of change.

RECOMMENDATIONS

The applicant's request to change/transfer of water right certificate (by adding one point, for a total of two points of diversion, as granted under Touchet River Adjudicated Certificate No. 355 w/chg. Vol. 2, pg. 537) is **approved**, subject to the following provisions:

"The total amount of water authorized for withdrawal under Touchet River Adj. Certificate No. 262 w/chg. Vol. 2, pg. 539 and Touchet River Adj. Certificate No. 355 w/chg. Vol. 2, pg. 537 shall be limited to a maximum of 3.48 cubic feet per second, 581 acre feet per year, for any one year beginning September 15, for the irrigation of 149 acres."

"This authorization is subject to the provisions set forth in the decree of the Superior Court of Walla Walla, State of Washington, made and entered on the 19th day of September, 1929, recorded in Volume 18 of the Superior Court Journal at Page 1, otherwise known as Touchet River Decree No. 22066."

"After all rights scheduled in the Touchet River Decree No. 22066 are filled, the surplus water is allotted in the order of priority in amounts sufficient to increase the rate to the quantity allotted for the period from September 15th to April 1st. The total diversion shall not exceed 3.87 acre-feet per acre for any one year beginning September 15th."

"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."

"A superseding certificate of water right will not be issued until a final examination is made."

"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."

"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."

"Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities."

"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 for a minimum of five years, and shall be promptly submitted to Ecology upon request."

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".

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.

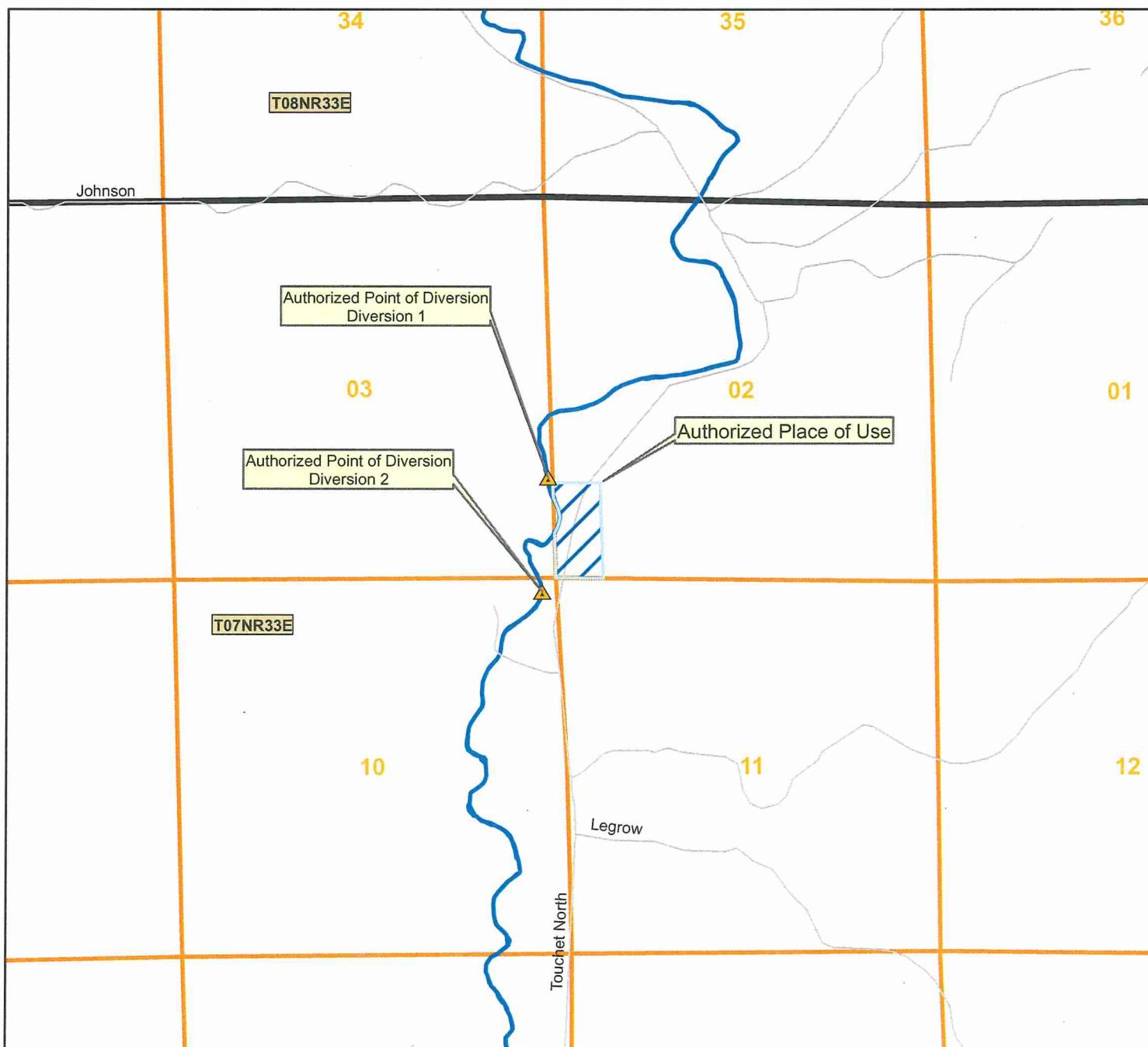
"This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and gamefish screening criteria (pursuant to RCW 77.16.220, RCW 77.55.040 and RCW 77.55.070). Please contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Program, Phone: (360) 902-2534, or call (509) 575-2734 for the Yakima Construction Shop to obtain technical assistance for your project. Juvenile salmon screening criteria are attached to the Report of Examination if applicable to your diversion."

"The water source and/or water transmission facilities are not wholly located upon the land owned by the applicant. Issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtainment of such right is a private matter between applicant and owner of that land."

Signed at Spokane, Washington
this 9th day of October, 2008

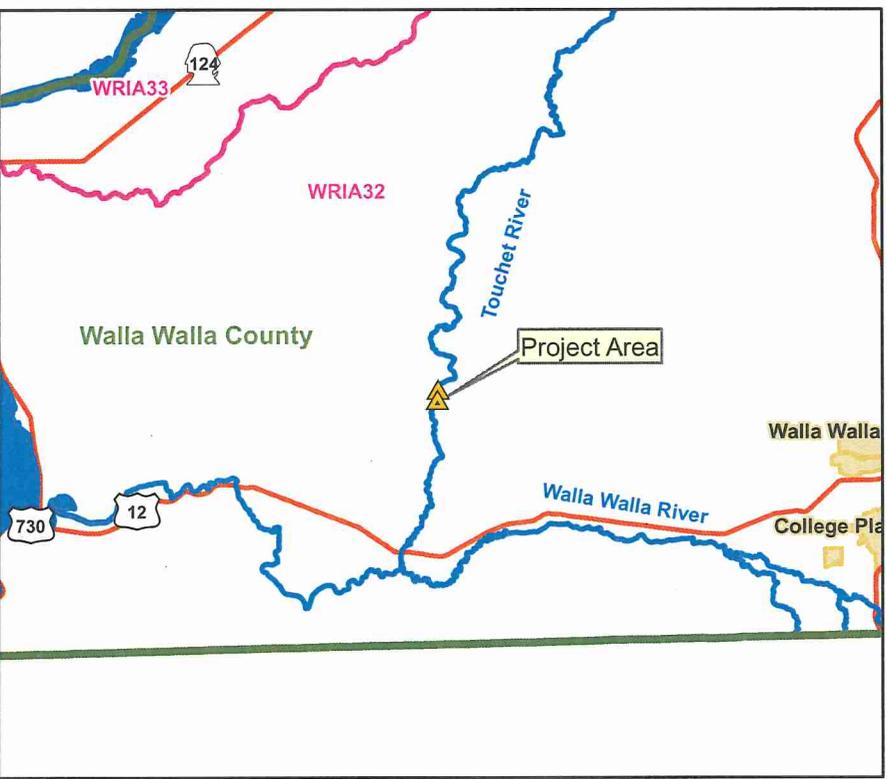


Dan Tolleson
Water Resources Program



Charles Maiden
 Touchet River Adjudicated Surface Water Right 335
 Sec. 2, 3 & 10, T 07N, R33E.W.M.
 WRIA 32 - Walla Walla County

WASHINGTON STATE DEPARTMENT OF ECOLOGY



- Legend**
- County
 - WRIA
 - Cities
 - Local Roads
 - Highways
 - Townships
 - Sections
 - Authorized Point of Diversion
 - 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.'

Attachment 1