

Tunk Creek Drainage Analysis of State Water Right Documents

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I. Introduction

A. About this document

This document is an analysis of state water right documentation provided by the Washington State Department of Ecology (Ecology) through public disclosure. The author based the opinions within this document upon a review of the state water right record and select other sources of information. The author has not exhausted all sources of information, for example, the author has not interviewed water right holders nor has he conducted site examinations of the places of water use. The author recommends that additional research, particularly fieldwork be conducted prior to the formation of any firm conclusion as to the potential extent and validity of any particular water right discussed within this report.

This document contains cross-referenced page numbers to assist the reader in following discussions regarding particular water right documentation through various sections of the report. The cross-references appear as page numbers in italicized and bolded text, such as “page ***5***” The link can be accessed by holding down the Control Key and clicking on the number.

Discussion of Tunk Creek water right documents are divided into three sections. All documentation is described within Section IV. Section V explains conclusions drawn after review of agricultural use documentation and Section VI presents recommendation with regard to agricultural use documentation. Section IV is organized by purposes of use, discussing: 1) domestic supply documents; 2) stockwatering documents, and; 3) an agricultural irrigation purpose. Within each purpose, documents are sorted by whether they are associated with a surface water source or a ground water source and by the township and range containing the place of use and/or the water source.

Review includes “active” documentation, when the entire process has been successfully completed or are in various stages within a state process and “inactive” documentation, when for some reason the state processes were not successfully completed but all work on the documentation is finished. “Inactive documentation generally do not embody a water right but provide history regarding the property and may identify other water rights within or near the proposed place of use.

B. Scope of work

The purpose of this project is to review and analyze state water right documentation for advancing the understanding of the legal basis for existing water uses and to identify water rights that might be acquired to enhance instream flows within Tunk Creek. Additionally, it appears that water available to enhance instream flows can occur through encouraging water use within the limits of the probable water rights.

Rajala Environmental contracted with the Confederated Tribes of the Colville Reservation, effective February 23, 2009, to provide:

1. Analyze summary data indicating the nature of documented rights;
2. Estimate the validity of state documented water rights based upon the summary and review of state documentation;
3. Identify of water rights with potential for acquisition;
4. Provide a set of state water right documents for water rights of interest for acquisition;
5. Develop a small database containing developed data.

C. Overview of Tunk Creek

Tunk Creek is westward trending stream drainage with forested headwaters in the Okanogan National Forest and the northern side of the Colville Indian Reservation. Headwater elevations are about 4,500 to 5,500 feet. Water flows approximately 15 miles west, becoming tributary to the Okanogan River at approximately 1,000 feet about ten miles north of Omak, Washington. Several springs and small lakes are located near the rim of the drainage. Stream flows reach a maximum as snow within the drainage melts during the spring and may exceed 50 cfs. During the late summer, a monitoring station operated by the Department of Ecology at mile 1.5 records flows of less than 1 cfs. The valley floor and lower drainage is sparsely treed, perhaps do to farming activity.

A sampling of water well reports indicate that most wells within the drainage penetrate about 20-100 feet of soil and unconsolidated material then enters decomposed and solid granite to the finished depth. Yields are low, generally from 3-30 gallons per minute.

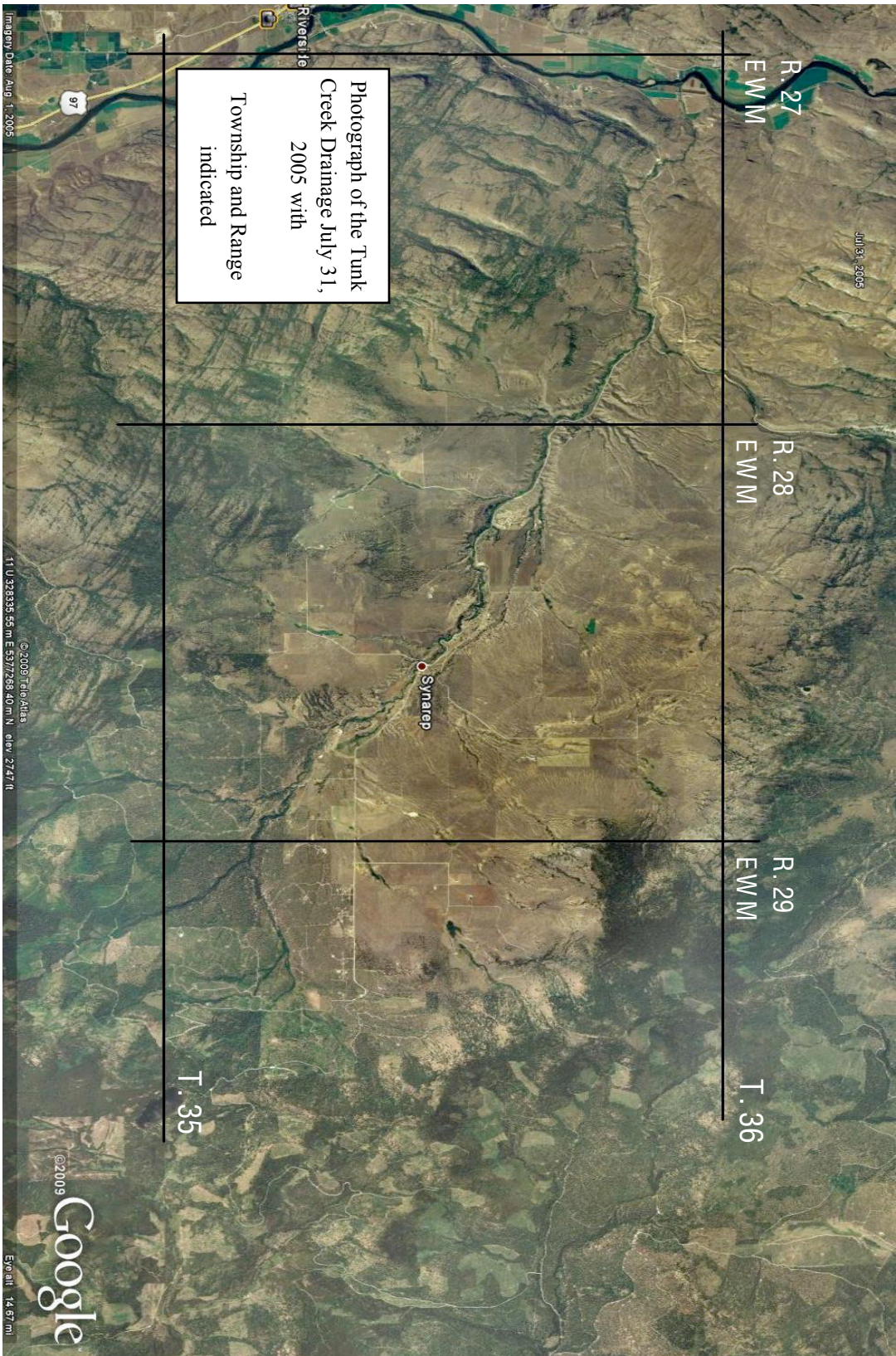


Figure 1 Tunk Creek Drainage

D. Public disclosure compliance

Public disclosure by a state agency is required under Chapter 42.56 of the Revised Code of Washington (RCW). During early March 2009, a public disclosure request to the Washington State Department of Ecology (Ecology) was filed for Tunk Creek Drainage water right documents. Rajala Environmental received records through late April 2009. The documents are .TIFF images and as .PDF files.

It appears that the records provided are not the entire record of each water right but were adequate in completeness for the purposes of this report. For instance, some of the transmitted records did not contain “supporting documents”. Supporting documents are a term used for various documents within the file including correspondence, copies of the public notice and development reports and maps.

Ecology identifies relevant water right records through the Water Right Tracking System (WRTS). WRTS is a state database designed to track administrative records of applications for permit, applications to change existing water rights, and adjudicated water right certificates. The database includes those records that according to the record resulted in the establishment of a water right, “active” records, and those that according to the record did not result in the establishment of a water right, called “inactive”. Reviewing inactive records can be an important part of water right research because they contain statements that assist in understanding the history associated with an identified property and because there are instances in which a water right was established under the authorization while the authorization was valid but the administrative process was not properly completed.

The water right claim registry has been incorporated into WRTS.

Upon request, Ecology produces a WRTS report. This report is produced as an Excel spreadsheet. A WRTS report was generated by querying for all records within Townships and Ranges containing Tunk Creek. The author edited the report to remove records that did not appear to be within the Tunk Creek Drainage. The resulting list of water right records is Attachment F through I.

This report and the conclusions made are based upon the available record. Actual examination of the water use, the property and interviews with the water user may provide information that would alter the conclusions of this report.

The document images are too large to make an attachment to this report and will be supplied separately.

II. Summary of Relevant Water Right Principals

A. The extent of a water right

State water right documents generally identify the maximum limits to any water right. Improvements in efficiency and modifications of use such as cropping changes can leave state documentation overstating the extent of a water right, since the documentation is not updated as the water use evolves.

A water right is defined by its beneficial use. Beneficial use consists of a purpose of use and the water quantities reasonably necessary to accomplish the purpose. Statute provides that the water right attaches to the land upon which the beneficial use occurs.

The purpose of use is categorized by a descriptive term, such as “irrigation” or “domestic supply”. The purpose is also described by use characteristics:

- A season during which the purpose can be accomplished, and;
- A place upon which the purpose occurs.

The water necessary to accomplish the purpose of use is described as:

- The source from which public water is taken;
- The point at which the facility is located for taking water;
- The maximum instantaneous rate that water is taken from the public water source, and;
- The maximum annual quantity of water reasonably required to accomplish the purpose of use.

The instantaneous rate is dependent in part on the type of water system that is used as well as the quantity of water that is demanded at any given time to accomplish the purpose of use. The maximum instantaneous rate (often referred to as the “Qi”) required to accomplish a purpose of use can vary for each water right of a similar purpose.

The annual maximum water quantity (often referred to as “Qa”) is more consistent for each water right of a particular purpose of use category than the instantaneous rate. For example, a particular crop type will require about the same annual water quantity upon one property as it may on neighboring property but differences in the water conveyance and distribution systems may cause the instantaneous quantity to vary. The annual rate for an irrigation purpose is normally the crop irrigation requirement plus water to compensate for the inefficiency of the system in delivering the required water to the crop. The limit to the inefficiency of a water system is “reasonableness. Reasonableness is determined by the nature of the water use, the state of technology for that system, the state of repair of the system, local custom, and other factors.

Water rights are associated with a priority date. The priority date is a date based upon the date that the water right was established that allows rights to be raked in seniority. The most senior, the oldest, water right is satisfied before the next senior right receives water. A state superior court must conduct an adjudication of water rights to determine the relative seniority of water rights to any particular water source.

B. Establishment of pre-water code water rights

1. Water rights and state documentation

The state adopted permit systems for the beneficial use of public surface water and public ground water. An exception for the permit requirement exists for small uses of ground water. Water rights established through the permit system are documented through a state record which includes documentation of the entire process to obtain a permit and then to establish a water use.

Water rights to divert public water established prior to the adoption of state permit systems (established by custom) have since been required to file a water right claim to preserve the right. Therefore, those early water rights are documented within the state water right record. Pre-permit system water rights that were not at the time considered a diversion, such as for stock drinking directly from a water body, were not required to file claims and may not be included in the state records.

2. Establishment of water rights through custom

Because ground water was mostly inaccessible, early water rights by custom and the 1917 water code focused upon surface waters, water occurring upon the surface of the earth. Prior to the 1917 adoption of a state water code, water rights were established through local custom. In many areas, early pioneers constructed the physical works related to water use and presumed that this established the right to use water. The 1889 legislative session adopted an alternate, but not mandatory, procedure for the establishing a water right; prior to developing a water use, one would post a notice at the intended point of water diversion and record that notice at the appropriate county courthouse. Notices filed with the county describe the intent to develop a water use but not the fact that the intent was followed through with actual development.

Through custom, two legal doctrines were recognized within Washington State as the basis for establishing water rights:

a) Riparian doctrine

The riparian doctrine recognized that landowners had a right to the reasonable use of waters that were contained within or abutted their properties. The riparian right existed whether or not water was actually used by the riparian owner. All landowners had to share the water source with other riparian landowners and could not degrade the water source to an extent that the source was not useful to others riparians. Under the riparian doctrine, all riparian landowners had an equal right

to the water source. The riparian doctrine satisfied the water needs of small farm operations in areas where water sources were plentiful.

The State Supreme Court ruled that the riparian doctrine expired within Washington 15 years after the 1917 adoption of the Water Code, RCW 90.03¹.

b) Appropriative doctrine

The appropriative doctrine ignored the physical relationship of the land and water. Water could be conveyed over long distances to the place of use. This doctrine recognized that a water right was established through the actual beneficial use of water. Water rights were governed by a priority system; the oldest established beneficial water use was satisfied before water was available for the next oldest water right. This system of regulation is referred as “first in time is first in right”.

The appropriative doctrine emphasizes concepts of the reasonableness and beneficial use in the use of water.

The state permit system for the establishment of water rights adopted principles of the appropriative doctrine

c) Court resolution of conflict

When conflict arose between water users of water rights established through custom due to an inadequate water supply to meet all needs, the county superior court would determine the division of water, commonly through the determination of the “seniority” of water rights involved in the dispute. Court records can be found for the “miscellaneous decrees” that were issued to resolve water use conflicts. These court records provide history regarding the use of water among parties to the case and resulted in the issuance of orders that regulate the use of water between the participating parties but do not confirm water rights. An adjudication system that confirmed water rights was established through the 1917 water code.

d) Abandonment of water rights

It was common that early Washington citizens would develop a water use and then move to a new location. A common example of this exists with mining activity; when an ore deposit was exhausted, the miner would move to a new ore deposit. Abandonment was a commonly understood principle for the loss of a water right. Abandonment has two elements:

- The water user has ceased using water.
- The water user has no further intention to use water.

¹ [DEPARTMENT OF ECOLOGY v. ABBOTT 103 Wn.2d 686, 694 P.2d 1071](#)

The burden to show that the two elements are present is the burden of the person alleging that abandonment has occurred. However, a long period of non-use can be evidence that the standard has been met, effectively shifting the burden to the right holder that has failed to use water².

C. Water right claims registration

During 1967, the state adopted RCW 90.14, which authorized the state to receive and register water right claims. Failure of a water user that diverts or withdraws waters of the state to file a claim for a water use that was not documented by a state issued certificate or permit waived the water right. A water right claim is an assertion that a water right exists. Many of these claims relate to surface water rights that were first established prior to the 1917 adoption of the Water Code. Claims were also filed for ground water uses begun prior to the 1945 adoption of a ground water code. Other claims preserve permit exempt ground water rights made after the adoption of the ground water code. A water right claim does not confirm the existence of a water right but merely represents the assertions filed by the claimant. A water right claim must be supported by substantial evidence indicating that the water use was legally developed and has been maintained by actual use. Additionally, the claimant must be able to define the beneficial uses to which public water is applied and the water quantities and period of the year in which water may be reasonably used.

Ecology's interpretation of RCW 90.14 during the claims filing period was that no water right claim need be filed if stock drank water directly from a public stream. Many of these rights may continue to exist without a water right claim on file.

The original water right claim-filing period was from mid-1969 to mid-1974. Registration of claims was also authorized during three additional periods, briefly during 1979, during 1985 and for a period of about 12 months during 1997 and 1998. The three later filing periods had restrictions associated with any water rights documented under those periods to ensure that any right associated with those claims did not impair water rights already in existence.

The state assigned a consecutive number to each water right claim as it was filed and stamped that number on the claim document. The number consists of six digits, the first claim being No. 000001. When the state computerized state water right documents, a scheme was developed that required the claim number to be modified within the digital record to be consistent with the numbering of water permits. Within the water right tracking system (WRTS) record, a claim number will be displayed with a prefix that indicates the water source ("S" for surface water, "R" for reservoirs, or "G" for groundwater) followed by a digit that indicates the Ecology region within which the water right document is situated. Okanogan County is within Ecology's Central Region, Region 4. Therefore, following the "S", "R" or "G" will be a "4". The claim number within the digital record also contains a suffix after the six-digit claim number that indicates the

² [OKANOGAN WILDERNESS v. TOWN OF TWISP 133 Wn.2d 769, 947 P.2d 732](#)

type of water right record. Claims are indicated by “CL”. Within the WRTS record, water right claim no. 000001, if it were surface water, would be displayed as No. S4-000001CL.

Amendments to water right claims

A water right claim can be amended to correct errors and changes in circumstances not foreseeable at the time of filing (RCW 90.14.065). Elements of a water right claim can be amended except the date of first water use. An amendment is accomplished through the approval of the amendment by Ecology after their review of the appropriate form.

D. Establishment of water rights under the water right permit system

1. Surface water code

During 1917, the state adopted the Water Code, RCW 90.03, which created state management of public surface waters. The Water Code has three primary purposes: it established a system for the creation and modification of existing water rights; authorized superior court adjudications for the determination of the validity and extent of existing rights, and; provided for regulation by the state against wasteful practices and unauthorized water use.

a) State permit system

The permit system established by the Water Code requires that all persons wishing to use public surface waters must file an application and receive a permit prior to the development of a diversion of public water.

Once the application is filed, the applicant must publish a public notice satisfactory to the state in a newspaper of general circulation within the project area. Any interested party may file an objection to issuance of a permit in response to the public notice.

After public notice, the state investigates the application and any objections. The issuance of a permit is dependent upon the project meeting four tests:

- The project must propose a beneficial use of public water;
- The proposal must not impair existing rights;
- There must be public water available for the project, and;
- The proposal must not be detrimental to the public interest.

If the project proposed by the application meets the four tests, then a permit must issue authorizing development.

The permit sets out limitations and any conditions (called provisions) related to the water development and requires development be accomplished in accordance with a schedule. If the schedule cannot be met then the state may approve extensions in time to the development

schedule. The permit holder files periodic reports to indicate progress being made in development.

Upon completion of the project, the permit holder files a final report called a Proof of Appropriation, which specifies the full extent of development and shows compliance with terms and conditions specified within the permit.

Upon receipt of the Proof of Appropriation, the state issues a Certificate of Water Right, this documents the state's certification that a water right has been established in compliance with applicable laws. For about the past thirty years, the state has commonly conducted a final examination of the project so that the certificate accurately reflects the extent of development. Prior to about 1980, certificates routinely issued on faith that the information contained within the Proof of Appropriation was accurate.

The permit process results in the following key documents:

- An application representing the proposed project and the applicant's intent;
- A public notice that describes the project that, having complied with the public notice requirement, can be considered for permit approval;
- A Report of Examination (ROE), which documents the state's findings in considering the four tests for approval;
- A permit which describes the authorized project and the conditions under which it may be developed and may operate;
- Reports which show progress in development and cumulatively show the extent of development, and;
- A certificate of water right is issued, documenting the extent to which a water right has been developed and listing on-going conditions of use.

b) Water right changes

The Water Code authorized the state to approve modifications to existing water rights through changes to the place of water use; the point of water diversion and changes to the existing purpose of water use.

An application system similar to that for new water rights must be followed, including the filing of an application, public notice, and a documented investigation by the state leading to approval of the application prior to the water user making the change. Prior to approving the application, the state must first tentatively determine that a water right exists and must define the extent of the water right; that the proposal will not impair the rights of others, and; in the case of groundwater, that the proposal meets the tests associated with the approval of an application for a permit.

Upon approval, the water user must complete the change in the time prescribed or receive additional time for completion. Upon completion, the state will issue, as appropriate, a superseding certificate of water right or permit, or for rights not documented by a certificate or permit, the state will issue a certificate that documents only that a change was accomplished in compliance with applicable laws. Called a Certificate of Change, this document does not certify that a water right exists but only that the state tentatively determined that there was one and that the change was legally accomplished. The primary documentation available within a water right change file is similar to that of an application of permit.

Water conservancy boards, established by county governments with approval of Ecology can process water right change applications. There are 20 water conservancy boards within the state, including within Okanogan and Ferry Counties. Water conservancy boards do not have jurisdiction within federal Indian reservations or upon trust lands.

c) Inchoate project rights

When the state water code was adopted during 1917, a provision of the code allowed water projects that were in development at the time of adoption could continue without a requirement to obtain a permit. The provision of law, RCW 90.03.460 RCW requires that the project be pursued with diligence and completed within a reasonable time considering the scope and complexity of the project. Due to this provision, it is possible that some water right claim stating that the date of first water use was after the date of adoption of the water code or the ground water code are valid.

2. Ground water code

During 1945, the state adopted the Ground Water Code, RCW 90.44. The ground water code is supplemental to the Water Code, extended the provisions of the Water Code to ground water, but it also includes provisions specific to the management of ground water.

a) Permit and water right change requirements

The Ground Water Code requires after the date of adoption, that any person wishing to make a beneficial use of ground water must first file an application and receive a permit as required by the Water Code, except as described in *b)* below.

Ground water right changes must comply with the provisions of the Water Code, the change must be evaluated using the “four tests” as with a new permit. The groundwater code does not authorize changes to the purpose of use. The Water Code provides requirements for changes to the purpose of use.

b) Ground water exemption from permit

RCW 90.44.050 provides exceptions from the permit requirement for ground water sources. The exception includes the following beneficial uses and limitations for each use:

<u>Beneficial use</u>	<u>Limitation</u>
<ul style="list-style-type: none"> • Single or multiple domestic supplies • Industrial purposes • Irrigation of lawn and non-commercial garden • Stockwatering 	<p>not exceeding 5,000 gallons per day;</p> <p>not exceeding 5,000 gallons per day;</p> <p>not more than one-half acre;</p> <p>Non-wasteful use</p>

The State Office of the Attorney General has issued an opinion that a permit exempt ground water user can have multiple purposes of use and that the water quantities for each type of use are additive. For example, according to the Attorney General, a permit exempt ground water user may withdraw 5,000 gallons per day for domestic use and 5,000 gallons per day for industrial use for a total of 10,000 gallons per day. It is anticipated that the exceptions from permit will be a subject to continued appeal and court challenges.

3. Relinquishment

The term “relinquishment” has come to have two related but different meanings within water right management:

a) The loss of water right through non-use

Relinquishment is a means through which a water right may be lost to the extent it is not used. Relinquishment is codified within RCW 90.14.130 through RCW 90.14.190 and was first adopted during 1967.

Unlike abandonment, which is based upon the cessation of water use and an intent not to use water in the future, relinquishment is based upon a non-use of water for the definite period of five consecutive years without “sufficient cause”.

As a matter of law, if a water right holder voluntarily fails to exercise a water right in whole or in part for five consecutive years without sufficient cause, the unused water right is forfeited (90.14.160-90.14.180 RCW).

“Sufficient cause” is listed within RCW 90.14.140. Numerous sufficient causes are reasons for the non-use of water without relinquishment of a water right. Some of the most applicable sufficient causes are:

- Future development plan, non-use while the right holder pursues a complex development;
- Weather that reduces the need for water use;
- Reduced irrigation water requirement due to crop rotation;
- Enrollment of the place of use in a farmland set-aside program.

b) The recording of the loss of a water right within the water right record

When Ecology finds that a water right has been lost through non-use, it is directed by statute to notify the right holder through an order that it appears that the right has been relinquished. The right holder has the opportunity to dispute Ecology's findings before the Pollution Control Hearings Board. If there is no dispute or if Ecology prevails, the relinquishment is recorded within the water right record. Additionally, there are forms available through Ecology for the voluntary relinquishment of a water right by the right holder.

E. Water resources program in the Okanogan River Basin

Ecology adopted an instream flow program for the Okanogan River Basin during 1976, which is codified as Chapter 173-549 of the Washington Administrative Code (WAC). The rule, last amended during 1984, closes many tributary streams seasonally to further appropriation. Tunk Creek is within the Lower Okanogan River management unit and is closed to further appropriation from May 1 to October 1. An exception is made for single domestic and stockwatering uses.

F. Water conservancy boards

During the 1997 legislative session, RCW 90.80 RCW was adopted by the legislature. With the approval of Ecology, county governments may establish water conservancy boards. There are now 20 counties with water conservancy boards, including Okanogan County and Ferry County. Water conservancy boards have authority to process applications to change water rights and to process water rights into the state trust water right program, subject to Ecology review. Boards do not have authority within Indian reservations or within trust lands. Ecology has a statewide water conservancy board coordinator with the responsibility to maintain the rule, 173-153 WAC, under which boards must operate and to assist in training and policy development with respect to boards.

G. Washington state trust water right program

Washington State's statewide trust water right program is based upon Chapter 90.42 RCW, which authorizes the Department of Ecology to acquire water rights, if funding is provided, and to accept donated water rights to be held within a state trust account. Water rights held within the trust account may be exercised for a beneficial purpose. Most trust water rights, if exercised, are used to enhance stream flows. Acquisitions and donations may be on a temporary or permanent basis and a donator may specify the purpose(s) to which a water right may be used.

If a water right is applied to an instream flow purpose, the annual quantity of water represented by the water right is used to determine the extent of flow contribution. Typically, the annual water quantity is divided by the period of time to which the water right is applied to the stream flow purpose to determine the instantaneous stream flow contribution. For example:

If: A water right in trust represented a water use of 0.235 cubic feet second; 100 acre-feet per year;

100 acre-feet per year equals 4,356,000 cubic feet;

If: The right is to be used as an instream flow throughout the year;

A year equals 31,536,000 seconds;

Then: $4,356,000/31,536,000 = 0.138$ cubic feet per second of constant instream flow

The example water right could be applied to a constant instream flow of 0.138 cfs. If the water right is returned to the original owner, a temporary donation, the water right is returned in the same character as when it entered trust. So, in the example above, the water right if returned would once again become useful for a diversion of 0.235; 100 acre-feet per year for the purpose of irrigation although it had been exercised as an instream flow of only 0.138 cfs.

III. County Supporting Records

A. County Assessor records

County assessor's office staff has historically recorded the extent of development upon land to assess property taxes. Tax rates vary in accordance with the nature of development, if any, upon the land. In addition, noting the condition of the land was important to accurate assessments. Older county assessment records are held at the Regional Archives Office of the Office of the Secretary of State. The regional archives office holding older Okanogan County Assessor's records is located at Ellensburg. County Assessor's records often contain notations and sketches that indicate the use of irrigation development, the location and type of crops and the acreage of fields. Assessor's records often use vague terms such as "improved" that have no defined meaning. Improved acreage may be land that has been cleared of trees, leveled or cleaned of surface stones. It does not necessarily represent the use of water for irrigation but might indicate that an irrigation project has begun.

B. Notice of water right filings

After about 1889, one means of establishing a water right was through the posting of a notice at the point water was intended to be diverted and the filing of that notice at the county auditor's office. These notices document an intent to develop a water use but do not describe whether that intent was followed by actual development or, if it was, the final extent of the development. These records may be useful in identifying a possible date range for the beginning of a water project but they are not conclusive that a water right was established.

IV. Discussion of Tunk Creek Water Right Records

A. General assessment of Tunk Creek water right documentation

The basis of this report is a review of water right documentation provided by Ecology in response to a public disclosure request. The documentation was compared to aerial photography available through the Okanogan County Assessor's Website and aerial photography available through Google Earth. Additionally, county assessment records for the years 1915, 1916, 1918 and 1934 were reviewed at the Regional Archives of the Office of the Secretary of State, located at Ellensburg.

When reviewing water right documents, the reviewer must be mindful that state authorization within documentation is stated as the upper limits to the right to utilize public water. The actual water right is limited to the extent of current and historic use and is subject to, among other things, the rule of law, case law, the state of technology and custom.

Additionally, for the purpose of water right acquisition in which the water will be applied to a new use, the annual rate of water use is an important determinant, while the instantaneous rate of diversion or withdrawal cannot be exceeded.

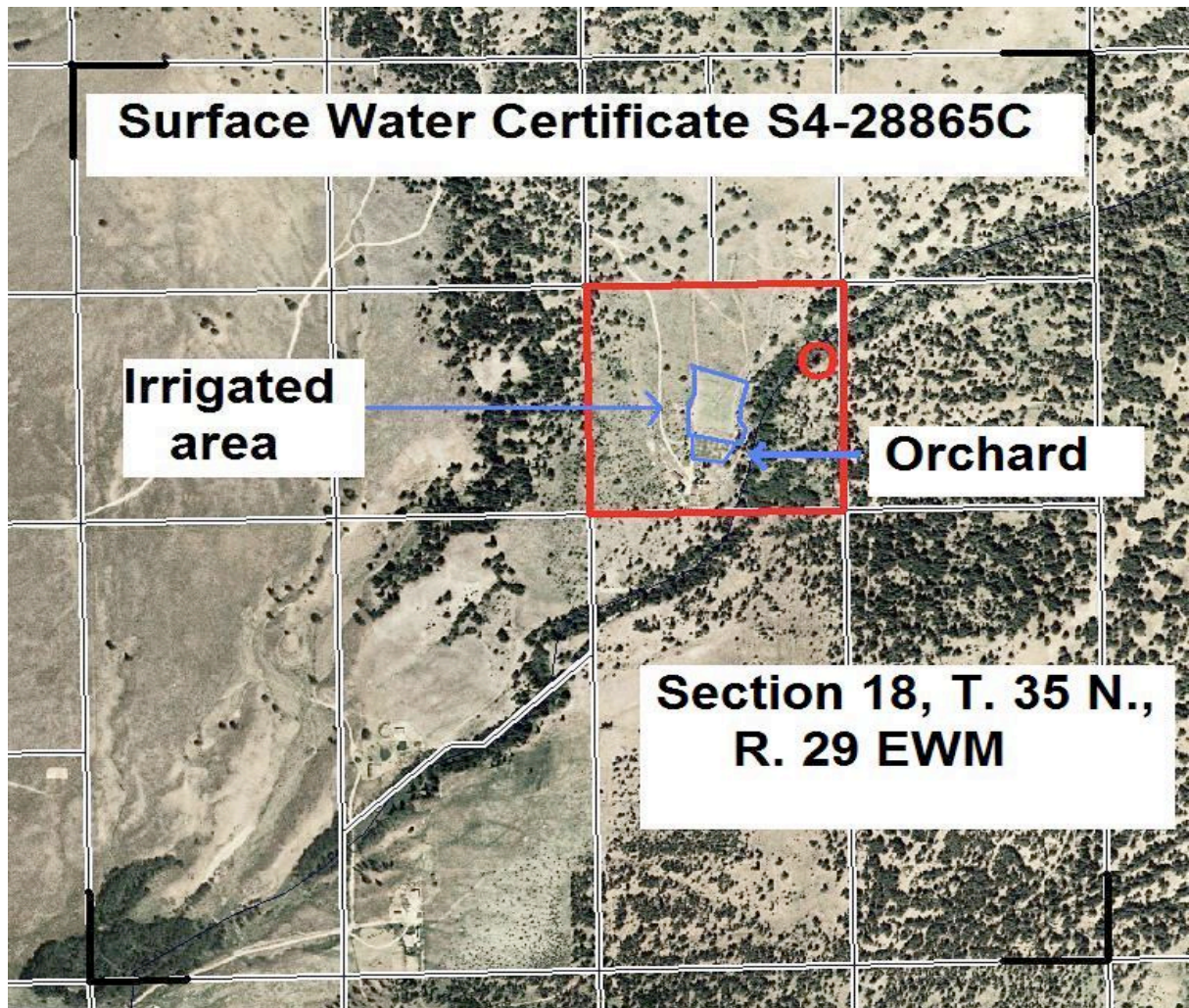
An overview of the Tunk Creek Drainage is available as Figure 1.

B. Domestic use related water right records

1. Certificate of water right

a) Within T. 35 N., R. 29 EWM

Certificate of Surface Water Right No. S4-28865C: The certificate issued on February 28, 1990 authorizing Dennis E. Brothers to divert through gravity flow 0.0178 cubic feet per second; two acre-feet per year for domestic supply and the irrigation of lawn and garden not exceeding one-half acre. The source of water is an unnamed spring located within the place of use, the SW1/4NE1/4 of Section 18, T. 35 N., R. 29 EWM in which a 12 foot deep three foot in diameter has been installed. The date of priority is February 11, 1986. There were no other water rights appurtenant to the property at the time the permit authorizing this use issued. Aerial photography indicates that there is more than ½ acre irrigated within the place of use. The irrigated area is approximately 2 to 2.5 acres in area. Even if a well, taking advantage of the ground water permit exemption had been constructed, the state water code does not authorize the current irrigated area without first obtaining an additional permit. This document is included within a list of apparently unsupported water uses on page 68 of this report.



Place of use 1 S4-28865C

Aerial Photography available through Google Earth dated August 5, 1998 shows no developed irrigation within the property. Apparently, the irrigated area was increased during the period between 1998 and 2004.

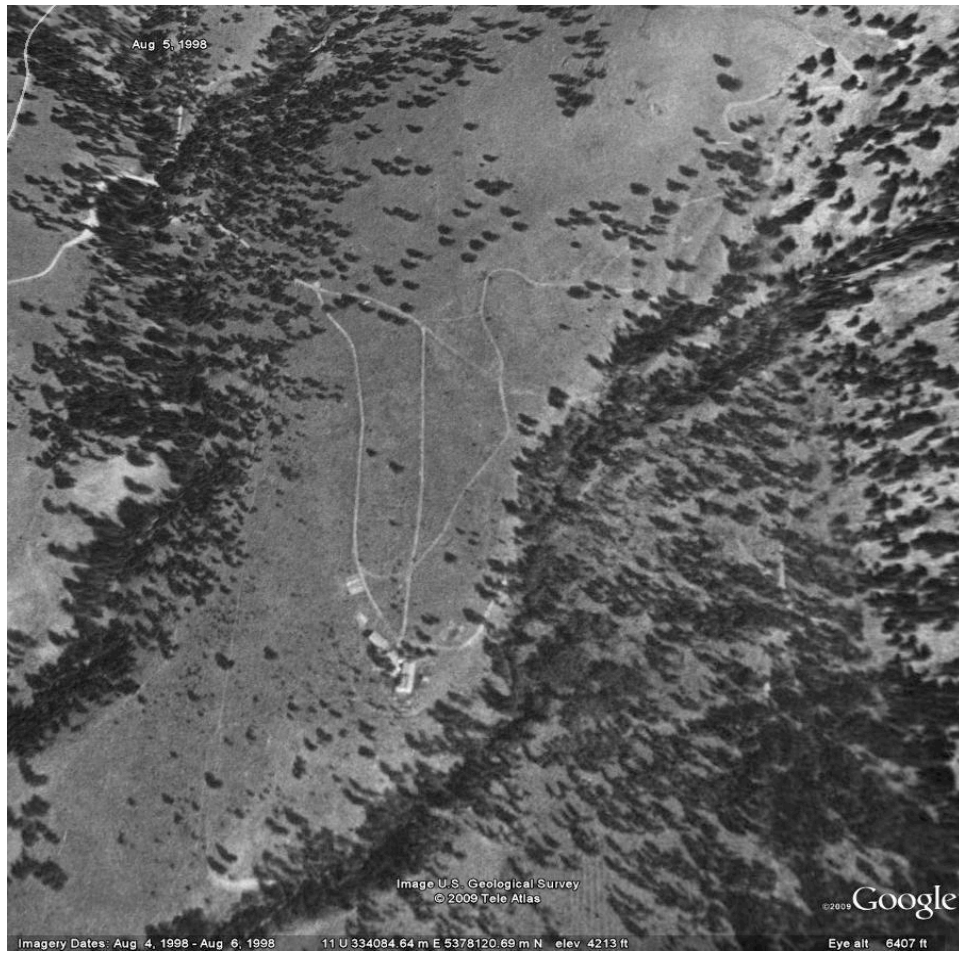
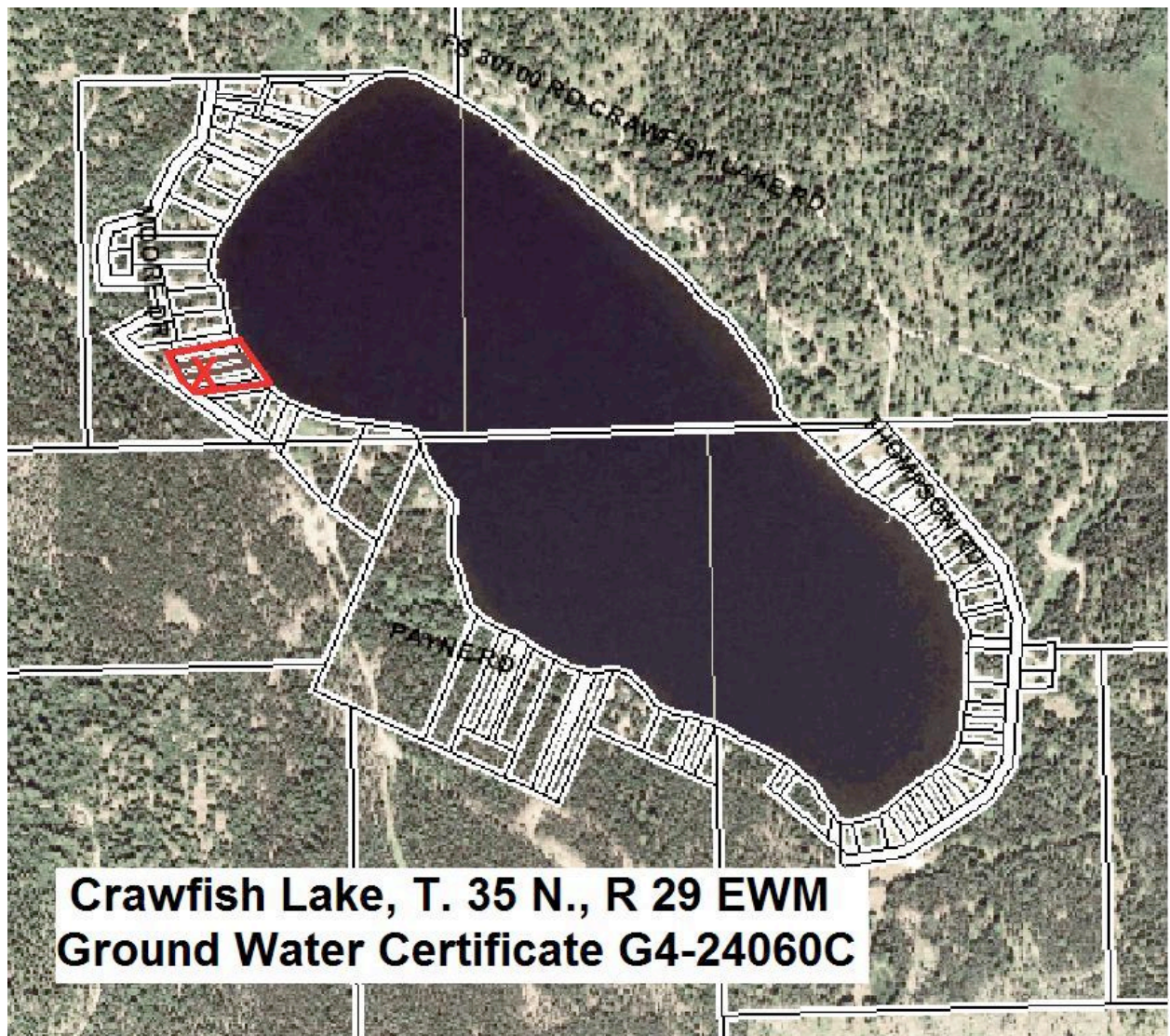


Figure 2 S4-28865C August 5, 1998

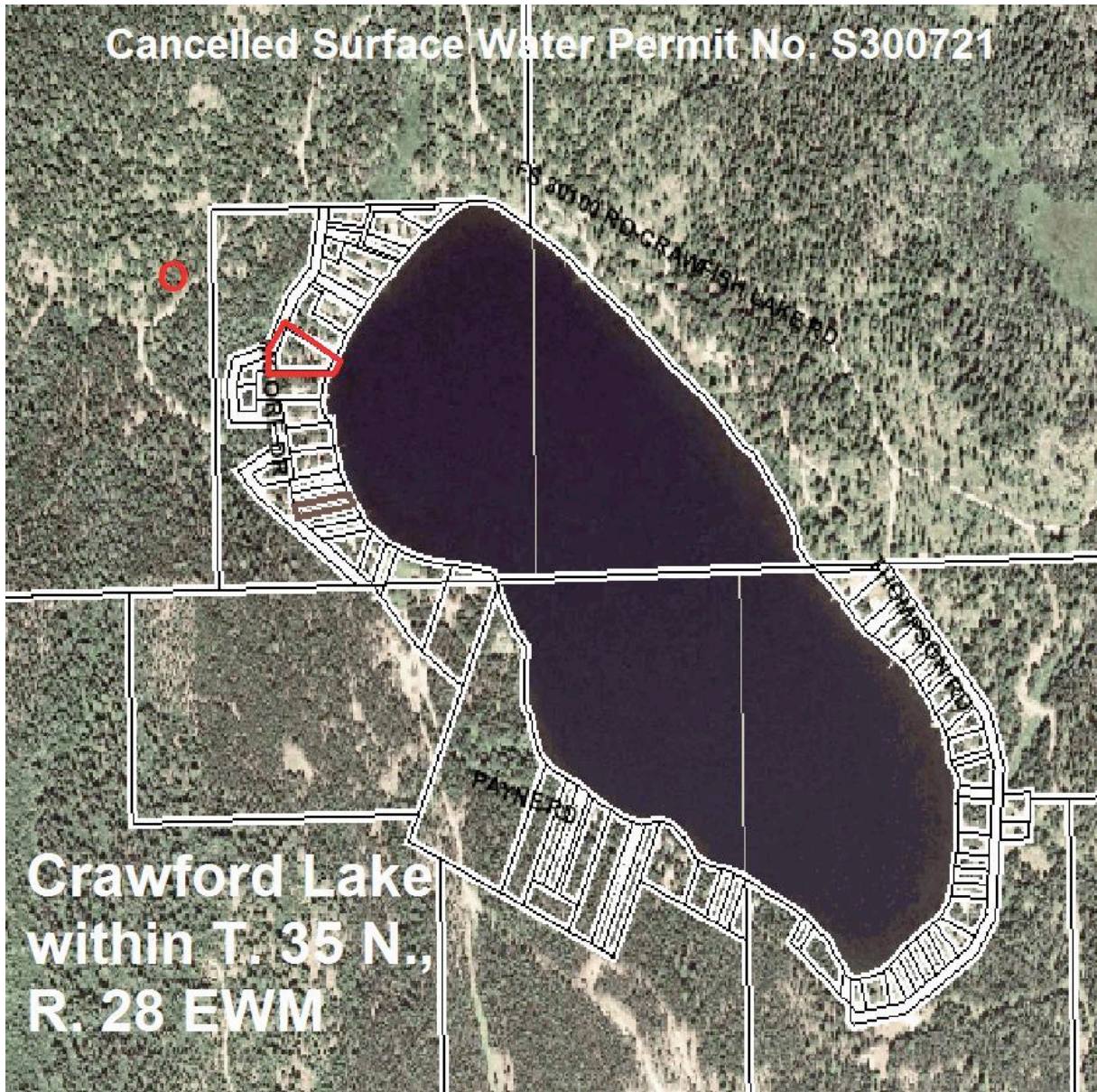
Ground Water Certificate No. G4-24060C: This certificate documents a right to withdraw 14 gallons per minute; 2 acre-feet per year from a well for the purposes of single domestic supply and fire protection on Lots 17, 18 and 19 of the Plat of Government Lot 2, Section 32, T. 35 N., R. 29 EWM. The priority date is September 5, 1975. Denied surface water application for permit No. S4-25405A to divert surface water from the lake, describes the same property.



Place of use 2 G4-24060C

2. Cancelled state issued permit

Cancelled Surface Water Permit No. S3-00721P: This permit authorized the diversion of 0.01 cubic feet per second; 1 acre-foot per year from an unnamed spring (Violet Spring) for the purpose of domestic supply within Lot 8 of the Plat of Government Lot 2 Plat – Crawfish Lake in Section 32, T. 35 N., R. 29 EWM. The application, to which the permit issued, was filed on December 2, 1971. The applicant stated that there were no existing water rights associated with the property. The permit was cancelled by an order dated October 31, 1975.



Place of use 3 S3-00721

3. Ground water domestic use water right claims

The following water right claims appear to be consistent with the ground water permit exemption, asserting a water right for domestic purposes of ground water, which may also include stock watering and the irrigation of small areas, likely to be lawn and garden. There are additional ground water permit exempt water uses that are not represented by water right claims. The Washington State Department of Ecology maintains a website that allows research of existing well construction reports. Water well contractors have been required to submit these reports to Ecology since 1972. A copy of the on-line map of well locations is available at: [Well Log Images Map Search](#). There are approximately 150 water well reports describing wells within the Tunk Creek Drainage.

a) Within T. 35, R. 27 EWM

Water Right Claim No. G4-126454CL: Located within the Lot 3 SW1/4NW1/4 of Section 6, T. 35 N., R. 27 EWM.

Water Right Claim No. G4-126454CL: Located within the Lot 3 SW1/4NW1/4 of Section 6, T. 35 N., R. 27 EWM. This use was not in use at the time of filing the claim.

Water Right Claim No. G4-007362CL: The place of use is within Government Lot 3, Section 7, T. 35 N., R. 27 EWM.

Water Right Claim No. G4-059586CL: The place of use is within a parcels contained within Sections 8 and 17, T. 35 N., R. 27 EWM.

Water Right Claim No. G4-131237CL: Located within the S1/2SE1/4 of Section 19 and the W1/2NE1/4 of Section 30, T. 35 N., R. 27 EWM.

b) Within T. 35, T. 28 EWM

Water Right Claim No. G4-133225CL: Located within the NW1/4NE1/4 of Section 15, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-133224CL: Located within the NW1/4NW1/4E1/2SW1/4SW1/4 and the SE1/4SW1/4 of Section 16, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-093484CL: Located within the NE1/4 of Section 18, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-093485CL: Located within the NE1/4 of Section 18, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-070717CL: The withdrawal of 10 gpm; 2 acre-feet per year from a well located within the NW1/4SW1/4 of Section 19, T. 35 N., R. 28 EWM for the purposes of domestic supply and stock watering. In approving Ground water permit No G4-29407, Ecology concluded that this claim was not valid. This document is included within a list of apparently unsupported water uses on page 68 of this report.

Water Right Claim No. G4-126474CL: Located within Section 21 and 22, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-154622CL: Located within the NE1/4SE1/4NW1/4 of Section 21 and 31, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-157986CL: Located within the NE1/4NE1/4 of Section 21 and 31, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-110405CL: Located within the SE1/4SE1/4 of Section 22, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-080934CL: Located within the SE1/4SE1/4 of Section 22, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-097860CL: Located within the SE1/4SW1/4 of Section 24 and the NE1/4NW1/4 of Section 25, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-110398CL: Located within the NE1/4NE1/4 of Section 26, T. 35 N., R. 28 EWM.

Water Right Claim No. G4-154620CL: Located within NE1/4NW1/4 of Section 28 and 31, T. 35 N., R. 28 EWM.

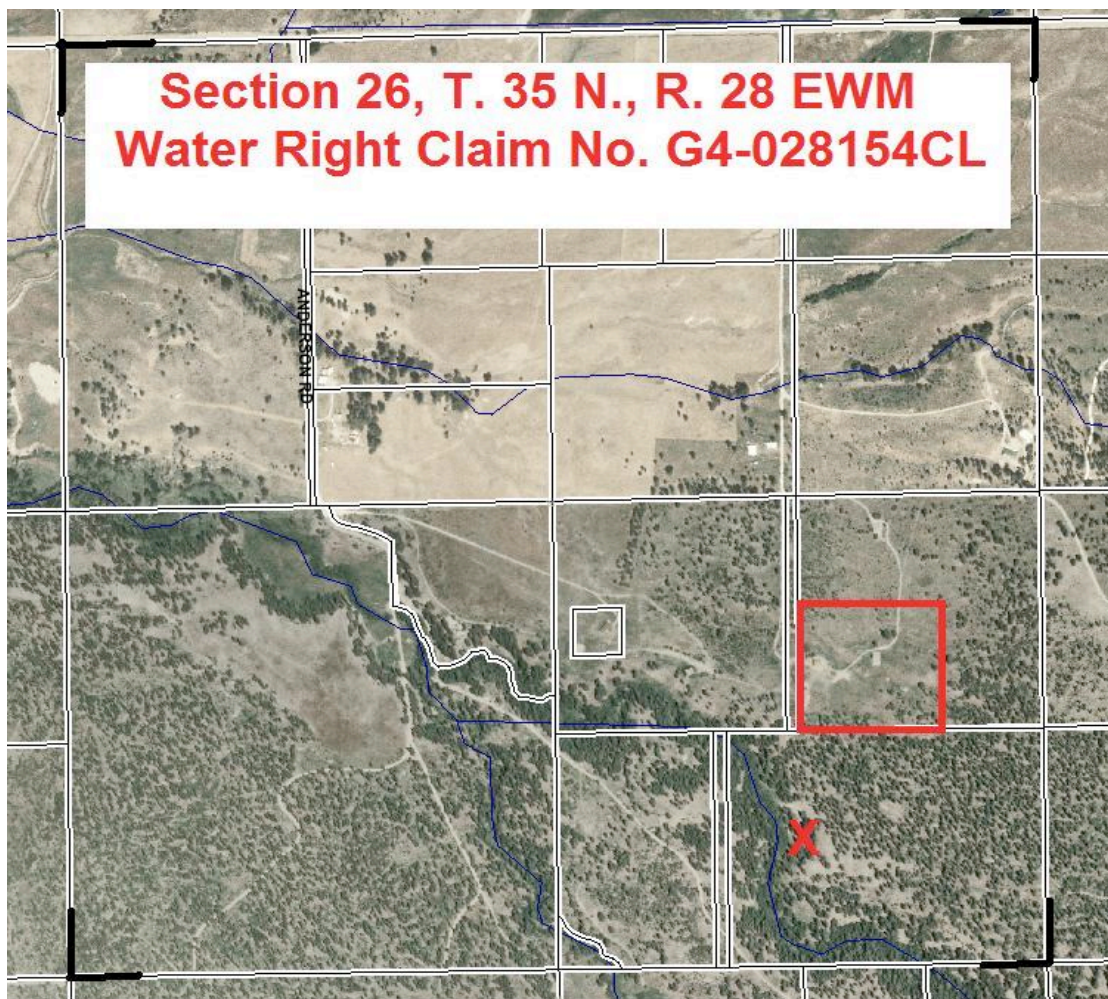
c) Within T. 36 N., R. 27 EWM

Water Right Claim No. G4-152335CL: Located within lots within Section 30 and 31, T. 36 N., R. 27 EWM. This use was not in use at the time of filing the claim.

Water Right Claim No. G4-069708CL: Located within Lot 1, Section 32 T. 36 N., R. 27 EWM.

4. Ground water right claims that appear to have required a permit prior to use

Water Right Claim No. G4-028154CL: This claim asserts a water right to withdraw 3.472 gallons per minute; 5.6 acre-feet per year from a well for domestic supply, and the irrigation of 1-acre of lawn and garden. The date of first use was reported as June 1969 and the claim asserts that the right was in use at the time of filing. The place of use is within the SW1/4NE1/4SE1/4 Section 26, T. 35 N., R. 28 EWM. This use appears to exceed the permit exemption for ground water uses. The permit exemption, since 1945, has required that not more than one-half acre of lawn and non-commercial garden be irrigated without first being issued a permit from the state. The asserted water quantities appear to be derived from the maximum permit exempt water withdrawal of 5,000 gallons per day (5000 gpd = 3.472 gallons per minute) and 5,000 gpd = 5.6 acre-feet per year). Since the claimed water quantities appear derived from statute rather than actual water quantity use measurement, they are likely unreliable. It is not clear from the 2006 Okanogan County Assessor's aerial photography whether there is currently a water use exceeding the 1/2-acre permit exemption for a ground water use. This document is included within a list of apparently unsupported water uses on page 68 of this report.



Place of use 4 G4-028154CL

5. Domestic use surface water right documents

The following water right claims assert a water right for domestic purposes of surface water, which may also include stock watering and the irrigation of small areas, likely to be lawn and garden from surface water with a date of first water use prior to the 1932 extinguishment of the riparian doctrine within Washington.

a) Within T. 35 N., R. 27 EWM

Water Right Claim No. S4-159523CL: The diversion of a spring for use located within the SE1/4SW1/4 of Section 2, T. 35 N., R. 27 EWM. Date of first water use is asserted as the summer of 1901.

Water Right Claim No. S4-070713CL: The diversion of Spring 5 for use located within the NE1/4SE1/4 of Section 25, T. 35 N., R. 27 EWM. Date of first water use is asserted as 1900.

b) Within T. 35 N., R. 28 EWM

Water Right Claim No. S4-134040CL: The diversion of Spring 4 for use located within the SE1/4SE1/4SE1/4 of Section 8, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1900.

Water Right Claim No. S4-005550CL: The diversion of 2 springs for use located within the SW1/4SW1/4 of Section 8 and the W1/2NW1/4 of Section 17, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1900.

Water Right Claim No. S4-093716CL: The diversion of a spring for use located within the SW1/4SE1/4 of Section 17, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1908.

Water Right Claim No. S4-093483CL: The diversion of a spring for use located within the NE1/4 of Section 18, T. 35 N., R. 28 EWM. Date of first water use is asserted as “prior to 1917”.

Water Right Claim No. S4-070716CL: The diversion of Spring No. 2 located within the NE1/4SW1/4 of Section 19, T. 35 N., R. 28 EWM for use as domestic supply and stock watering. Date of first water use is asserted as 1910. In approving Ground Water Permit No G4-29407, Ecology concluded that this claim was not valid. This document is included within a list of apparently unsupported water uses on page 68 of this report.

Water right claim No. S4-070715: The diversion of 5 gpm; 1 acre-foot, from a spring located within the NW1/4SE1/4 of Section 19, T. 35 N., R. 28 EWM for stock watering. The date of first use is asserted as 1910. In approving Ground Water Permit No G4-29407, Ecology concluded that this claim was not valid. This document is included within a list of apparently unsupported water uses on page 68 of this report.

Water Right Claim No. S4-093718CL: The diversion of a spring for use located within the NW1/4NE1/4 of Section 21, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1915.

Water Right Claim No. S4-110403CL: The diversion of a spring for use located within the NW1/4SE1/4 of Section 23, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1931.

Water Right Claim No. S4-131232CL: The diversion of a spring for use located within the SW1/4SE1/4 of Section 29 and the NW1/4 and the W1/2NE1/4 of Section 32, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1910.

Water Right Claim No. S4-131233CL: The diversion of a spring for use located within the N1/2SW1/4 and the SE1/4NW1/4 of Section 29 and the NE1/4SE1/4 of Section 30, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1912.

Water Right Claim No. S4-131236CL: The diversion of a spring for use located within the S1/2SW1/4 and the W1/2SE1/4 of Section 30 and the NW1/4 and the NW1/4NE1/4 of Section 31, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1908.

Water Right Claim No. S4-125086CL: The diversion of a spring for use located within the NE1/4SE1/4 of Section 33, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1916.

Water Right Claim No. S4-125087CL: The diversion of a spring for use located within the NE1/4SE1/4 of Section 33, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1916.

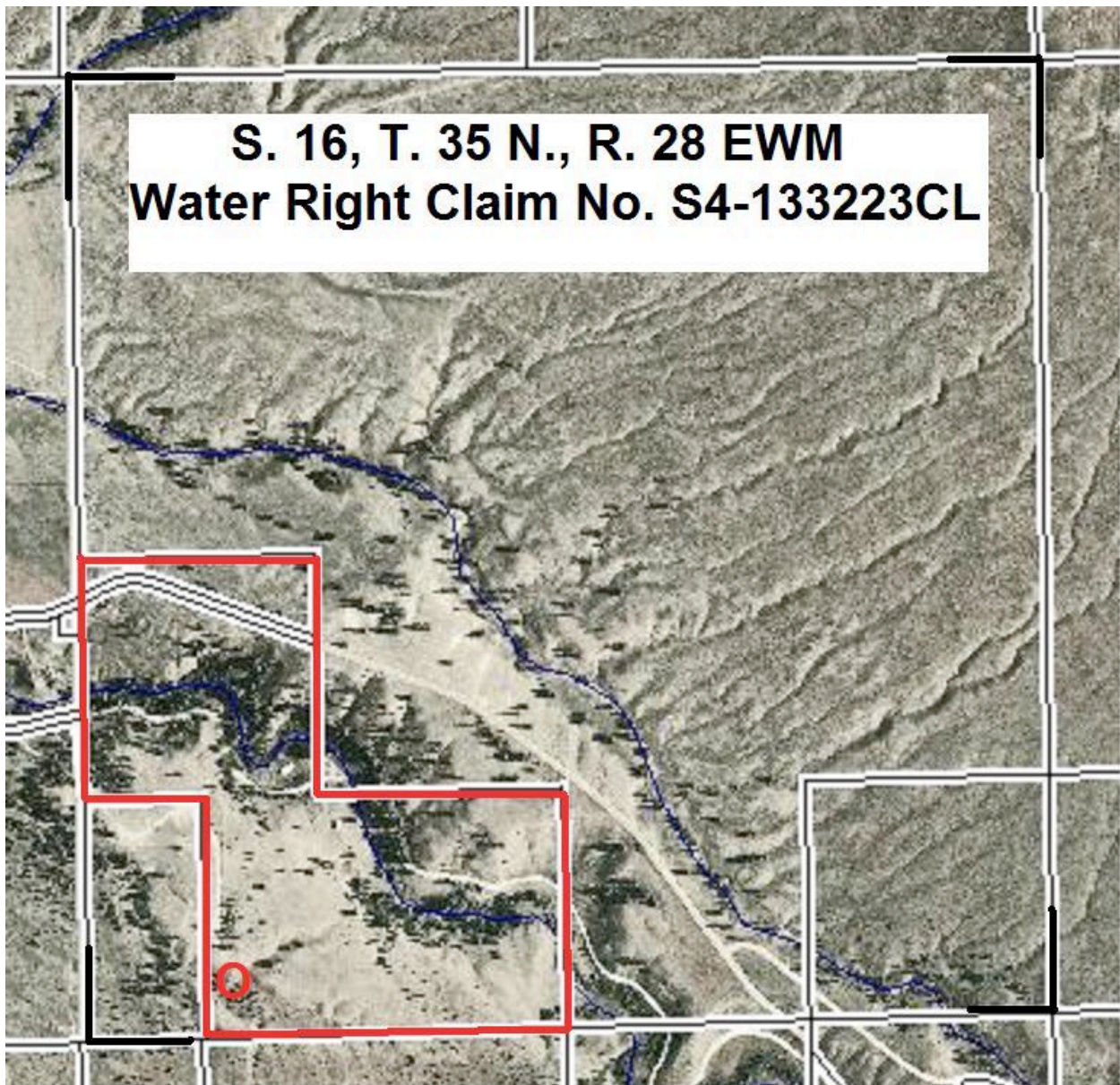
Water Right Claim No. S4-125088CL: The diversion of a spring for use located within the NE1/4SE1/4 of Section 33, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1916.

c) Within T. 35 N., R. 29 EWM

Water Right Claim No. S4-095512CL: The diversion of a spring for use located within the SE1/4NE1/4 of Section 19, T. 35 N., R. 29 EWM. Date of first water use is asserted as 1910. The claim includes as an attachment, a copy of an Okanogan County Superior Court ruling that equally divided water of the spring between four parties. The predecessor of the claimant's property, C. W. and Maud L. Rice were parties to the case. The ruling does not describe what actual use was made of the spring at the time of the ruling.

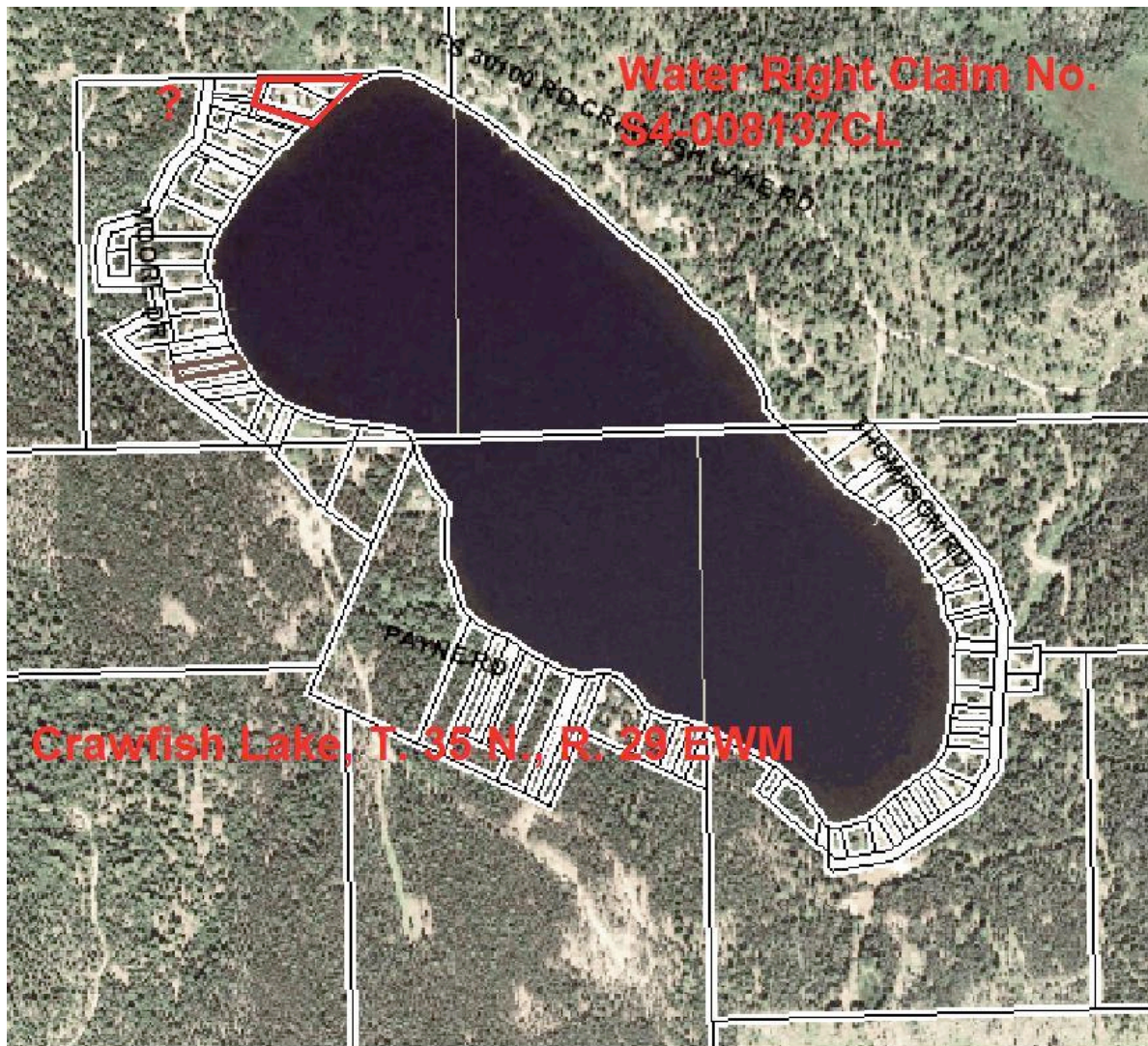
6. Surface water right claims that appear to have required a permit prior to use

a) Water Right Claim No. S4-133223CL: Claims a right for domestic supply purpose through a diversion of 10 gpm from Tunk Creek for use located within the NW1/4SW1/4 and E1/2SW1/4SW1/4 and SE1/4SW1/4 of Section 16, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1933. This claim is identical to Water Right Claim No. G4-133224CL that claims a right for water withdrawal from a well. This document is included within a list of apparently unsupported water uses on page 68 of this report.



Place of use 5 S4-133223CL

b) Water Right Claim No. S4-008137CL: The diversion of 0.04 cfs; 1 acre-foot per year from a spring for domestic use located within Lot 1 of Government Lot 2 within Section 32, T. 35 N., R. 29 EWM. Date of first water use is asserted as 1971. The location of the spring is unclear within the claim. This document is included within a list of apparently unsupported water uses on page **68** of this report.



Place of use 6 S4-008137CL

- c) Water Right Claim No. S4-015713CL: The diversion of Crawfish Lake for use located upon Lot 15, Stewart and Botcher's Crawfish Lots within Section 32, T. 35 N., R. 29 EWM. Date of first water use is asserted as 1962. The subdivision referenced within the claim could not be found on the Okanogan County Assessor's Website. This document is included within a list of apparently unsupported water uses on page **68** of this report.
- d) Water Right Claim No. S4-151472CL: The diversion of 1 gpm; 1 acre-feet per year from Davis Lake for domestic supply and the irrigation of 40 acres located within the NW1/4NW1/4 of Section 34, T. 36 N., R. 28 EWM. Date of first water use is asserted as March 1968 but no water was reported as used at the time of filing. Aerial photography for the year 2006 shows a home currently within this area. The asserted one gpm diversion rate is insufficient for the asserted beneficial uses. This document is included within a list of apparently unsupported water uses on page **68** of this report.



Place of use 7 S4-151472CL

C. Stockwater right records

Because stock watering documentation represents a small water use for stock that are allowed to roam a large area, these uses were not mapped.

1. Certificate of water right for stockwatering purposes

Ecology has issued 24 certificates of surface water right for stock watering. Each certificate identifies one or more unnamed springs as a water source. Certificates issued only to the U.S. Forest Service and the Crown Zellerbach, Co. The instantaneous rate of most certificates authorizes a diversion of 0.01 cfs and an annual quantity of from 0.12 to as much as 1.31 acre-feet per year.

2. Application for permit

An application was filed by Francis Fritz on September 11, 2000 proposing the diversion of 10 gallons per minute from a spring for the watering of 70 beef cattle located within the SE1/4NE1/4 of Section 18, T. 35 N., R. 29 EWM.

3. Water right claims asserting a right for stock watering

Water right claims were required by the state for the development of a source, for example if water were directed to a stock tank, but the state's interpretation was that if stock drank directly from the source, no water right claim was required.

a) Surface water right claims

One hundred and fourteen water right claims assert a right to the use of public water for a stock watering purpose within the Tunk Creek drainage. There are 109 water right claims asserting a right for the use of surface water. The state water right database erroneously lists some of these the claims to the use of surface water as being ground water claims.

According to the state water right database, 31 of the claims asserting a surface water right for stock watering provide a date of first use after 1932, the year in which the riparian doctrine expired within Washington State. The claimants that filed water right claims asserting a date of first use after 1932 are:

- 20 Bar 3 Grazing Association
- William F. Buchholtz
- Lynn A. Huebler
- Edward W. Figlenski

Many of these claims probably only assert a right for stock to drink directly from a water source rather than representing a diversion of water. Additionally, stock water claims generally name a large place of water use when water is actually available near the water source. These claims are

not mapped or individually listed, except they are available within the WRTS attachments. As a group, they are within a list of apparently unsupported water uses on page 70 of this report.

b) Ground water right claims

There are five water right claims asserting a right to use ground water. Stock watering is one of the four purposes for which ground water can be withdrawn without first obtaining a permit (RCW 90.44.050). Water can be withdrawn in the water quantity that is reasonably necessary to water the stock held on the land.

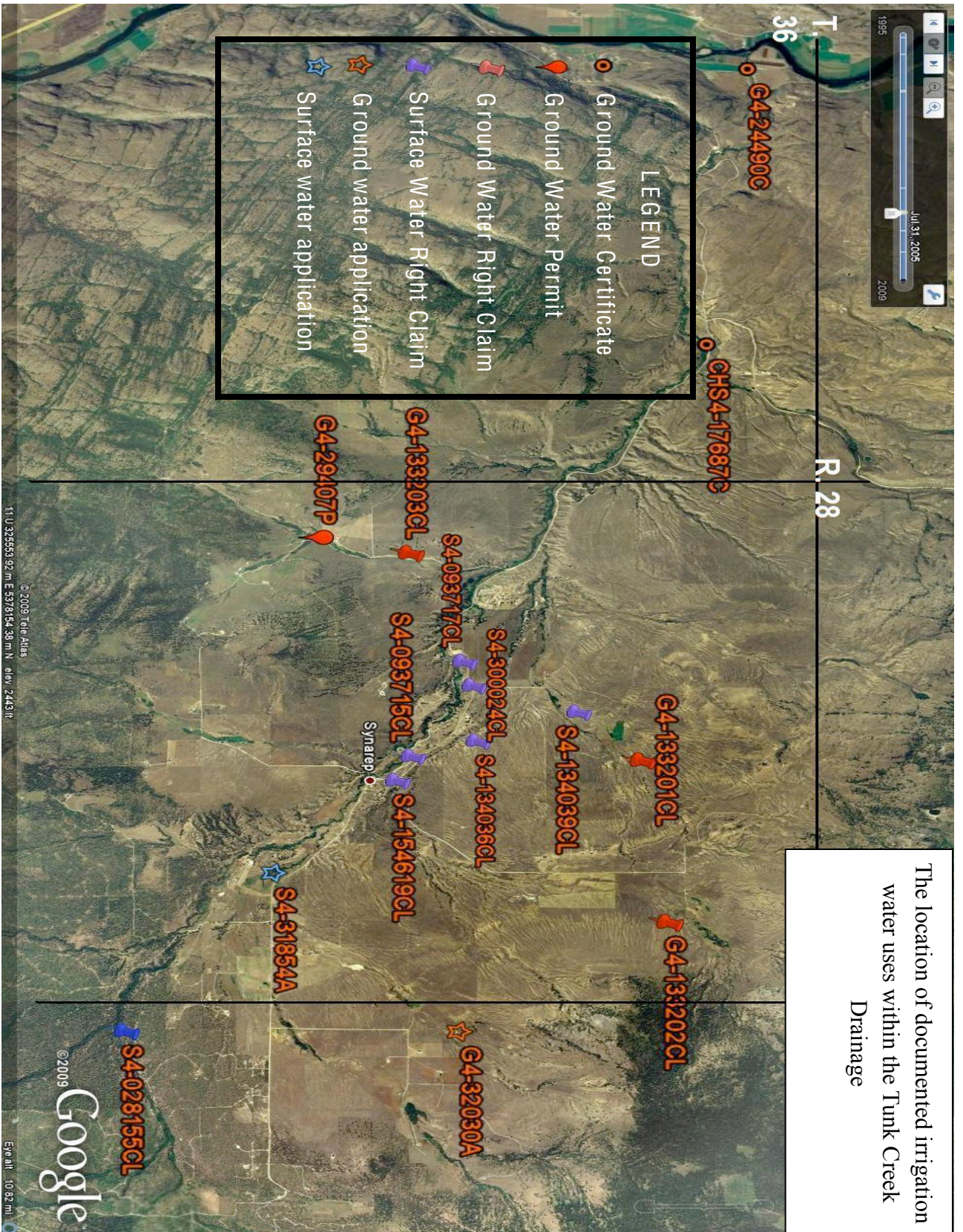
D. Irrigation water right records

Twelve water right records document irrigation as the primary purpose of the water use. There are two state issued water right certificates, one of which includes a recently approved change. There is one ground water permit, which the permit holder has reported as fully developed and eight water right claims.

While the water quantities associated with each water use may vary, the state, in recently approving a water right change, assumed that an annual water quantity of 3.5 acre-feet per acre (including system inefficiency) was sufficient for hay and pasture. The state irrigation guide indicates that for Omak the irrigation water requirement for hay and pasture is 26.89 inches (2.24 AF) per acre per season. The difference between 2.24 AF and 3.5 AF is assumed irrigation inefficiency.

Several of the water right claims attempt to assert water rights for a future water use. These claims have no validity. Other claims assert water rights for areas that, according to 2006 aerial photography available at the Okanogan County Assessor's Office Website, do not appear to have an irrigation use.

Figure 8, an aerial photograph dated July 31, 2005, shows the location of all fifteen state issued certificates, permits, filed water right claims and applications to establish new irrigation water rights within the Tunk Creek Drainage. Road maps showing the location of documented irrigation water uses are attachments to this report.



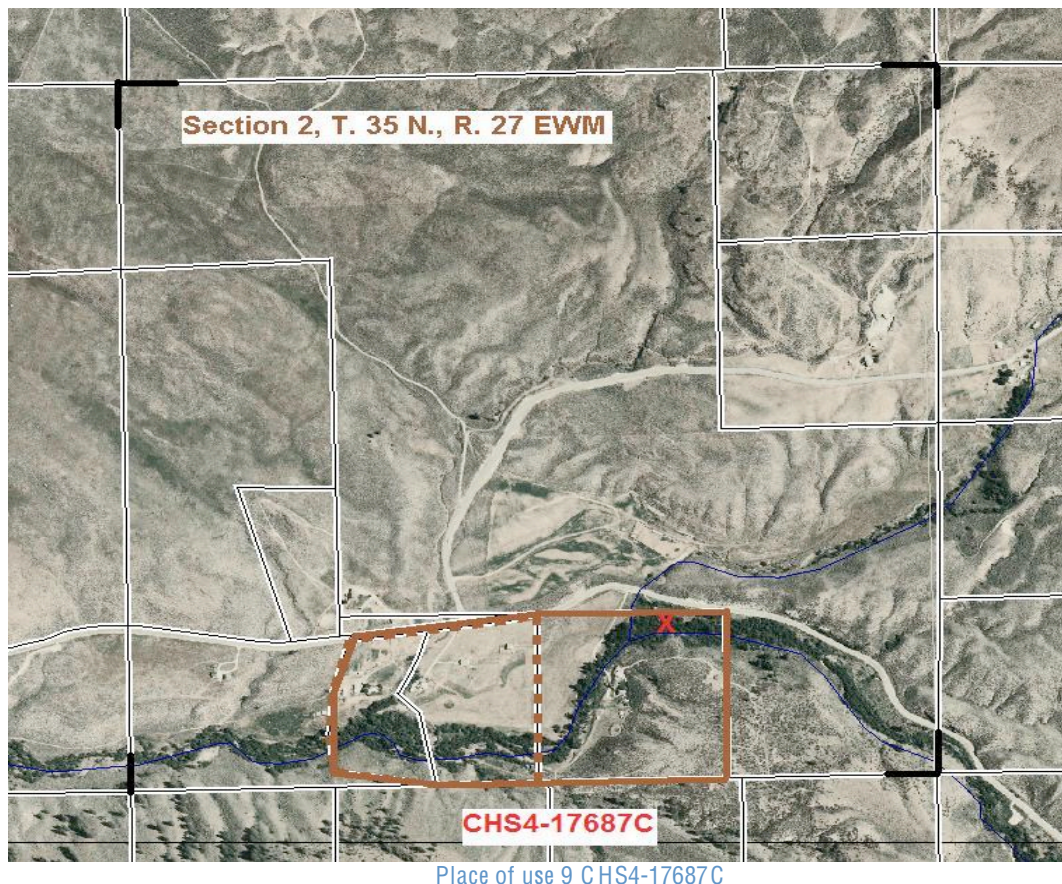
1. Agricultural irrigation state certificate and permit

The following state issued certificates of water right authorize irrigation within the Tunk Creek Basin. Within the pictures below, an “X” has been used to indicate approximate well locations and an “O” to indicate approximate points of diversion.

a) Within T. 35 N., R. 27 EWM

Surface Water Certificate No. CHS4-17687C (SWC 9216): The certificate, with a priority date of January 14, 1963, as changed, authorizes the Tunk Creek Water Association to withdrawal of 233 gallons per minute; 97.1 acre-feet per year from two wells for the irrigation of 26 acres located within Section 2, T. 35 N., R. 27 EWM. This certificate was changed during April 2006. The certificate was originally a diversion of Tunk Creek and, as changed, it is conditioned to authorize use only to the extent water is present at the original diversion point. The water user must measure the water withdrawn. While the original certificate authorized the irrigation of 40 acres, Ecology determined that there were 26 acres of irrigation water right. The 26-acre water right was determined through analysis of a 1998 aerial photograph.

The Tunk Creek Water Association has reported that they have completed the approved change to the extent of a water withdrawal of 50 gallons per minute; 33.15 acre-feet per year. Ecology has not conducted a field examination of the final development and no superseding certificate of water right has issued. Further discussion of this water right document is located on page 54.



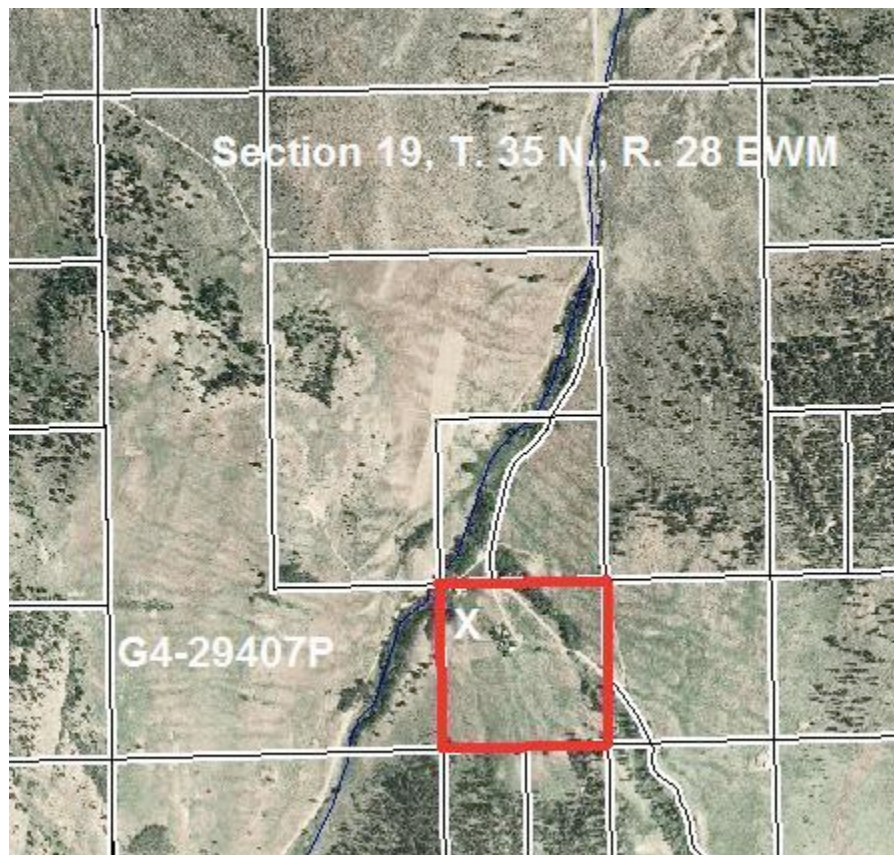
Ground Water Certificate No. G4-24490C: This certificate has a priority date of January 3, 1977, and authorized Zaser and Longston, Inc. to withdraw 1,000 gallons per minute; 638 acre-feet per year from a well for the irrigation of 125 acres located within Section 4 and 5, T. 35 N., R. 27 EWM. The current owners of the water right, Keystone Fruit Co., filed an application for change to add a diversion from the Okanogan River to the water right. The application for change has not been processed by Ecology. The Colville Confederated Tribes has reviewed the change application and provided support to Keystone Fruit Company's mitigation plan for this and several other water right change proposals if it results in reducing elevated water temperatures within the Okanogan River Basin. Further discussion of this water right document is located on page 55.



Place of use 10 S4-24490C

b) Within T. 35 N., R. 28 EWM

Permit to establish a water right for irrigation purposes, Ground Water Permit No. G4-29407P: A permit issued to Thomas and Maria Garr authorizing the withdrawal of 60 gallons per minute; 17 acre-feet per year for domestic supply and the irrigation of 5 acres within the SW1/4SE1/4 of Section 19, T. 35 N., R. 28 EWM. The application to which the permit issued was filed on August 28, 1987. Within the application, the applicant stated there were no existing rights associated with the property. The portion of the permit authorizing irrigation is classified as a Family Farm Permit, which generally requires that the use must continue to comply with the definition of a family farm as defined in Chapter 90.66 RCW. Water right claims No. 070716, 070717 and 070715 are appurtenant to this property but Ecology, in approving the application, concluded that there were no existing water rights on the property. A Proof of Appropriation form has been submitted reporting completed development of the withdrawal of 15-20 gallons per minute for the irrigation of 3.3 acres of irrigation. Water is withdrawn from an 8-inch diameter well constructed to a depth of 65 feet. Prior to issuance of a certificate of water right, the development will be examined by Ecology. Further discussion of this water right document is located on page 55.

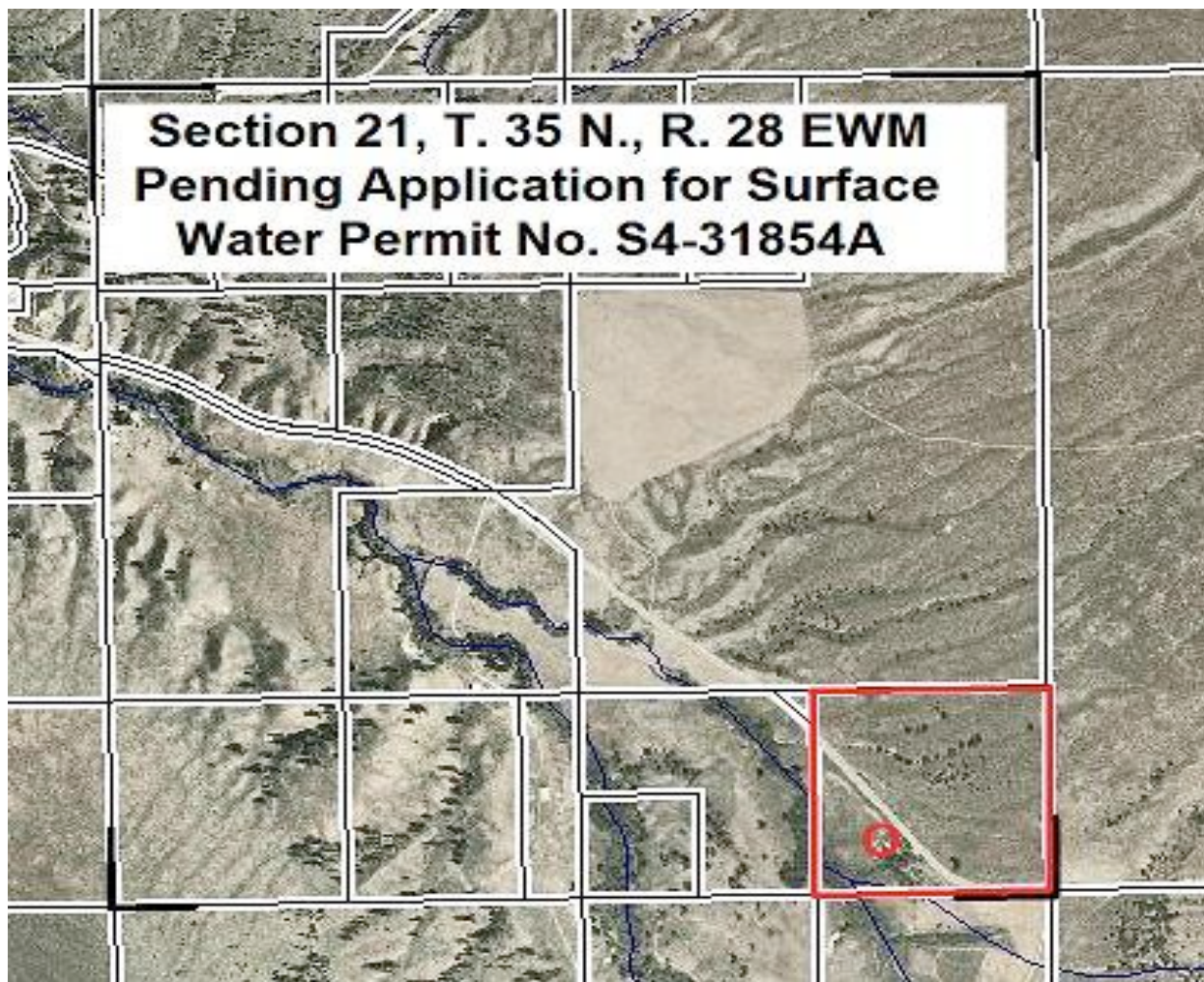


Place of use 11 G4-29407P

2. Pending applications for permit for irrigation

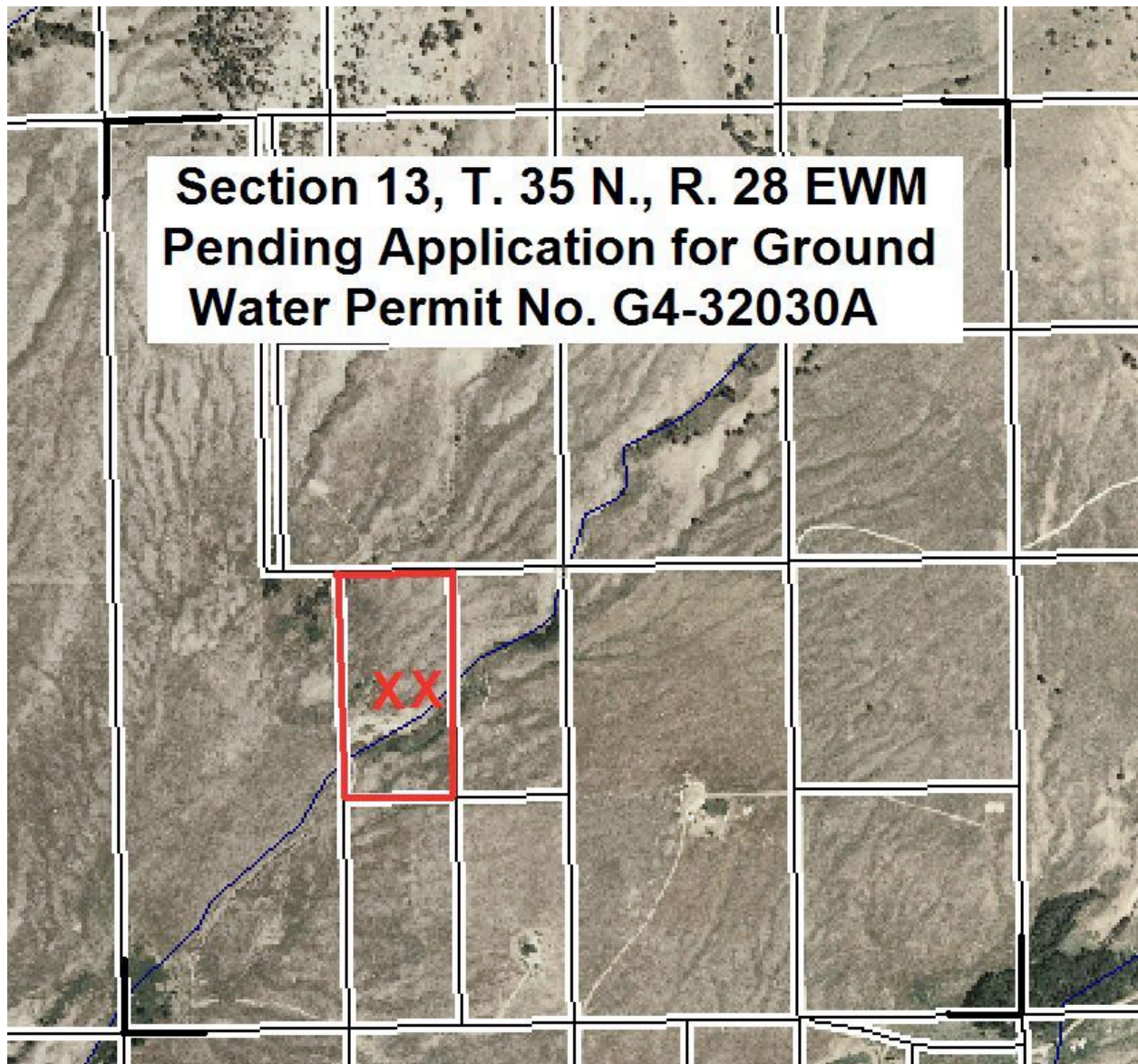
T. 35 N., R. 28 EWM

a) **Application for Permit No. S4-31854:** This application was filed on October 13, 1993 and proposes the diversion of 0.4 cubic feet per second from an unnamed spring located within the parcel for the irrigation of 2 acres located within the SE1/4SE1/4 Section 22, T. 35 N., R. 28 EWM. The application states that there are no water rights associated with the property but it describes an existing water distribution system for the proposed purposes.



Place of use 12 S4-31854

b) **Application for Permit No. G4-32030:** This application proposes withdrawing 30 gallons per minute from two wells for continuous domestic supply and the irrigation of 2 acres within the N1/2W1/2E1/2SW1/4 of Section 13, T. 35 N., R. 28 EWM. The application was filed on May 13, 1994 and indicates that there are no existing water rights associated with the property. The 2006 aerial photography below shows little active irrigation.



Place of use 13 G4-32030

3. Rejected applications and cancelled permits

a) Within T. 35 N., R. 28 EWM

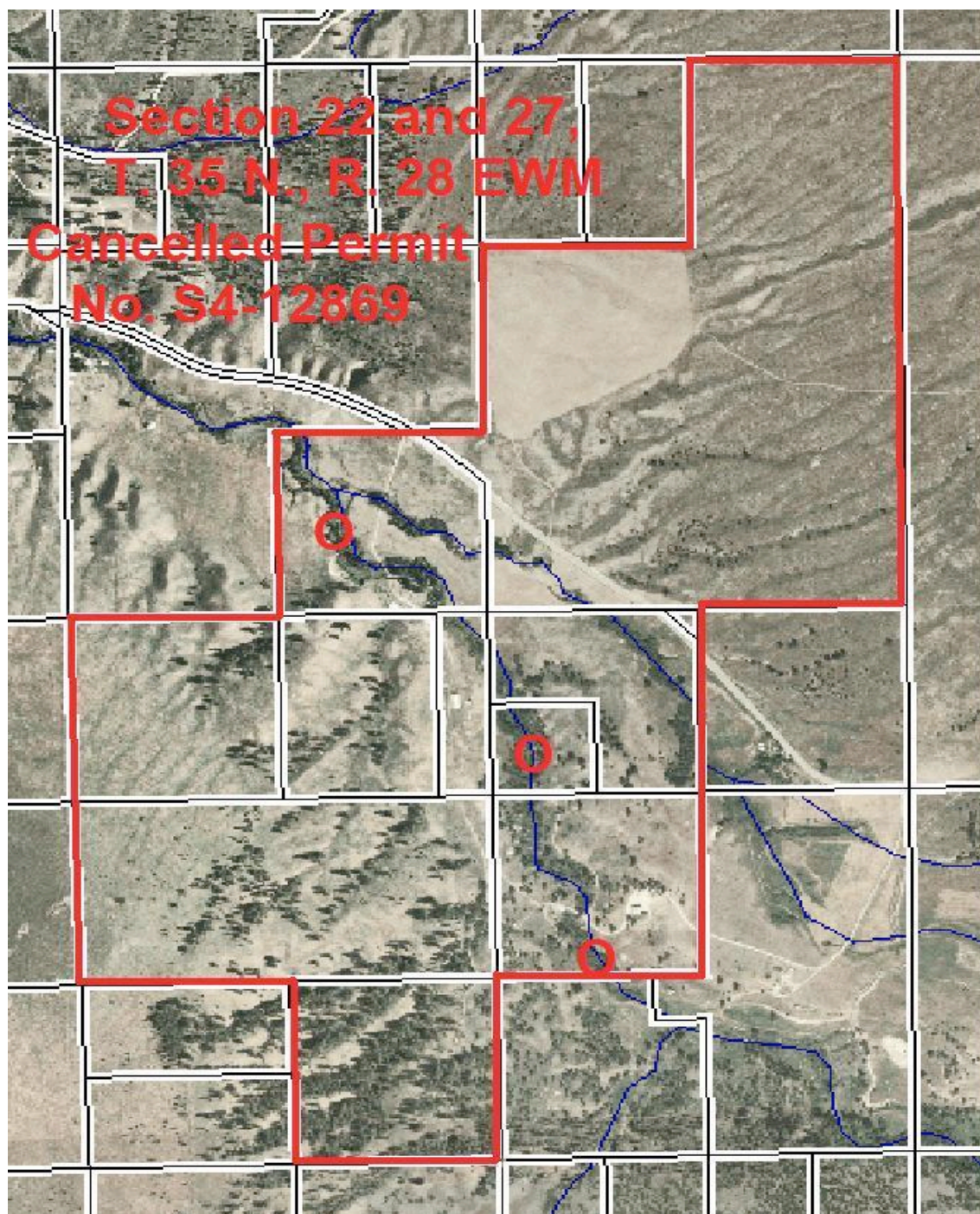
Cancelled Ground Water Permit No. 3769 (No. G4-03894): Authorized the development of the withdrawal of 800 gallons per minute; 320 acre-feet per year for the irrigation of 80 acres within the W1/2SW1/4 of Section 13, T. 35 N., R. 28 EWM. The permit cancelled August 31, 1956.

Examination of 2006 aerial photography indicates that there is no current irrigation water use occurring upon this property other than as described by Application for Ground Water Permit No. G4-32030A described under the section of this report discussing pending applications for an irrigation purpose.

Rejected Application for Ground Water Permit No. G4-30072: Sheryl Curtis filed an application for permit on September 13, 1989 proposing to withdraw 45 gallons per minute of water from a well for domestic water supply and for the irrigation of 6 acres located within the NE1/4SE1/4 of Section 17, T. 35 N., R. 28 EWM. That application was withdrawn because, she said her well did not produce enough water to irrigate, her well would only be used for domestic purposes. Within the application, she stated that there were no other water rights associated with her property. However, in her request to withdraw the application, dated April 14, 1994, she states that she has a “vested” water right based upon a March 14, 1907 filing with the Public Land Office. A map attached to the application indicates pastures to be developed but does not indicate any existing irrigation use at the time of filing. Water Right Claim No. S4-300024CL is appurtenant to the same property. The claim is described on page 49.

Cancelled permit No. 9750 (S4-12869): Authorized the diversion of 0.67 cubic feet per second from Tunk Creek for the irrigation of 50 acres located within E1/2NE1/4, NE1/4SE1/4, SW1/4NE1/4, NW1/4SE1/4, E1/2SW1/4 and SW1/4SW1/4 in Section 22; and NW1/4NE1/4, E1/2NW1/4 and NW1/4NW1/4 of Section 27, all T. 35 N., R. 28 EWM. The applicant stated at the time of filing on April 15, 1954 that there were no existing water rights appurtenant to the property. There were objections to the issuance of this permit by Jack Figlenski who asserted an existing right for the irrigation of 40 acres with a priority date of 1900. There were also affidavits supporting Mr. Figlenski’s assertion of a water right. Additionally, research of water right notices at the Okanogan County Courthouse located a notice of water right supporting Mr. Figlenski’s assertion of a water right. A copy of a written objection or the affidavits was not provided by Ecology through this public disclosure request but many of the documents were provided by Ms. Sheryl Curtis and are discussed with her water right claim No. S4-300024CL.

Aerial photography from the year 2006 indicates that there is farming activity within the formerly permitted property but it is not clear that there is an irrigation activity. This document is included within a list of apparently unsupported water uses on page 68 of this report.



Place of use 14 S4-12869

b) Within T. 35 N., R. 29 EWM

Application for permit No. S4-31827: Sheryl K. Curtis filed the application on August 13, 1993. The application proposed the diversion of 0.3 cubic feet per second; for single domestic supply, stock water and the irrigation of 12.71 acres. Within the application, the applicant indicated that there were no existing water rights associated with the property; part of the NE1/4SE1/4 of Section 17, T. 35 N., R. 28 EWM generally lying between the primary county road to the north and a secondary unpaved road to the south. The application was evaluated by Ecology. Within the ROE, the author indicated that the project had been begun but was not complete. There is no description within the Site Inspection section of the ROE describing existing irrigation. The application was only approved for the diversion of 0.02 cubic feet per second; 0.1 acre-feet per year for the purpose of stockwatering. The denial of an irrigation use was appealed by Sheryl Curtis, who asserted that there was an existing right dating back to 1907. In an internal memoranda dated September 9, 1994, Phil Kerr, the state examiner, described the existing water use as:

“There is a pipeline which runs just east of the Curtis property and some evidence of a pipe running from the pipeline toward the Curtis property which indicates some water may have been provided to the property in the past but could not be confirmed during the field examination”.

In a letter dated December 29, 1994, Ms Curtis suggests that she has used water within the past five-years. In an internal memorandum dated January 4, 1995 from Phil Kerr, he states:

“I concur with the applicant that there was a legal water right for her land as described in various attached real estate transactions”.

The documents that Phil Kerr was referring to describe water use within a larger area than the 12 acres owned by Ms. Curtis. Water right claim No. S4-300024CL is used to accomplish the document the purposes for which she uses water.

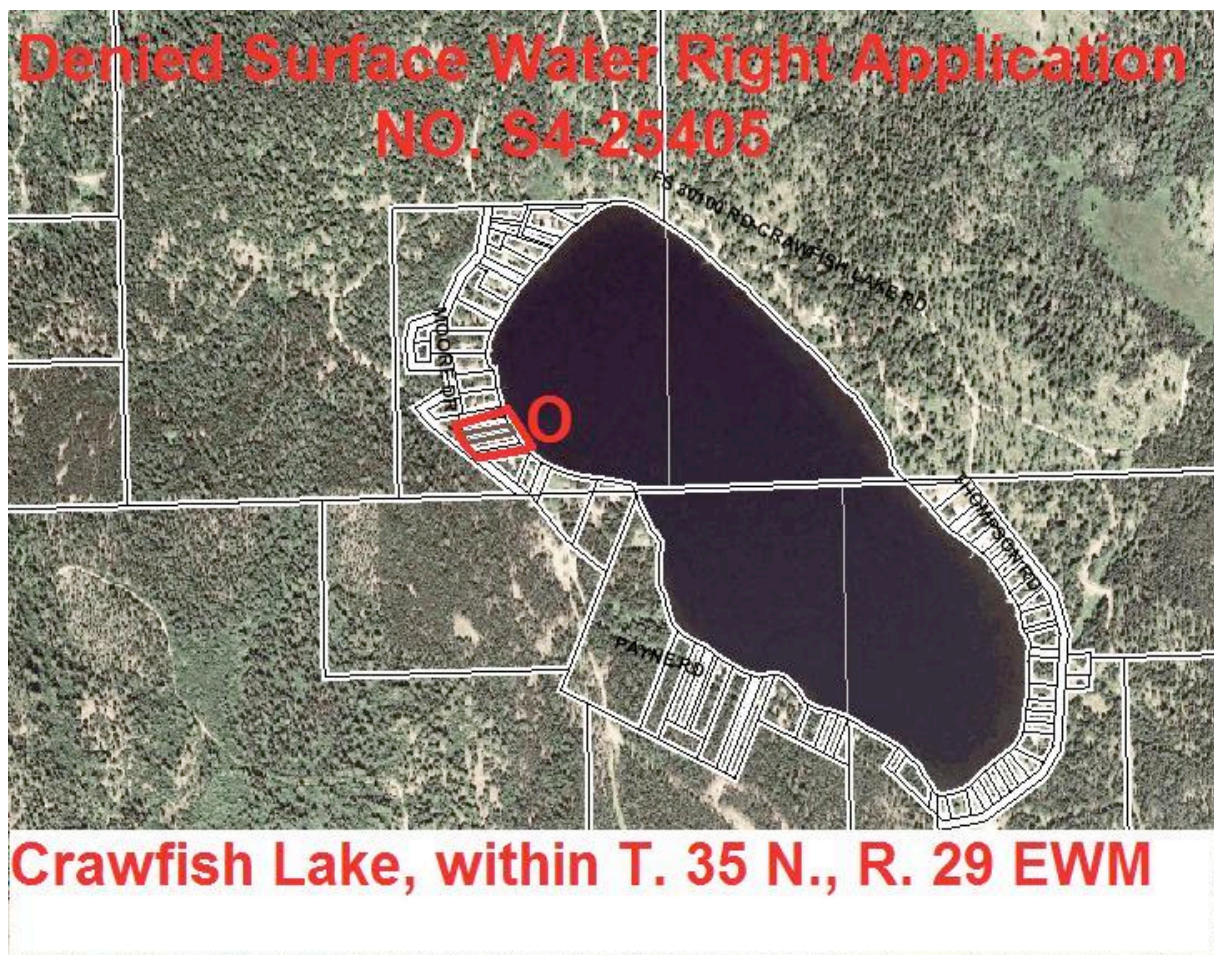
Further discussion of this water right document is located on page 57.

Application for water right change No. CS4-300024CL: This application for change was filed on December 29, 1995 by Sheryl Kaye Curtis proposing to change the point of diversion of a “vested” water right for the diversion of 60 gallons per minute used for the irrigation of 6 acres from a point on Tunk Creek or a spring to a point on Tunk Creek. The application asserts that the existing right was originally established during 1907 but the point on Tunk Creek has been used since 1990. The place of use is located within the part of the NE1/4SE1/4 of Section 17, T. 35 N., R. 28 EWM, lying south of the primary county road and an unpaved secondary county road. During the open filing period for water right claims, Sheryl Curtis filed water right claim No. S4-300024CL. Within the claim, Ms. Curtis identified the current point of diversion from Tunk Creek and withdrew this application for change.

Further discussion of this water right document is located on page 57.

Denied application for permit No. S4-25405: This application proposed the diversion of 0.05 cubic feet per second from Crawfish Lake located within the SE1/4SE1/4 of Section 32, T. 35 N., R. 29 EWM for the irrigation of one acre and for fire protection upon Lots 17, 18 and 19 of the Plat of Government Lot 2 (SE1/4SE1/4), Section 32 T. 35 N., R. 29 EWM and any surrounding property needing water. The application states that there are existing rights associated with a well located upon the property. The application was denied a permit because, according to the state Department of Fish and Game, additional water diversions would adversely affect the fisheries resource and the Okanogan River Instream Flow rule, Chapter 173-549 WAC prohibited diversions from Crawfish Lake. Water for the proposed purposes could be made through ground water certificate No. G4-24060C.

Further discussion of Crawfish Lake is located on page 68.

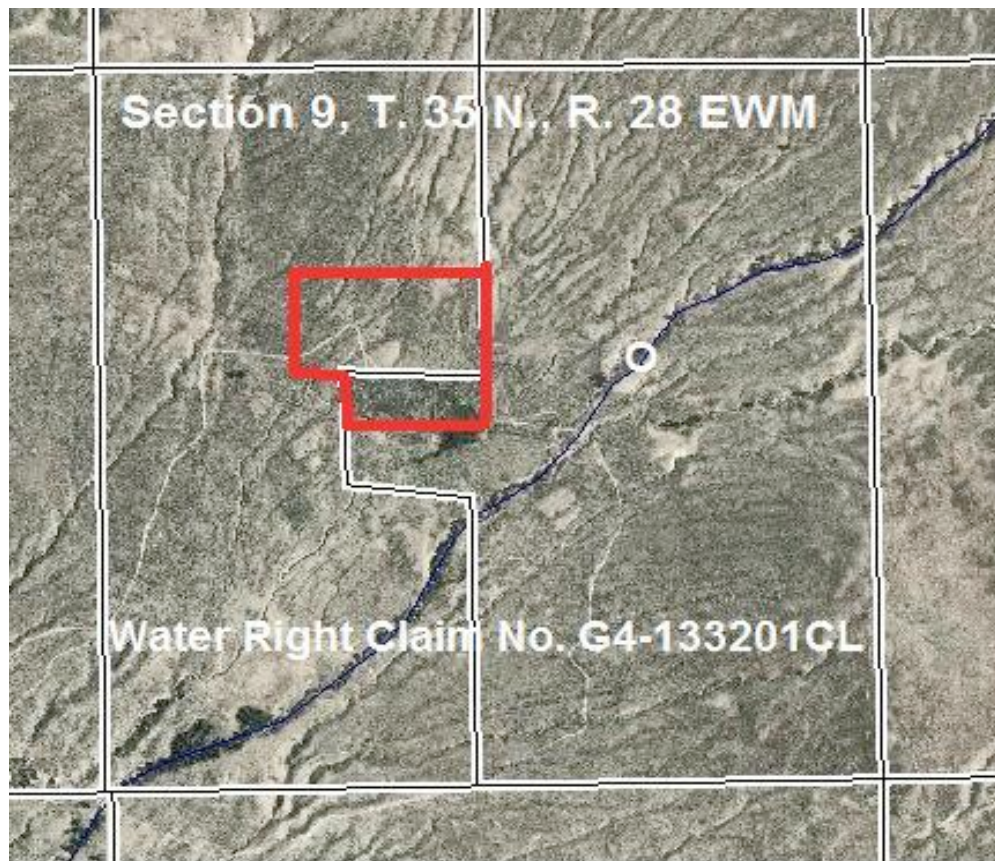


Place of use 15 S4-25405

4. Agricultural irrigation water right claims

a) **Water right claim No. G4-133201CL:** This claim was filed by the estate of Edward W. Figlenski and others asserting a right to withdraw 200 gallons per minute; 80 acre-feet per year from a well for the irrigation of 20 acres located largely within the SE1/4NW1/4 of Section 9, T. 35 N., R. 28 EWM. According to the claim, there was no water use at the time of the claim filing. However, it appears that there currently is an irrigated area of approximately 10 acres. Absent a historic water use, this claim may not be valid to the extent of current use.

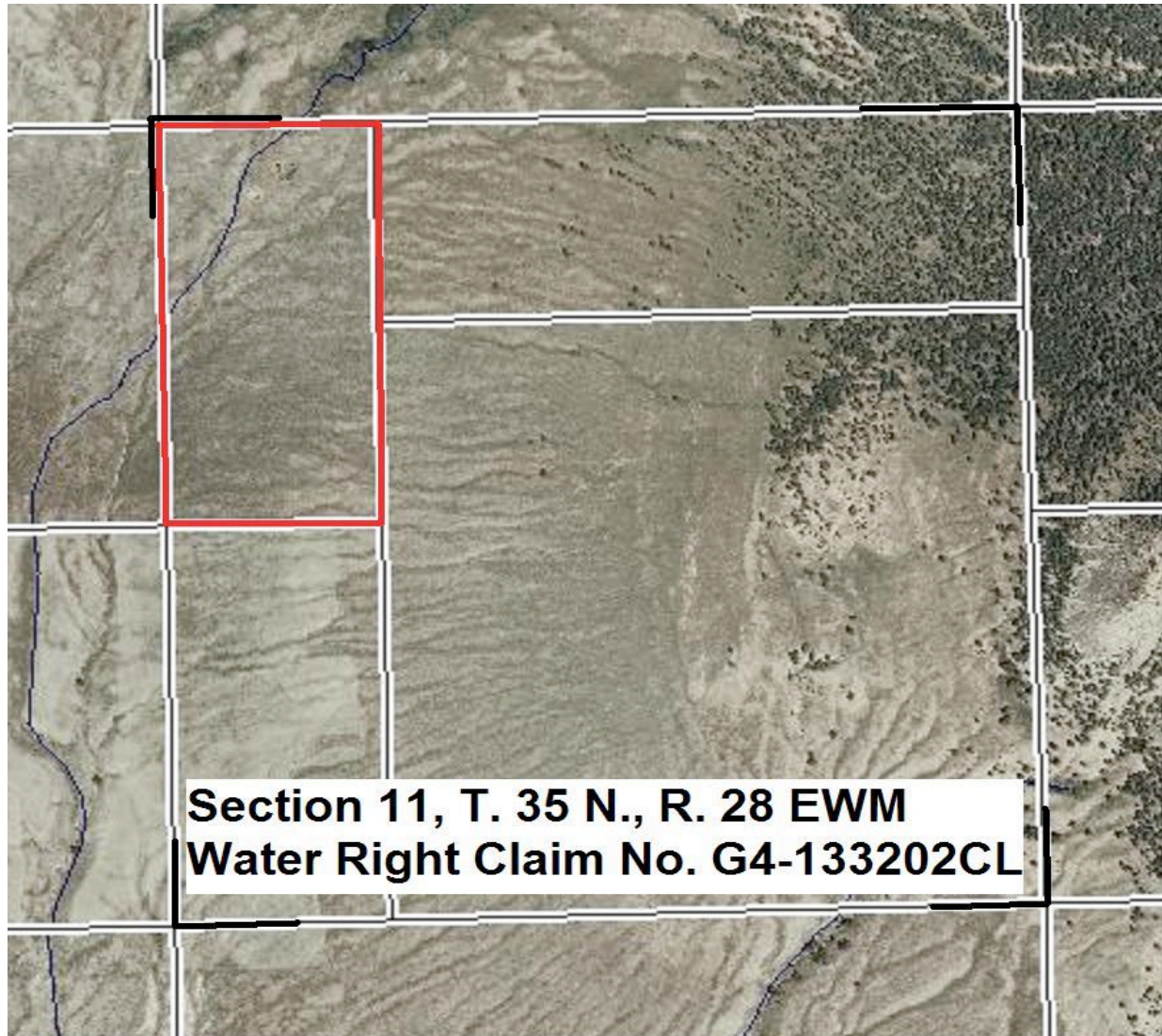
Further discussion of this water right document is located on page 56.



Place of use 16 G4-133201CL

b) **Water right claim No. G4-133202CL:** This claim was filed by the estate of Edward W. Figlenski and others asserting a right to withdraw 800 gallons per minute; 320 acre-feet per year from a well for the irrigation of 80 acres located within the W1/2NW1/4 of Section 11, T. 35 N., R. 28 EWM. According to the claim, there was no water use at the time of the claim filing and it appears that there is no current water use within the property.

Further discussion of this water right document is located on page 56.



**Section 11, T. 35 N., R. 28 EWM
Water Right Claim No. G4-133202CL**

Place of use 17 G4-133202CL

c) **Water Right Claim No. S4-093717CL:** This claim was filed by Eunice H. Presto asserting a right to divert 20 gallons per minute ; 4 acre-feet per year from a well for the irrigation of 4 acres located within the south 200 feet of the NW1/4SE1/4 of Section 17, T. 35 N., R. 28 EWM. The asserted date of first water use is June 1908. According to the claim, water was used to irrigate 2 acres at the time of the claim filing. The County Assessor's aerial photography, 2006, is difficult to interpret as to whether there is an irrigation water use however; an aerial photograph in Google Earth indicates that there is an on-going irrigation use. Okanogan County Assessor's Office records indicate that during 1916 and 1918, there was no irrigation water use. There was four acres of crop during 1918. During 1932, there were three "improved" acres within what was then a 15-acre parcel. This claim also claims water for stock.

Further discussion of this water right document is located on page 57.



Place of use 18 S4-093717CL

d) **Water Right Claim No. S4-134036CL:** This claim was filed by Ronald K. Cummins asserting a right to divert 1 cubic feet; 730 acre-feet per year from Tunk Creek for the irrigation of 120 acres located within the E3/4 of Section 17 north of the Tunk Valley Road, T. 35 N., R. 28 EWM. The date of first water use asserted is October 10, 1900.

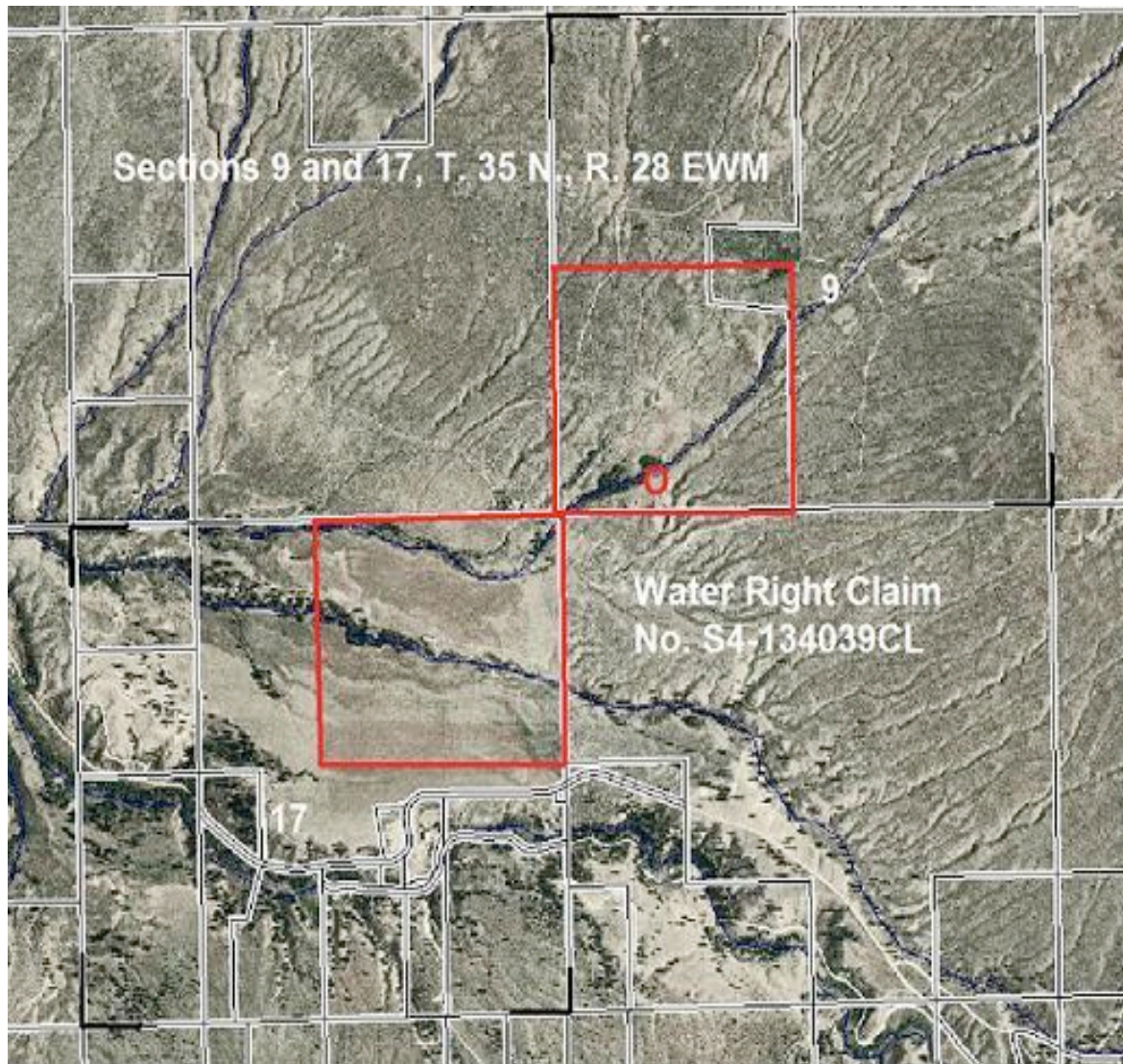
Further discussion of this water right document is located on page 57.



Place of use 19 S4-134036CL

e) **Water Right Claim No. S4-134039CL:** This claim was filed by Ronald K. Cummins asserting a right to divert 25 gallons per minute; 8 acre-feet per year from unnamed spring No. 3 for the irrigation of 8 acres located within the SW1/4 of Section 9 and the NE1/4NE1/4 of Section 17, T. 35 N., R. 28 EWM. The place of use overlaps water right claim No. S4-134036CL within Section 17. The date of first water use asserted is 1907. This claim also asserts a right to divert stock water from the spring. The spring appears to be associated with a tributary of Tunk Creek. The tributary stream sustains riparian vegetation.

Further discussion of this water right document is located on page 57.



Place of use 20 S4-134039CL

f) **Water Right Claim No. S4-300024 CL:** Sheryl K. Curtis filed this claim on October 9, 1997. The claim asserts a water right to divert 0.12 cubic feet per second (60 gallons per minute); 10 acre-feet per year from Tunk Creek for the irrigation of 6 acres located within the NE1/4SE1/4 of Section 17, T. 35 N., R. 28 EWM. The claim asserts that the water was first used during October 1900. This water right claim relates to rejected application for permit No. G4-30074, which includes historical documents regarding water use. The historical documents are discussed within the Conclusions Section of this report.

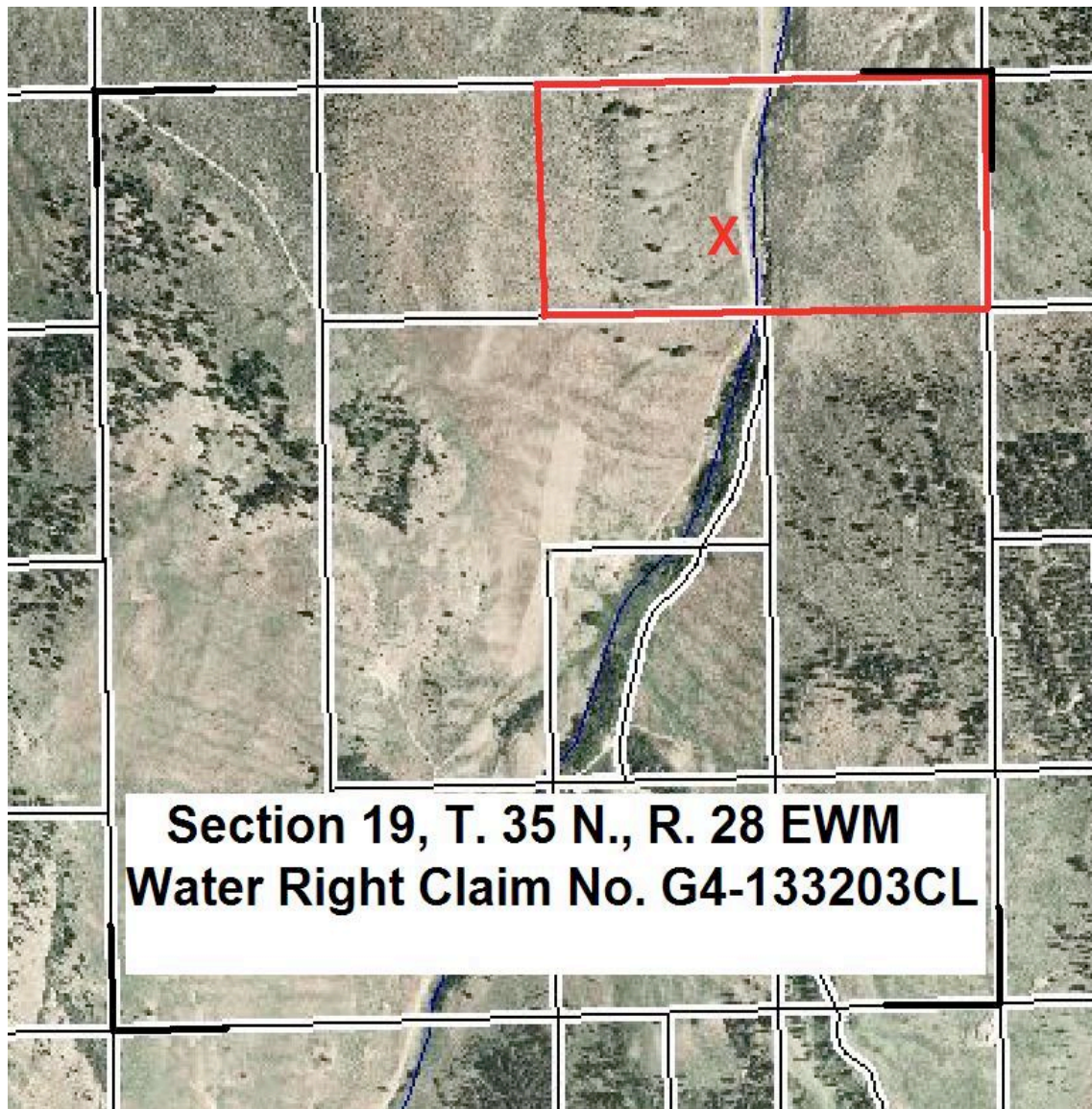
Further discussion of this water right document is located on page 57.



Place of use 21 S4-300024CL

g) **Water Right Claim No. G4-133203CL:** This claim was filed by the estate of Edward W. Figlenski and others asserting a right to withdraw 400 gallons per minute; 160 acre-feet per year from a well for the irrigation of 40 acres located within the NE1/4NE1/4 of Section 19, T. 35 N., R. 28 EWM. According to the claim, there was no water use at the time of the claim filing. It appears, from aerial photography for the year 2006 available at the Okanogan County Assessor's Office Website, that there is not current irrigation activity within the property.

Further discussion of this water right document is located on page 63.



Place of use 22 G4-133203CL

h) **Water Right Claim No. S4-093715CL:** This claim was filed by Eunice H. Presto asserting a right to divert 20 gallons per minute ; 4 acre-feet per year from a well for the irrigation of 2 acres located within the NW1/4NE1/4 of Section 21, T. 35 N., R. 28 EWM. The asserted date of first using water is June 1915. According to the claim, water was used to the extent claimed at the time of the claim filing. There was four acres of crop during 1918. This claim also claims water for stock.

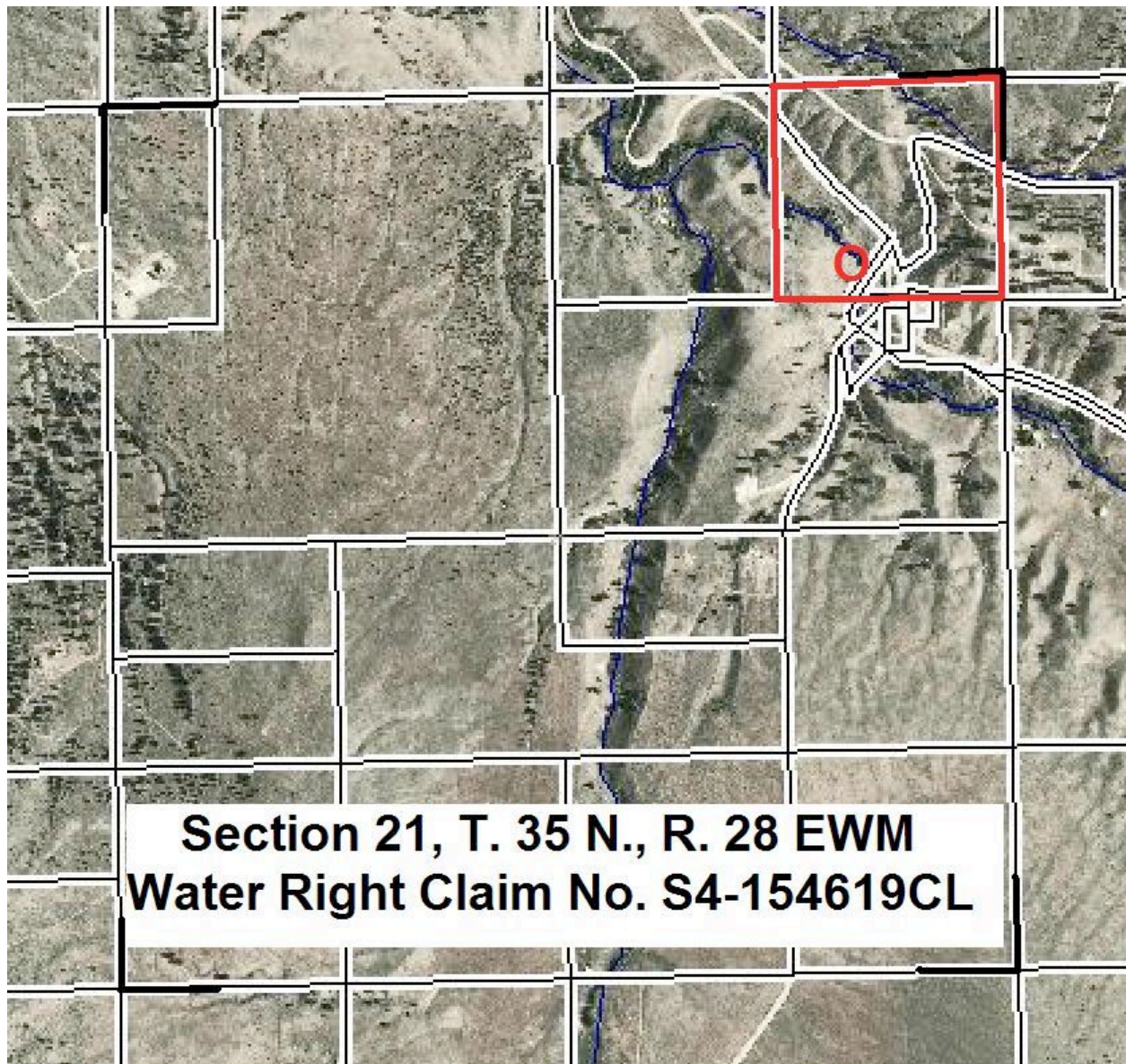
Further discussion of this water right document is located on page 63.



Place of use 23 S4-093715CL

i) **Water Right Claim No. S4-154619CL:** This claim was filed by Raymond G. Shove asserting a right to divert 200 gallons per minute; 4 acre-feet per year from Tunk Creek for the irrigation of 1 acre located within the NE1/4NE1/4 of Section 21, T. 35 N., R. 28 EWM. The date of first water use asserted is March 1900. This claim also asserts a right to divert stock water from Tunk Creek. The asserted water quantity diverted under this claim is excessive for the 1-acre irrigation purpose and for stock watering.

Further discussion of this water right document is located on page 64.

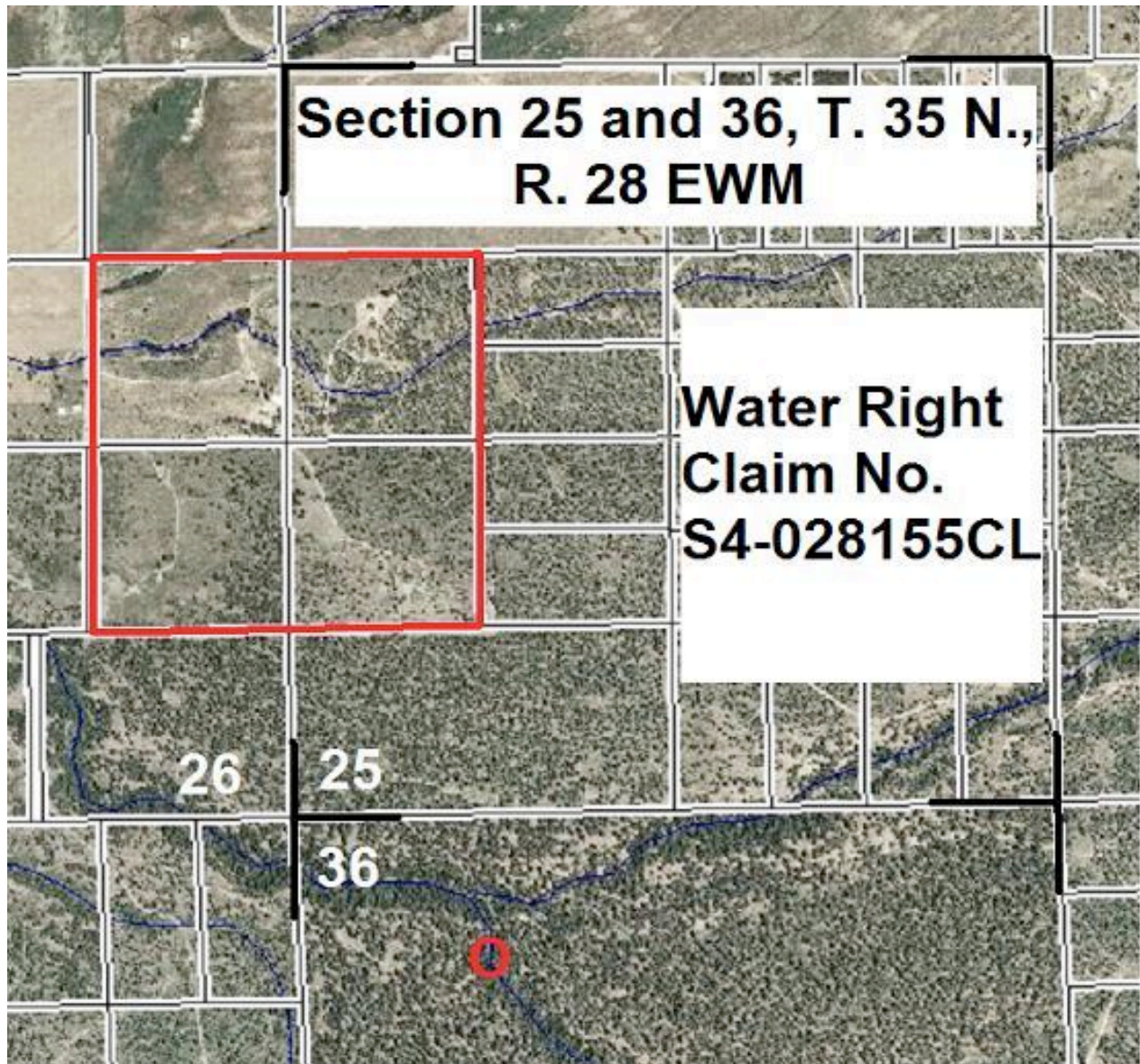


**Section 21, T. 35 N., R. 28 EWM
Water Right Claim No. S4-154619CL**

[Place of use 24 S4-154619CL](#)

j) **Water Right Claim No. S4-028155CL:** This claim was filed by Amos P. Bratrude asserting a right to divert 0.5 cubic feet; 640 acre-feet per year from Tunk Creek for the irrigation from 160 acres located within the SE1/4NE1/4 and the NE1/4SE1/4 of Section 26 and SW1/4NW1/4 and NW1/4SW1/4 of Section 25, T. 35 N., R. 28 EWM. The date of first water use asserted is December 1917.

Further discussion of this water right document is located on page 64.



Place of use 25 S4-028155CL

V. Conclusions Regarding Agricultural Irrigation Documents

Support of instream flows through the acquisition or retirement of water rights relies largely on irrigation water uses. The following section expresses conclusions regarding the suitability of the Tunk Creek irrigation uses for acquisition based upon a review of water right documentation and the additional information obtained.

A. Surface water certificate No. CHS4-17687C (SW C 9216)

Surface water certificate No. CHS4-17687C was authorized for a change in point of diversion (Tunk Creek) to two wells located close to the creek. Acquisition of a portion of this right would reduce water withdrawals from wells that appear to be in hydraulic continuity with the creek.

There are two potential strategies for acquisition of this water right:

1. The Tunk Creek Water Association has reported final development of their project that uses less than the water quantity that was authorized for change. The difference between the water right as tentatively determined during the change process and the water right actually reported changed might be available for change. The difference is as follows:

$$(233 \text{ gpm} - 50 \text{ gpm} = 183 \text{ gpm})$$

$$(97.1 \text{ af} - 33.15 \text{ af} = 53.95 \text{ af})$$

Key to water right acquisition is the available annual water use of 53.95 acre-feet

2. Retirement of a portion of the 26 acres of irrigation water right authorized for change. Each retired acre of irrigation should release between 2.6 and 3.7 acre-feet of water for instream flows.

There is a potential question as to whether the tentative determination, finding that the right was for the irrigation of 26 acres is accurate because earlier aerial photograph does not appear to support this finding.

An aerial photograph available through Google Earth dated July 16, 1995 does not support Ecology's tentative determination that there were 26 irrigated acres. The 1995 aerial photograph indicates that there was no irrigation within the eastern one-third of the currently irrigated area. The area outlined in blue is approximately 11 acres in area. It appears that during the year 1995, only about 15 acres were developed for irrigation. Discussion of this water right document is located on page 35. Recommendations are located on page 64.



Figure 3 CHS4-17687C (SWC 9216)

B. Ground water certificate No. G4-24490C

Ground water certificate No. G4-24490C authorizes the withdrawal of water from a well that is located about one-quarter mile from the confluence of Tunk Creek with the Okanogan River. Water is delivered about another quarter-mile further up Tunk Creek. Irrigation water delivered to upstream lands and becoming lateral flow may help support late season flows of lower Tunk Creek. If this is the case, retiring irrigated acres to allow water to remain instream may not provide substantial benefit.

Additionally, the current owners have filed an application to change the water right to add a point of diversion along the Okanogan River. If this application is approved and the new diversion point is used, there will be a reduced affect on Tunk Creek through this irrigation activity.

Discussion of this water right document is located on page 36. Recommendations are located on page 65.

C. Ground water permit No. G4-29407P:

Ground water permit No. G4-29407 reportedly includes the development of 3.3 acres of irrigation. This permit could offer up to 9 acre-feet of water during the irrigation season. The well source supplies 15-20 gallons per minute for irrigation and for domestic supply. The report of examination under which the permit issued determined that a water quantity of 3.0 acre-feet per acre is required for irrigation within this area. This permit is located on a knoll between two

forks of a channel southern tributary to Tunk Creek. The well is located about one mile from the Tunk Creek channel.

Discussion of this water right document is located on page 37. Recommendations are located on page 65.

D. Water right claim No. G4-133201CL

Water right claim No. G4-133201CL may not represent a valid water right, although there is a ground water use of approximately 10 acres. The Okanogan County Assessor's Office records indicate there was no water use during the years 1916, 1918 or 1932. Google Earth provides a clear picture of the property, dated August 17, 2006, showing an irrigated area of approximately 10 acres located within the N1/2NE1/4NE1/4SW1/4 of Section 9, T. 35 N., R. 28 EWM. Since the water right claim stated that there was no water use at the time of filing during 1974, the irrigation use must have occurred later. A permit is required prior to developing a water use of 10 acres of irrigation. This document is included within a list of apparently unsupported water uses on page 68 of this report.



Figure 4 G4-133201CL

E. Water right claim No. G4-133202CL

Water right claim No. G4-133202CL may not represent a valid water right. The claim states that there was no water use at the time of filing during 1974. The County Assessor's aerial photography indicates that there was no water used during 2006. Additionally, Okanogan County Assessor's Office records indicate there was no water use during the years 1916, 1918 or 1932. Discussion of this water right document is located on page 45.

F. Water right claims No. S4-093717CL, S4-134036CL, S4-134039CL, and S4-300024CL

Water Right Claims No. S4-093717CL, S4-134036CL, S4-134039CL, and S4-300024CL rely on a common history of prior ownership and development. Therefore, they are discussed collectively.

Much of the documentation that was reviewed was collected by Sheryl Curtis, claimant of water right claim No. S4-300024CL, and submitted to Ecology.

Background:

Sheryl Curtis filed Application for Permit No. S4-31827A on August 13, 1993. It proposed water use for domestic supply, stock watering and for irrigation. She stated within the application that there are no existing water rights associated with the land and she described a system to be built rather than an existing system. The application was only approved for stock watering while it was denied for the purposes of irrigation and domestic supply.

Ms. Curtis filed an appeal of the partial denial and began to produce documents supporting an assertion that there was an existing right for the irrigation purpose appurtenant to property. The appeal and the application were eventually withdrawn when she was able to file a water right claim during the 1997-1998 filing period but the documents she produced are contained within the rejected application.

The documentation provides information regarding water use development through much of Section 17, T. 35 N., R. 28 EWM.

Documentation and Commentary:

Below is a summary of some of the documentation Ms. Curtis produced, each summary is followed by commentary:

1900, October 10: Notice of Water Right. Claims appropriation of 1 cfs of water from Tunk Creek. Diversion is 6 miles from the mouth, water will be conducted by flume and ditch, is to be used for domestic and irrigation. Right-of-way for most practical route is also claimed.

Comment: A notice was filed with the county and posted at the diversion site prior to actually beginning the water use project. The notice documents an intent to use water and does not describe the actual completed project. This notice does not describe the acres to be irrigated or the location of the irrigated area.

1907, March 14: Quitclaim deed transferring property and water rights from John W. Tremain to Minnie M. Taylor. Describes 1 cfs of water from Tunk Creek and a diversion point

about ½ mile upstream from the property. The property is described as the E1/2NE1/4; SW1/4NE1/4; and NE1/4SE1/4, Section 17, T. 35 N., R. 28 EWM.

Comment: The deed may just describe the notice filed on October 10, 1900, rather than an actual water use.

1908, February 24: General Land Office certificate No. 197 issued to John W. Tremain granting right to E1/2NE1/4, SW1/4NE1/4, and NE1/4SE1/4, S. 17, T. 35 N., R. 28 EWM.

Comment: It seems irregular for Mr. Tremain to have received a certificate on land that he had sold the year before. Additionally, the area described is smaller than the area irrigated under water right claim No. S4-134036CL.

1943, March 30: Quitclaim deed transferring any water rights, including rights to Tunk Creek.

Comment: The rights conveyed are not described but there appears to have been continued interest in a Tunk Creek water use.

1954, May 2: Affidavit of George E. Smith, 81. States that a Mr. Cutting and Mr. Tremino owned the property after Mat Crowdus. This is not consistent with Assessor's records (Mr. Tremain owned after Crowdus). During 1900, his brother William dug an irrigation ditch for Mat Crowdus and that water was used from 1901 to 1919 but he does not know the irrigated acreage.

Comment: This supports an assertion that there was an irrigation use developed after the October 10, 1900 notice foiled with the county.

1954, May 12: Letter of protest to S4-12869 from Jack and Cecelia Figlenski through their attorney. This letter describes ownership of 240 acres: E1/2NE1/4, SW1/4NE1/4, and E1/2SE1/4 of S. 17; W1/2SW1/4SW1/4 S. 16; W1/2NW1/4NW1/4 of S. 21, T. 35 N., R. 28 EWM. They state that there are about 80 irrigated acres and 110 being prepared for irrigation. The 80 acres have been irrigated for "a number of years".

Comment: The Figlenski's apparently owned a larger area than did predecessor owners. The Figlenski's were in the process of expanding the irrigated acres from 80 acres to 190 acres.

1954, July 29: Affidavit of Warren Edgar, 70? That in 1901 Mat Crowdus installed a headgate and ditches and took water from Tunk Creek to irrigate more than 40 acres of land. That in 1901, no other person was taking water from Tunk Creek.

Comment: This affidavit evidences 40 acres of irrigation during the year 1901. Additionally, it asserts that no other water irrigation use existed at that time.

1954, August 2: **Affidavit of Jack O’Neil**, 72? States that between 1897 and 1903 water was used on the property and that there were approximately 40 irrigated acres. In addition, that this was the only ranch on Tuck Creek that was being irrigated.

Comment: The affidavit evidences a 40-acre irrigation water use and that there was no other irrigation water use from Tunk Creek at that time.

1954, August 2: **Affidavit of George Wageman**, Manager of Okanogan Branch of Columbia Concrete Co. That Jack Figlenski bought approximately 5,000 feet of concrete pipe in 1944, which was installed to carry Tunk Creek water to their ranch. The pipe was designed to carry 600 gallons per minute. About 80 acres were irrigated on the ranch during 1944. That there was existing irrigation ditches on the land and that the pipeline was laid in the ditches. Approximately \$12,000 was invested in the irrigation system.

Comment: This affidavit evidences that there was significant work accomplished during 1944 that had the potential to expand the water use beyond the previously developed water right. If this is the case, it was accomplished without authorization through the state water code.

- The pipeline was designed for conveyance of 600 gallons per minute but the October 10, 1900 notice of water right was only 1 cfs, the equivalent of 450 gallons per minute.
- An enclosed pipeline maintains the hydraulic pressure from the point of diversion while an open ditch does not. This means that water can be distributed to lands that could not have been irrigated before.
- An open ditch leaks a certain amount of water along its length. The amount of loss depends upon the nature of the soils in which the ditch is dug. Therefore, if 1 cfs was diverted, some smaller amount actually was delivered the ½ mile to the irrigated area. A concrete pipe leaks much less water and more is delivered to the property and used, increasing the water quantity put to beneficial use.

1954, August 16: Letter from state to Figlenski attorney (John Hancock). States that it appears they could support their claim to a vested right if challenged. Also advises that: “... if Mr. Figlenski’s requirements have increased since the water code became effective he should properly file for any additional water which may be needed over and above a valid vested claim.”

Comment: In advising the Figlenski’s that there may be a need to file for increased water needs, the state was recognizing that there was expansion. However, there was uncertainty during the 1950’s as to the legal status of county filed notices of water right, vested rights, and the riparian doctrine. These issues have since been clarified.

1954, October 21: Report of Examination for now cancelled permit No. S4-12869. The report describes that Mr. Figlenski provided affidavits that he irrigates 40 acres. Also that there is evidence to support an assertion of a water right for Figlenski.

Comment: The state appeared not to assess the rights of the Figlenski's but recognized that there was support for a water right of an unknown extent.

1994, September 9: Internal Ecology memo from Phil Kerr to Jarvis states in numbered points said:

- #2, that Curtis filed the application to document an old right. This statement is not consistent with the application in which Curtis said there was no existing right.
- #5, Kerr states that there is "some" evidence of a pipeline that ran toward Curtis's property and "may" have provided water. This could not be confirmed during the field examination.
- #6 Points out that any right would have been waived by failure to file a water right claim.

However, during 1997-1998 there was an additional filing period. This filing period allowed Curtis to file a claim and the matter was dropped. There is a legal question whether one could resurrect a water right once it is lost as an act of law.

Comment:

- Re: #2: Ms. Curtis's application does not state that it is an attempt to document a pre-existing water right. She indicates on the application that there are no existing rights associated with the property.
- Re: #5, apparently there was no existing water delivery system from Tunk Creek to Ms. Curtis' property observed by Mr. Kerr. If a water right existed upon Ms. Curtis' property, it may have relinquished through non-use during the years after 1972.
- Re: #6, RCW 90.14.041 required the filing of a water right claim by anyone asserting a right to divert or withdraw public water if that use was not documented by a state issued certificate or permit. The penalty for failing to file a claim was that the right was waived and relinquished (RCW 90.14.071). Therefore, for failing to file a claim, any water right associated with Ms. Curtis' property no longer existed. Ronald Cummins filed water right claim No. S4-134036CL preserving any existing right associated with the majority of the original property.

During the period, 1997-1998 there was a filing period for existing rights. Ms. Curtis filed water right claim No. S4-300024CL in an attempt to preserve an old water right on her property. The filing of the claim does not create validity to the assertion and a provisions associated with the 1997-1998 filing period makes any right claimed at that time subject to the following provision: "shall not affect or

impair in any respect whatsoever any water right existing prior to July 27, 1997". This provision effectively makes any water right claim filed during 1997-1998, if found valid, inferior to existing rights.

1994? **Assessor's note** that ownership of the major property in Section 17 went: Crowdus (1897-1903?) – Tremain (1903-1907) – Taylor (1907-1943) – Figlenski (1943-1955) – Godbout (1955-1973) – Cummins (1973-1977) – Figlenski (1977)

Comment: The period of the Taylor's ownership is important. Accepting that a water right was established by Mat Crowdus, Taylor was the owner when the water code was adopted and when, in 1932, the riparian doctrine terminated within Washington.

The documentation supports a water use by Mat Crowdus as early as 1901 to irrigate 40 acres within a portion of Section 17. A 1903 General Land Office plat map of T. 35 N., R. 28 EWM shows a ditch from near the center of the SW1/4 of Section 16 running northwest to near the center of the NE1/4 of Section 17.

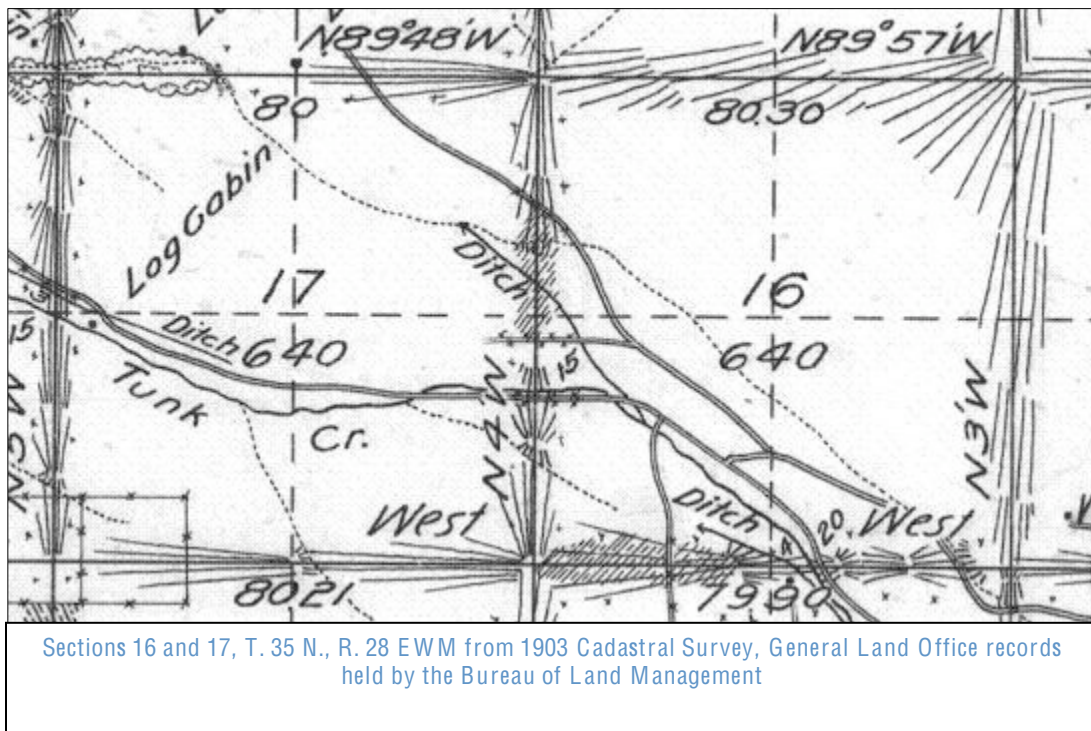


Figure 5 Water right claims no. S4-093717CL, S4-134036CI, S4-134039CL and S4-300024CL

Some question might be raised regarding Mr. Crowdus' acquisition of the land, since the certificate issued in his name after he had sold the land. The Homestead Act of 1862 is described as follows on a U.S. Government Website:

One homestead law, the Homestead Act was passed and signed into law in 1862. The new law established a three-fold homestead acquisition process: filing an application, improving the land, and filing for deed of title. Any U.S. citizen, or

intended citizen, who had never borne arms against the U.S. Government could file an application and lay claim to 160 acres of surveyed Government land. For the next 5 years, the homesteader had to live on the land and improve it by building a 12-by-14 dwelling and growing crops. After 5 years, the homesteader could file for his patent (or deed of title) by submitting proof of residency and the required improvements to a local land office.

Some land speculators took advantage of a legislative loophole caused when those drafting the law's language failed to specify whether the 12-by-14 dwelling was to be built in feet or inches. Others hired phony claimants or bought abandoned land. The General Land Office was underfunded and unable to hire a sufficient number investigators for its widely scattered local offices. As a result, overworked and underpaid investigators were often susceptible to bribery. From: Teaching With Documents: The Homestead Act of 1862,

<http://www.archives.gov/education/lessons/homestead-act/>

It appears that irrigation continued without significant change until after the purchase of the property by the Figlenski's during 1943. The Taylors owned a large part of the north half of Section 17 from about 1907 until 1943. Okanogan County Assessors records for the years 1918 and 1932 show the following regarding irrigation:

During 1915, Odo C. Hill owned the NW1/4NE1/4 with 2 acres in crop; the NE1/4NW1/4 with 25 acres in crop; the NW1/4NW1/4 with 30 acres in crop; and the SE1/4NW1/4, with 20 acres in crop; of Section 17. The assessor noted that there was no irrigation in 1915.

During 1918, only Thomas T. Taylor is noted as irrigating land with floodwaters. The irrigated land was within the NE1/4NE1/4, the SE1/4NE1/4, the SW1/4NE1/4 and the NE1/4SE1/4 of Section 17.

During 1932, Frank Fulford owned the NE1/4NW1/4, the NW1/4NW1/4, the SE1/4NW1/4, the SW1/4NW1/4, and the NW1/4NE1/4 of Section 17. Within this area, the Assessor found 82 improved acres. Improved could, but does not necessarily, mean that it was irrigated. If it were first irrigated in 1932, development would probably have required a permit from the state, which was never obtained, and therefore this may not be a use based upon a valid water right.

During 1932, C. Figlenski owned the NE1/4NE1/4, the SE1/4NE1/4, and the NE1/4SE1/4 of Section 17. Within this area, the Assessor found that there were 42 improved acres.

Conclusions:

1. The four water right claims all assert a portion of a water right within Section 17.
2. It appears that there is a water right to irrigate 40 to 42 acres within the NE1/4NE1/4, the SE1/4NE1/4, the SW1/4NE1/4 and the NE1/4SE1/4 of Section 17.
3. Irrigation development beyond 40 to 42 acres, approximately 120 acres, within Section 17 occurred during 1944 as described in the affidavit of George Wageman. This development required a permit from the state, which was never obtained. Therefore, it appears that water use for acreage in excess of the 40 to 42 acres is not based upon a valid water right.
4. It would be difficult to determine which of the several current owners have lands containing the original 40 to 42 acre irrigation development. That issue is one that the landowners must eventually settle between themselves.
5. Water right Claim No. 134039CL also asserts a right to divert water from a spring within Section 9, and the right to irrigate lands within the SW1/4 of Section 9, T. 35 N., R 28 EWM. However, this claim as to a water source in Section 9 is not supported by any documentation and county aerial photography does not indicate that Section 9 is irrigated.

Water right claim No. S4-134036CL, being the largest documented water use in the drainage, offers the greatest single opportunity to reduce out-of-stream water use. Negotiation to reduce diversions might include reductions in excess of available water right.

Discussion of these water right documents begins on page 47. Recommendations concerning the four water uses begin on page 65. These four water right related documents are included within a list of apparently unsupported water uses on page 68 of this report.

G. Water right claim No. G4-133203CL

Water right claim No. G4-133203CL states that there was no water use within the property at the time the claim was filed during 1974. The County Assessor's aerial photography indicates that there was no water used during 2006. Okanogan County Assessor's Office records indicate that there was 1 acre of 3-year-old orchard within the NE1/4NE1/4 during 1916 but there was no means of irrigation. The 1932 assessment indicates there was no means of irrigation within the land described by the claim although there was farming activity, including grazing, 32 acres of crop and a 1-acre orchard. Apparently, the water right claim does not represent a valid water right.

Discussion of this water right document is located on page 50.

H. Water right claim No. S4-093715CL

Water Right Claim No. S4093715CL asserts a water right to irrigate 2 acres. Documentation appears to support the assertion. The County Assessor's aerial photography indicates that during 2006 there may have been water use within the stream channel bottom in close proximity to

building structures. Okanogan County Assessor's Office records indicate that during 1918 floodwaters of Tunk Creek were being used for irrigation. This water right may offer an opportunity for the acquisition of an acre or two. The acquisition may make 3-5 acre-feet of water available.

Discussion of this water right document is located on page 51. Recommendations are located on page 66.

I. Water right claim No. S4-154619CL

Water Right Claim No. S4-154619CL asserts a water right to irrigate 1 acre. The County Assessor's aerial photography indicates that this property contains steep slope but there is a riparian zone along Tunk Creek flowing across the southwest portion of the property. It is possible that there is an acre of irrigation along the stream channel. Okanogan County Assessor's Office records indicate that there was no irrigation water use during 1916, 1918 or during 1932. Additional evidence to support the assertion of a water right might be obtained prior to an acquisition.

Discussion of this water right document is located on page 52.

J. Water right claim No. S4-028155CL

Water right claim No. S4-028155CL asserts a right to irrigate 160 acres. The County Assessor's aerial photography indicates that there was little water used for irrigation during 2006; the property appears dominated by native trees and ground cover. It appears that there are separate homes on each of four 40-acre parcels within the described property. Okanogan County Assessor's Office records indicate there was no water use during the years 1916, 1918 or 1932.

Discussion of this water right document is located on page 53. Additional information is required to determine that a valid water exists as asserted by the claim. This document is included within a list of apparently unsupported water uses on page 68 of this report.

VI. Recommendations

A. Irrigation water uses

For reasons provided within this report, I recommend that effort to improve instream flows within Tunk Creek focus on the following documented water uses. Efforts may include acquisition of apparent water rights and on the cessation of unauthorized water use.

1. Surface water certificate No. CHS4-17687C:

The recently developed change in water source has apparently made water right that has been tentatively determined to exist by Ecology available for acquisition without a reduction in existing irrigated acreage. Additionally, this water use is the second largest documented agricultural irrigation use in the drainage. Based upon available documentation, the acquisition

of water rights from water right approved for change but not developed to a changed use could make 183 gpm; 53.95 acre-feet available. There may also be up to 78 acre-feet available through the acquisition of currently exercised water right. General information regarding this documentation is found on page 35. Ownership information is available on page 67 of this report.

2. Water right claim No. S4-134036CL:

This document describes the largest single water use within the drainage. There is a set of historical documents within the public record as described within this report to support an existing water right. The extent of the water right to the extent of current water use may require additional support. Based upon available documentation, the acquisition of water rights could make 100–120 acre-feet available; however, negotiating the end of any water use not supported by a water right may make up to an additional 360 acre-feet of water available. General information regarding this documentation is found on page 47. Ownership information is available on page 67 of this report.

3. Ground water certificate No. G4-24490C

This certificate includes a substantial water quantity and irrigated area near the mouth of Tunk Creek. A determination might determine whether a reduction of water use would improve stream flows. The authorized well is close to Tunk Creek but lateral flow from the irrigation activity might contribute to late season flows of the Creek. The water user is attempting to change reliance of the existing well to an added source on the Okanogan River, which, if approved, would reduce the impact on Tunk Creek without any intervention. General information regarding this documentation is found on page 36. Ownership information is available on page 67 of this report.

4. Ground water permit No. G4-29407P:

This water use reportedly includes the development of 3.3 acres of irrigation. The well is located about one mile up a tributary stream to the Tunk Creek channel and benefits to the stream may be delayed due to ground water travel rates. The acquisition may make up to 7-10 acre-feet of water available. Ground water permits are treated as personal property to the person to which it issues. An assignment of interest can be filed with Ecology to transfer that interest. Apparently, the original permittees, Thomas and Maria Garr are no longer the owners of the property. The Okanogan County Assessor's Website list Craig and Sadie Cohoe as the current owners but Ecology records still list Mr. and Mrs. Garr as the permit holders. The change in ownership might complicate the issuance of a certificate of water right, but since the 3.3-acre irrigation use was apparently developed during the Garr's ownership, Ecology may not raise concern about the lack of an assignment of interest in the permit. General information regarding this documentation is found on page 37. Ownership information is available on page 67 of this report.

5. Water right claim No. S4-093715CL:

This apparently is a 2-acre irrigation use. Documentation appears to support the assertion. The acquisition may make up to 3-5 acre-feet of water available. General information regarding this documentation is located on page 51. Ownership information is available on page 67 of this report.

6. Water right claims No. S4-093717CL and S4-300024CL:

These uses are small, apparently on-going water uses relying on diversions of Tunk Creek. The history of these water uses are tied to a larger property encompassed within water right claim No. S4-134036CL. It is difficult to understand the specific extent of historic development upon each parcel and the extent to which each parcel has an existing water right. The total water right claimed among the several claimants probably exceeds the historic extent of water use. Water right claim No. S4-300024CL was filed during the 1997-1998 open filing period. Under provisions of law, this water right is subordinate to any other water right existing at the time of filing and may as a result be considered as a junior water right in priority. It is not clear if the provisions of law regarding subordination include provisions of the Instream Flow Management Program for the Okanogan River, Ch. 173-549 WAC. Acquisition of water right or the cessation of unauthorized water use under these water right claims may make up to 20 acre-feet of water available. General information regarding this documentation is found on page 46 and page 49. Ownership information is available on page 67 of this report.

7. Estimated total water right available

Estimated potential maximum water from water rights available from Tunk Creek water rights:

Document Number	Water per acre in acre-feet*	Reduced irrigated acres	Total Acre-feet	Priority of right
CHS4-17687C	3.73	0	53.95	January 14, 1963
CHS4-17687C	3.73	26	96.98	January 14, 1963
G4-24490C	3.73	125	638	January 3, 1977
S4-134036CL	3.73	40	149.2	October 10, 1900
G4-29407P	3	3.3	9.9	August 28, 1987
S4093715CL	2	2	4	June 1915
S4-093717CL	2	2	4	June 1908
S4-300024CL	1.66	6	10	October 1900 but not to impair rights at time of filing
Total estimated acre-feet quantity of available water right			966.03	
* Acre-feet is from Ecology determination of water requirement or from the per acre rate asserted within the water right claim				

Table 1: Estimated total water right and uses available

8. Ownership of recommended water rights and uses

Water right Document Number	Report Page Number	County Parcel Number	Current Owner Name	Current Owner Address
CHS4-17687C	64	8887400100	John and Zoe Sweger	750 Tunk Creek Road Riverside, WA 98849
	64	887400200	Michael and Jolene Hale	760 Tunk Creek Road Riverside, WA 98849
	64	3527022005	Donna Talbot	PO Box 573 Okanogan, WA 98840
G4-24490C	65		Zaser and Longston, Inc.	10518 NE 37 th Circle Kirkland, WA 98033
S4-134036CL	65	3528171005 3528172004 3528174006 3528170021	Willis Figlenski	1219 Tunk Creek Road Riverside, WA 98849
G4-29407P	65	3528192003	Craig and Sadie Cohoe	154 Knox Road Riverside, WA 98849
S4093715CL	66	3528211004	Candace Danials and Amber Coleman	%James Danials General Delivery Riverside, WA 98849
S4-093717CL	66	3528170015	Eunice Presto	Rt 5 Box 60A Riverside, WA 98849
S4-300024CL	66	3528170025	Sheryl Curtis	1212 Tunk Creek Road Riverside, WA 98849
Ownership is from the Okanogan County Assessor's Office, July 9, 2009				

Table 2: Ownership of recommended rights and uses

B. Ecology tentative determinations of invalid claims

While processing an application for permit, Ecology tentatively determined that, the following water right claims were no longer valid:

Water right claim No. S4-070716CL: The diversion of Spring 2 for use located within the NE1/4SW1/4 of Section 19, T. 35 N., R. 28 EWM. Date of first water use is asserted as 1910. This claim is discussed on page 27

Water right claim No. S4-070715: Located within the NW1/4SE1/4 of Section 19, T. 35 N., R. 28 EWM. This claim is discussed on page 27

Water right claim No. G4-070717CL: Located within the NW1/4SE1/4 of Section 19, T. 35 N., R. 28 EWM. This claim is discussed on page 24

C. Crawfish Lake

Crawfish Lake appears to straddle to hydraulic divide between the Tunk Creek and Lost Creek Drainages. Much of the lakeshore is developed in vacation homes. There is constant temptation for those residing along lakeshores to pump water directly from the lake and forego the cost of well construction. Ecology's on-line well log images only display seven well logs along the shoreline. There are perhaps 50 residences along the lakeshore. A survey of the lakeshore by boat might determine whether there are pumping facilities utilizing the lake as a water source.

There are no documented water rights to divert water directly from Crawfish Lake. Water right documents associated with Crawfish Lake are located on pages *22, 23, 30, 31, 43*.

D. Apparently unsupported water uses

Based upon the information provided by Ecology and review of aerial photography available through the Okanogan County Assessor's Office Website and Google Earth, it appears that there are areas described within water right documents have water uses that are not supported by documentation. These water uses are listed within the table on page *70* and located upon the following map of the drainage.

1. Map of unsupported water uses:

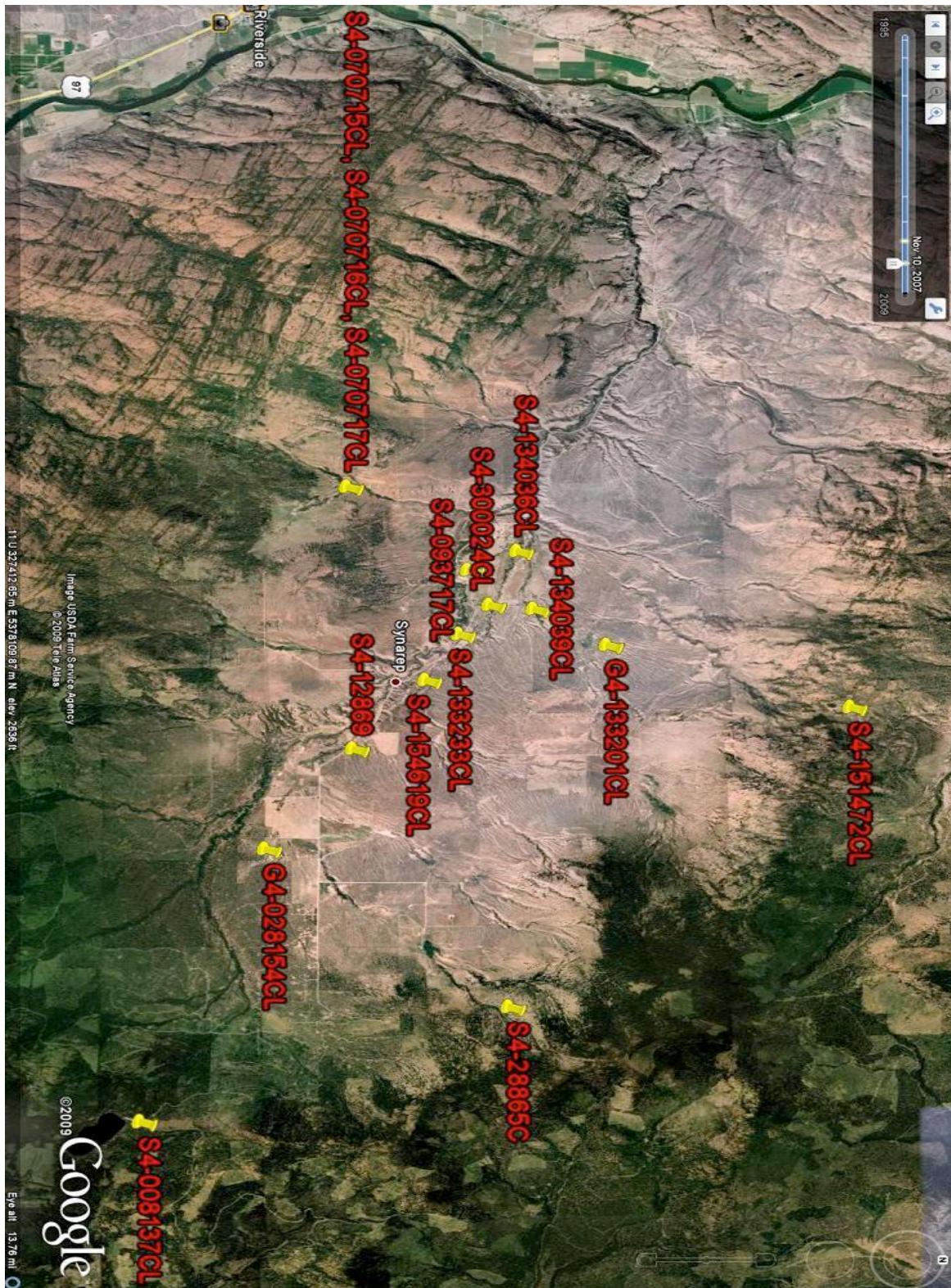


Figure 6 Unsupported water uses

2. Table of unsupported water uses:

The following water uses appear not to be supported by the extent of apparent water right, if any:

Water right Document Number	Report Page Number	County Parcel Number	Current Owner Name	Current Owner Address	Apparent Issue
S4-28865C	19	3529181003	Dennis and Janet Brothers	151J Fritz Road Riverside, WA 98849	Irrigated area exceeds water right
G4-028154CL	26	3528262001	Jim and Shelia Kern	2315 NW 100 th Seattle, WA 98177	Claim exceeds ground water permit exemption
G4-070717CL	24	3528192003	Craig and Sadie Cohoe	154 Knox Road Riverside, WA 98849	Determined invalid by Ecology
S4-070716CL	27	3528192003	Craig and Sadie Cohoe	154 Knox Road Riverside, WA 98849	Determined invalid by Ecology
S4-070715CL	27	3528192003	Craig and Sadie Cohoe	154 Knox Road Riverside, WA 98849	Determined invalid by Ecology
S4-133223CL	29	3528163007	Willis Figlenski	1219 Tunk Road Riverside, WA 98849	Permit may have been required prior to use
S4-008137CL	30	3529320001	Edward Thorp	13712 S Fort Road Draper, UT 84020	Permit may have been required prior to use
S4-015713CL	31	Location and ownership unknown			Permit may have been required prior to use
S4-151472CL	31	3628344004	Gene Smith	35B Omak River Road Omak, WA 98841	Permit may have been required prior to use
Various stock watering claims	32	These stock water claims may represent diversions of water or may be sites where stock drink directly from local springs and minor water sources			Permit may have been required prior to use
No. 9750 (S4-12869)	40	3528220007	Lloyd and Barbra Buchholtz	1529 Tunk Creek Road Riverside, WA 98849	Permit may have been required prior to use
		3528223001	Ronald H. Bishop, et ux	PO Box 112 Everson, WA 98247	

Water right Document Number	Report Page Number	County Parcel Number	Current Owner Name	Current Owner Address	Apparent Issue
		3528223003	Jim and Nancy Soriano	PO Box 70438 Seattle, WA 98127	
		3528274002 and 3528274007	James Soriano	PO Box 2582 Vashon, WA 98070	
G4-133201CL	56	3528090005	Willis Figlenski	1219 Tunk Creek Road Riverside, WA 98849	Permit may have been required prior to use
S4-093717CL	57	3528170015	Eunice Presto	Rt 5 Box 60A Riverside, WA 98849	These four water right claims rely on a common history but in total exceed the irrigated area supported by the history
S4-134036CL	65	3528171005 3528172004 3528174006 3528170021	Willis Figlenski	1219 Tunk Creek Road Riverside, WA 98849	
S4-134039CL	57	3528090006	Willis Figlenski	1219 Tunk Creek Road Riverside, WA 98849	
S4-300024CL	57	3528170025	Sheryl Curtis	1212 Tunk Creek Road Riverside, WA 98849	
S4-028155CL	64	3528253004	Hugh and Sherri Tower	104 Eastman Mill Road Riverside, WA 98849	Permit may have been required prior to use
		3528254003	Andrew and Kathy Vasileff	13504 Military Road S Seattle, WA 98168	
		3528262001	Jim and Shelia Kern	2315 NW 100 th Seattle, WA 98177	
		3528261002	Robert and Michele Michlitch	40 Eastman Mill Road Riverside, WA 98849	
Ownership is from the Okanogan County Assessor's Office, July 9, 2009					

Table 3: Unsupported water uses

E. Unauthorized water use

Comparison of aerial photography available through the Okanogan County Assessor's Office and Google Earth suggest that there may be unauthorized irrigation water use. At the resolution of on-line photography, it is difficult to distinguish between naturally wetted areas and irrigation. Shallow ground water may naturally allow lands to stay green throughout the summer while surrounding areas become dormant and brown in color but the shape of some green areas suggest that they are artificially managed. While traveling roads within the drainage, notation of the location of irrigation activity might be made and compared to the locations described within water right documentation.

F. Applications for permit

There are the following applications on file with Ecology proposing the establishment of new water rights. Given Ecology's current staffing levels and priorities, it is unlikely that these applications will be processed within the next two years. However, the Colville Confederated Tribes may wish to participate in the processing of these applications when it occurs by submitting updated comments as appropriate and reviewing the final resolution by Ecology.

X 

Fred Rajala
Rajala Environmental

VII. Information Sources

Okanogan County, Assessor's Office, 2008. Parcel maps, land ownership, land use, and recent sales.

<http://www.okanogancounty.org/Assessor/map.htm>

Washington Department of Ecology. Water Rights Application Tracking System.

Washington Department of Ecology, State water right records

Washington Department of Ecology, Tunk Creek flow monitoring station data:

<https://fortress.wa.gov/ecy/wrx/wrx/flows/station.asp?sta=49E080>

Washington Department of Ecology, Well Log Images Map Search

<http://apps.ecy.wa.gov/welllog/>

Washington Department of Ecology, Trust water right program

<http://www.ecy.wa.gov/programs/wr/instream-flows/wacq.html>

Washington Office of the Secretary of State, Central Region Archives, Ellensburg, WA

http://www.secstate.wa.gov/archives/archives_central.aspx

Delorme Maps, Street Atlas USA 2009 plus, www.delorme.com

Google Earth: <http://earth.google.com/>

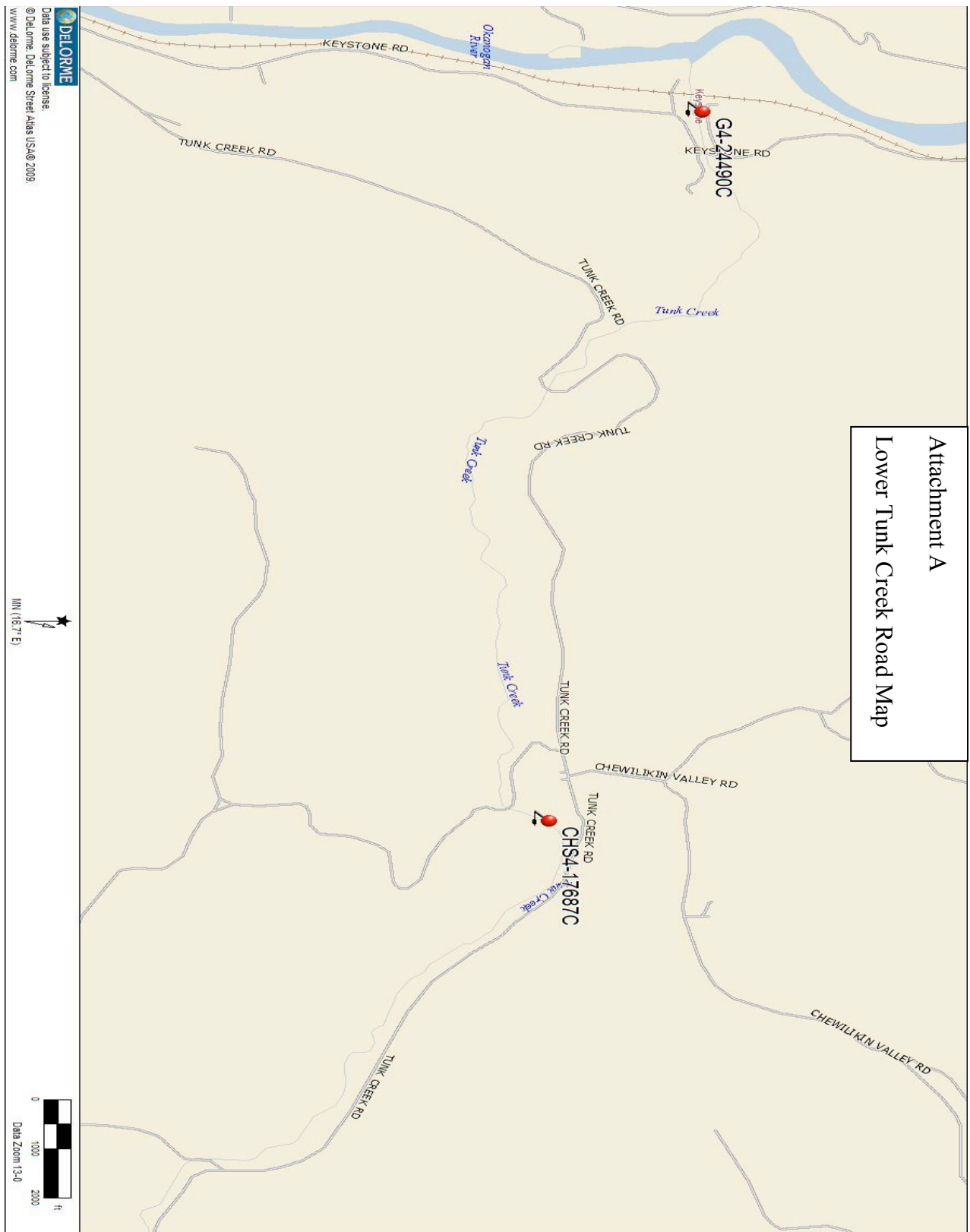
General Land Office records held by the Bureau of Land Management

The National Archives, Teaching through Documents;

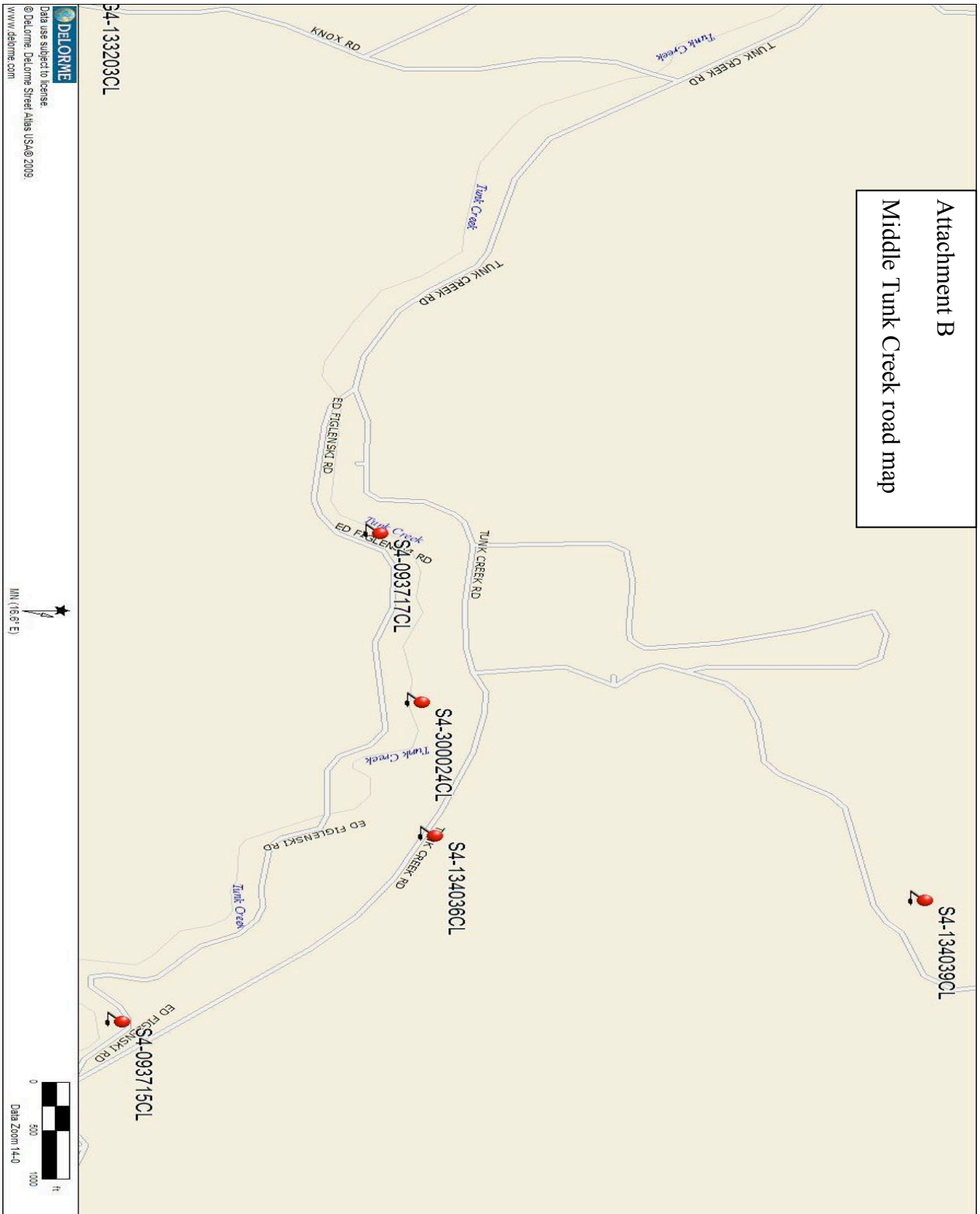
<http://www.archives.gov/education/lessons/homestead-act/>

Bureau of Land Management, Land Status and Cadastral Survey Records,

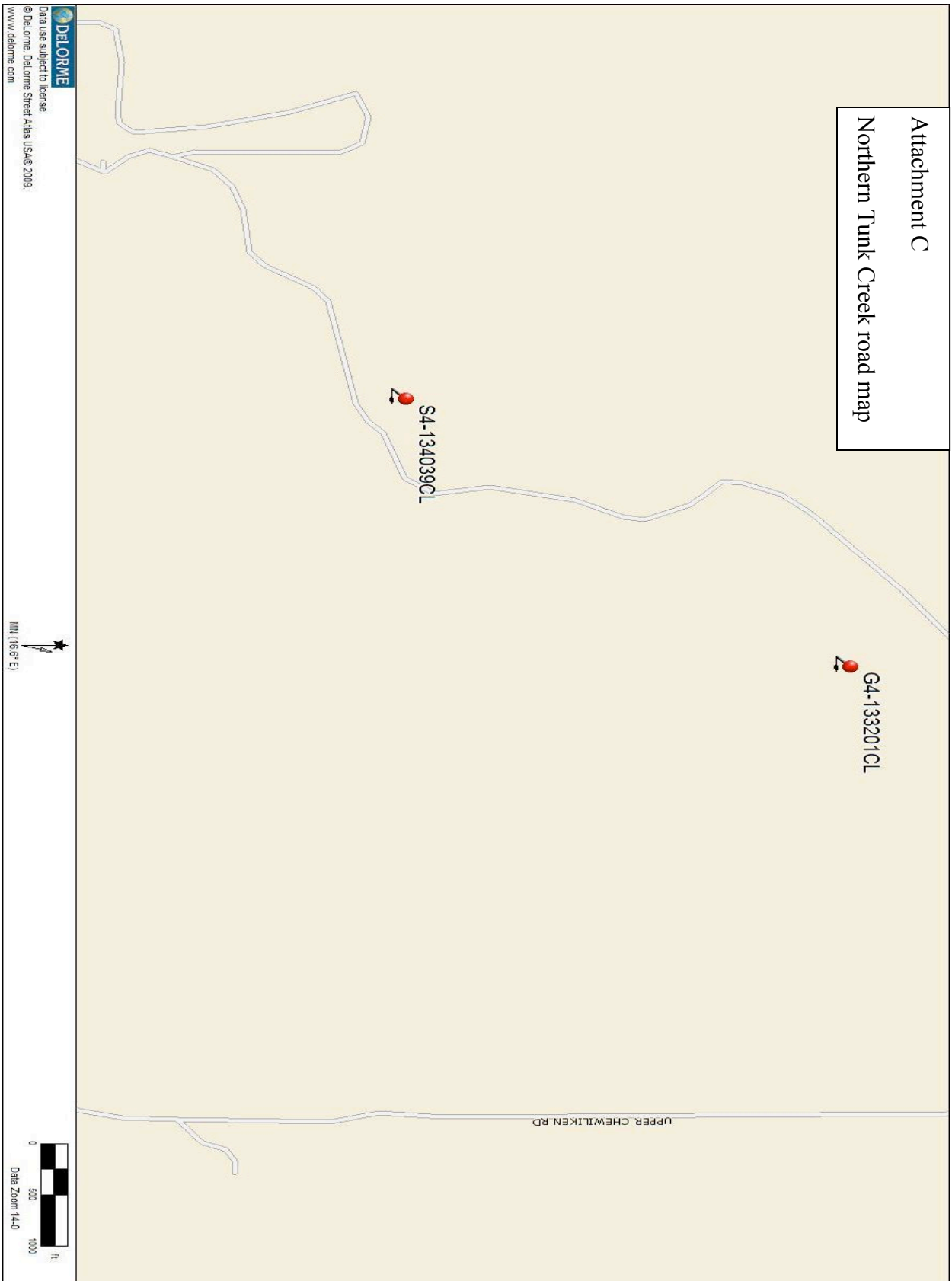
<http://www.blm.gov/or/landrecords/survey/ySrvy1.php>



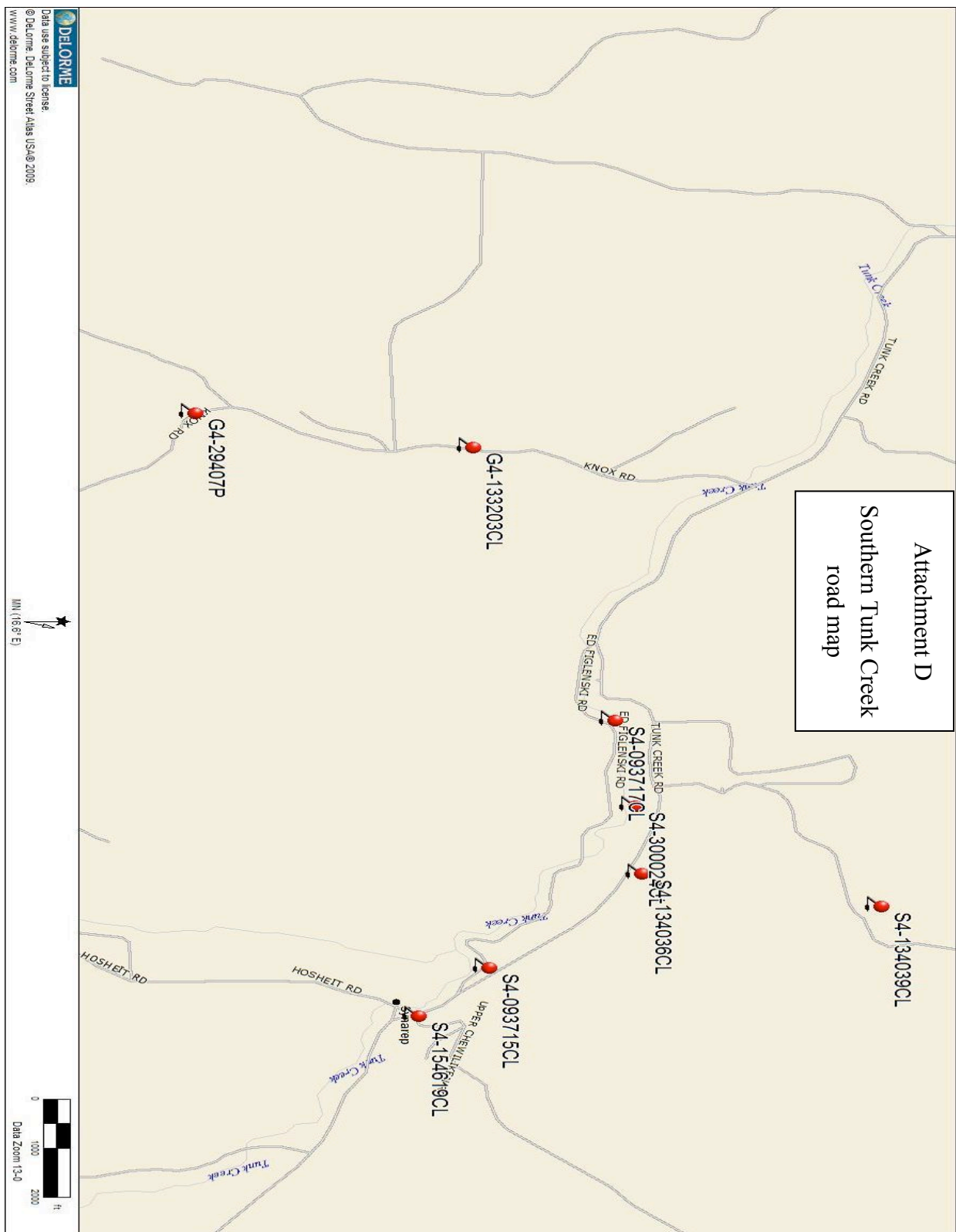
ATTACHMENT A Lower Tunk Creek Road Map



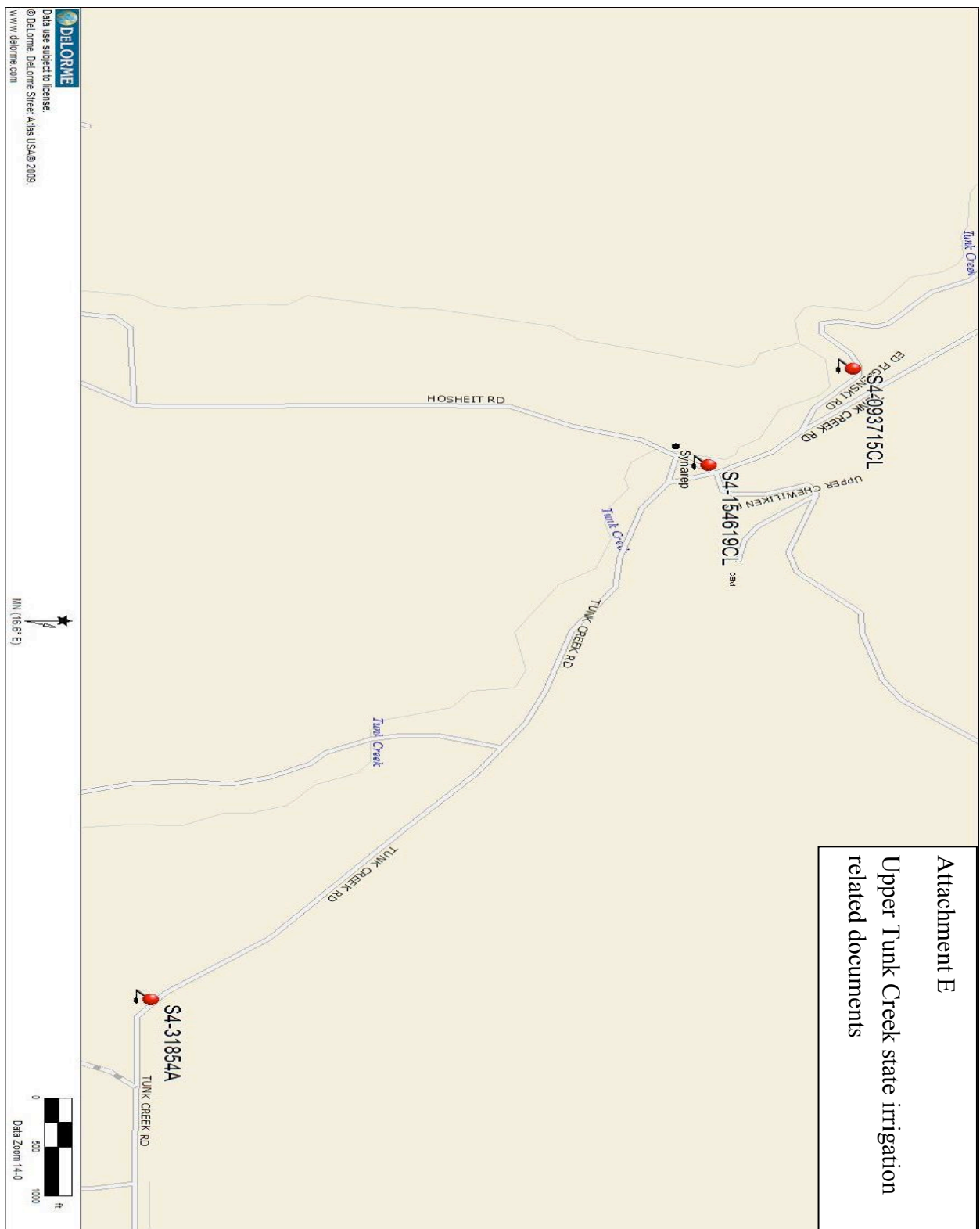
ATTACHMENT B Middle Tunk Creek road map



ATTACHMENT C Northern Tunk Creek road map



ATTACHMENT D Southern Tunk Creek road map



ATTACHMENT E Upper Tunk Creek road map

ATTACHMENT F WRTS List, T. 35 N., R. 27 EWM

File #	Cert #	Person	Stat	Doc	Priority Dt	Purpose	Qi	UOM	Qa	Ir Acres	TRS	QQ/Q	Src's	1stSrc
S4-093508CL		20 BAR 3 GRAZING ASSN	A	Claim L	7/1/1973	ST		CFS			35.0N 27.0E 01		1	SPRING
S4-*17687CWRIS	9216	GREEN V A	A	Cert	1/14/1963	IR	0.8	CFS	160	40	35.0N 27.0E 02	SW/SE	1	TUNK CREEK
CS4-SWC9216		Tunk Creek Water Assn	A	Chng/RO E	9/5/2002	IR	233	GP M	97.1	26	35.0N 27.0E 02	SW/SE	2	Well 1
S4-159523CL		GREEN VIRGIL A	A	Claim L	6/1/1901	ST,DG		CFS			35.0N 27.0E 02		1	SPRING
S4-133212CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1950	ST		CFS			35.0N 27.0E 03		1	POND
G4-24490CWRIS		Zaser & Longston Inc**	A	Cert	1/3/1977	IR	1000	GP M	638	125	35.0N 27.0E 05	SE/NE	1	WELL
CS4-28273		Keystone Fruit Co LLC	A	ChgApp	2/8/2006	FP	9.72	CFS	77.3		35.0N 27.0E 05	SE/NE	2	
CG4-24490C@1		Zaser & Longston Inc**	A	ChgApp	4/20/2006	IR	1000	GP M	638	125	35.0N 27.0E 05	SE/NE	2	WELL
CS4-SWC7827		Auvil Fruit Co Inc*	I	ChgApp	3/28/2001			CFS			35.0N 27.0E 06		1	WELL
G4-126453CL		PETERSEN PHILIP J	A	Claim L	3/1/1925	DG		GP M			35.0N 27.0E 06		1	WELL
G4-126454CL		PETERSEN PHILIP J	A	Claim L	3/1/1940	DG		GP M			35.0N 27.0E 06		1	WELL
G4-152338CL		VOELCKERS CARL E	A	Claim L		DG		GP M			35.0N 27.0E 06		1	WELL
G4-*05838PWRIS		LONGACRE E G	I	Pmt	2/17/1961	IR	280	GP M	112	28	35.0N 27.0E 06		1	WELL
G4-*01714CWRIS	961	SACKMAN R	A	Cert	10/26/1950	IR	360	GP M	148	37	35.0N 27.0E 07		1	WELL
G4-23600CWRIS		VOELCKERS CARL E	A	Cert	7/1/1974	IR	335	GP M	131.5	32.5	35.0N 27.0E 07		1	WELL
CG4-23600C		Auvil Fruit Co Inc*	I	ChgApp	3/28/2001			GP M			35.0N 27.0E 07		1	WELL
CG4-GWC961-A		Auvil Fruit Co Inc*	I	ChgApp	3/28/2001			GP M			35.0N 27.0E 07		1	WELL
CS4-SWC10416@3	10416	Long Kenneth	A	ChgApp	7/2/2001	IR	2.3	CFS	460	115	35.0N 27.0E 07		1	WELL
G4-007362CL		CROFOOT KENNETH D.	A	Claim L	3/1/1938	ST,DG		GP M			35.0N 27.0E 07		1	WELL
G4-22747CWRIS		DIXON EDWIN W	A	Cert	3/8/1974	IR	300	GP M	139.25	30	35.0N 27.0E 08		1	WELL
G4-059586CL		DIXON EDWIN W.	A	Claim S		DG		GP M			35.0N 27.0E 08		1	
S4-133222CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1960	ST		CFS			35.0N 27.0E 09		1	POND
S4-26666CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.22		35.0N 27.0E 10	NE/SE	1	UNNAMED SPRING
S4-26667CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.22		35.0N 27.0E	NE/SW	1	UNNAMED

											10			SPRING
S4-26668CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.22		35.0N 27.0E 10	SW/S W	1	UNNAMED SPRING
S4-051853CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1915	ST		CFS			35.0N 27.0E 10		1	SPRING
S4-051854CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1915	ST		CFS			35.0N 27.0E 10		1	SPRING
S4-26665CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.22		35.0N 27.0E 11	SE/SW	1	UNNAMED SPRING
G4-093505CL		20 BAR 3 GRAZING ASSN	A	Claim L	5/1/1963	ST		GP M			35.0N 27.0E 12		1	WELL
S4-093507CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			35.0N 27.0E 12		1	SPRING
S4-26663CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.12		35.0N 27.0E 13	SW/S W	1	UNNAMED SPRING
S4-093506CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			35.0N 27.0E 13		1	SPRING
S4-26664CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.12		35.0N 27.0E 14	NE/SE	1	UNNAMED SPRING
S4-051851CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1960	ST		CFS			35.0N 27.0E 14		1	SPRING
S4-051852CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1916	ST		CFS			35.0N 27.0E 14		1	SPRING
S4-025721CL		WN ST DEPT NAT RSO	A	Claim L	11/1/1889	ST		CFS			35.0N 27.0E 14		1	
S4-025722CL		WN ST DEPT NAT RSO	A	Claim L	11/1/1889	ST		CFS			35.0N 27.0E 14		1	UNNAMED LAKE

Total Records: 37

ATTACHMENT G WRTS List T. 35 N., R. 28 EWM

File #	Cert #	Person	Stat	Doc	Priority Dt	Purpose	Qi	UOM	Qa	Ir Acres	TRS	QQ/Q	SrCs	1stSrc
S4-019675CL		WN ST DEPT NATRSO	A	Claim L	11/11/1889	ST		CFS			35.0N 28.0E 01		1	UNNAMED SPRING
S4-26787CWRIS		USFS	A	Cert	5/29/1980	ST	0.01	CFS	0.13		35.0N 28.0E 01	SW/SE	1	UNNAMED SPRING
S4-26790CWRIS		USFS	A	Cert	5/29/1980	ST	0.01	CFS	0.13		35.0N 28.0E 01	NW/SE	1	UNNAMED SPRING
G4-030011CL		VEJRASKA LOUIS C.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 02		1	UNNAMED SPRING
G4-030012CL		VEJRASKA LOUIS C.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 02		1	UNNAMED SPRING
G4-030013CL		VEJRASKA LOUIS C.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 02		1	UNNAMED SPRING
G4-030014CL		VEJRASKA LOUIS C.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 02		1	UNNAMED SPRING
G4-030008CL		VEJRASKA LOUIS C.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 03		1	UNNAMED SPRING
G4-030009CL		VEJRASKA LOUIS C.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 03		1	UNNAMED SPRING
G4-030010CL		VEJRASKA LOUIS C.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 03		1	UNNAMED SPRING
S4-134038CL		CUMMINS RONALD K	A	Claim L	1/1/1907	ST		CFS			35.0N 28.0E 04		1	SPRING
S4-133221CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1933	ST		CFS			35.0N 28.0E 04		1	POND
S4-093494CL		20 BAR 3 GRAZING ASSN	A	Claim L	6/1/1970	ST		CFS			35.0N 28.0E 04		1	POND
S4-093498CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 04		1	SPRING
S4-093493CL		20 BAR 3 GRAZING ASSN	A	Claim L	6/1/1971	ST		CFS			35.0N 28.0E 05		1	SPRING
S4-133219CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1974	ST		CFS			35.0N 28.0E 06		1	POND
S4-133220CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1972	ST		CFS			35.0N 28.0E 06		1	POND
S4-093486CL		TWENTY BAR THREE GRAZING	A	Claim L	4/1/1900	ST		CFS			35.0N 28.0E 07		1	STREAM
S4-134037CL		CUMMINS RONALD K	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 08		1	SPRING
S4-134039CL		CUMMINS RONALD K	A	Claim L	1/1/1907	ST,IR		CFS			35.0N 28.0E 09		1	SPRING
S4-134040CL		CUMMINS RONALD K	A	Claim L	1/1/1900	DG		CFS			35.0N 28.0E 09		1	SPRING
S4-134041CL		CUMMINS RONALD K	A	Claim L	1/1/1900	ST		CFS			35.0N 28.0E 09		1	POND
S4-133206CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1933	ST		CFS			35.0N 28.0E 09		1	POND
G4-133201CL		FIGLENSKI EDWARD W	A	Claim L		IR		GP			35.0N 28.0E		1	WELL

								M			09			
G4-133202CL		FIGLENSKI EDWARD W	A	Claim L		IR		GP M			35.0N 28.0E 11		1	WELL
S4-133209CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1955	ST		CFS			35.0N 28.0E 11		1	POND
S4-093491CL		20 BAR 3 GRAZING ASSN	A	Claim L	7/1/1971	ST		CFS			35.0N 28.0E 11		1	SPRING
S4-093492CL		20 BAR 3 GRAZING ASSN	A	Claim L	7/1/1972	ST		CFS			35.0N 28.0E 12		1	SPRING
S4-26788CWRIS		USFS	A	Cert	5/29/1980	ST	0.0 1	CFS	0.1 3		35.0N 28.0E 12	SW/NE	1	UNNAMED SPRING
G4-*03894PWRIS		WILSON FRED ET AL	I	Pmt	2/25/1955	IR	800	GP M	320	80	35.0N 28.0E 13		1	WELL
G4-154316CL		CHAMPION WILLIAM M	A	Claim L	1/1/1926	ST		GP M			35.0N 28.0E 13		1	SPRING
S4-093488CL		TWENTY BAR THREE GRAZING	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 13		1	SPRING
G4-32030		Nelson Donald	A	NewAp p	5/13/1994	IR,DS	30	GP M		2	35.0N 28.0E 13		1	WELL
S4-133210CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1972	ST		CFS			35.0N 28.0E 15		1	POND
G4-133225CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1910	ST,DG		GP M			35.0N 28.0E 15		1	WELL
S4-133226CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1972	ST		CFS			35.0N 28.0E 15		1	POND
S4-093489CL		20 BAR 3 GRAZING ASSN	A	Claim L	5/1/1972	ST		CFS			35.0N 28.0E 15		1	SPRING
S4-093490CL		20 BAR 3 GRAZING ASSN	A	Claim L	7/1/1971	ST		CFS			35.0N 28.0E 15		1	SPRING
S4-134036CL		CUMMINS RONALD K	A	Claim L	10/10/190 0	IR		CFS			35.0N 28.0E 16		1	TUNK CREEK
S4-133223CL		FIGLENSKI EVERETT W	A	Claim L	1/1/1933	DG		CFS			35.0N 28.0E 16		1	TUNK CREEK
G4-133224CL		FIGLENSKI EVERETT W	A	Claim L	1/1/1960	DG		GP M			35.0N 28.0E 16		1	WELL
S4-019674CL		WN ST DEPT NATRSO	A	Claim L	11/11/188 9	ST		CFS			35.0N 28.0E 16		1	TUNK CREEK
G4-30072AWRIS		CURTIS SHERYL K	I	NewAp p	9/13/1989	IR,DS	45	GP M		6	35.0N 28.0E 17		1	WELL
S4-134042CL		CUMMINS RONALD K	A	Claim L	1/1/1903	ST		CFS			35.0N 28.0E 17		1	CREEK
S4-093509CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 17		1	TUNK CREEK
S4-093716CL		PRESTO EUNICE H	A	Claim L	6/1/1908	DG		CFS			35.0N 28.0E 17		1	SPRING
S4-093717CL		PRESTO EUNICE H	A	Claim L	6/1/1908	ST,IR		CFS			35.0N 28.0E 17		1	TUNK CREEK
S4-005550CL		MORGAN ALFRED B.	A	Claim L	1/1/1900	ST,DG		CFS			35.0N 28.0E 17		1	UNNAMED SPRING
CS4-300024CL		Curtis Sheryl	I	ChgApp	12/30/199 4	ST,IR	0.1	CFS	20	6	35.0N 28.0E 17	NE/SE	1	TUNK CREEK

S4-31827		Curtis Sheryl	I	NewAp p	8/13/1993	IR,DS	0.3	CFS		12.7	35.0N 28.0E 17		1	TUNK CREEK
S4-300024CL		CURTIS SHERYL	A	Claim	4/15/1972	ST,IR		CFS			35.0N 28.0E 17	NE/SE	1	TUNK CREEK
S4-093483CL		TWENTY BAR THREE GRAZING	A	Claim L	1/1/1917	ST,DG		CFS			35.0N 28.0E 18		1	SPRING
G4-093484CL		TWENTY BAR THREE GRAZING	A	Claim L	7/1/1964	ST,DG		GP M			35.0N 28.0E 18		1	WELL
G4-093485CL		TWENTY BAR THREE GRAZING	A	Claim L	6/1/1962	ST,DG		GP M			35.0N 28.0E 18		1	WELL
S4-093504CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 18		1	CREEK
G4-133203CL		FIGLENSKI EDWARD W	A	Claim L		IR		GP M			35.0N 28.0E 19		1	WELL
S4-070715CL		ANDERSON CLAIR A.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 19		1	SPRING #3
S4-070716CL		ANDERSON CLAIR A.	A	Claim L	1/1/1910	ST,DG		CFS			35.0N 28.0E 19		1	SPRING #2
G4-070717CL		ANDERSON CLAIR A.	A	Claim L	1/1/1935	ST,DG		GP M			35.0N 28.0E 19		1	WELL #1
G4-29407		Garr Thomas	A	Pmt	8/28/1987	IR,DS	60	GP M	17	5	35.0N 28.0E 19		2	WELL
G4-157986CL		DODGE MARVIN D	A	Claim S		ST,DG		GP M			35.0N 28.0E 21		1	
S4-154619CL		SHOVE RAYMOND G	A	Claim L	3/1/1900	ST,IR		CFS			35.0N 28.0E 21		1	TUNK CREEK
G4-154622CL		SHOVE RAYMOND G	A	Claim L	3/1/1900	DG		GP M			35.0N 28.0E 21		1	WELL
G4-126474CL		WHITAKER GEORGE J	A	Claim S		ST,IR		GP M			35.0N 28.0E 21		1	
S4-093715CL		PRESTO EUNICE H	A	Claim L	6/1/1915	ST,IR		CFS			35.0N 28.0E 21		1	TUNK CREEK
S4-093718CL		PRESTO EUNICE H	A	Claim L	6/1/1915	DG		CFS			35.0N 28.0E 21		1	SPRING
S4- *12869ALPWRIS		MCHUGO WALLACE D	I	Pmt	4/15/1954	IR	0.6 7	CFS		50	35.0N 28.0E 22		2	TUNK CREEK
S4-110402CL		BUCHOLTZ WILLIAM F	A	Claim L	7/1/1944	ST		CFS			35.0N 28.0E 22		1	SPRING
G4-110405CL		BUCHOLTZ WILLIAM F	A	Claim L	4/1/1939	DG		GP M			35.0N 28.0E 22		1	WELL
G4-080934CL		SIMPSON LAURA	A	Claim L	1/1/1910	ST,DG		GP M			35.0N 28.0E 22		1	WELL
S4-31854		Bellinger Jacqueline	A	NewAp p	10/13/199 3	IR	0.4	CFS		2	35.0N 28.0E 22		1	UNNAMED SPRING
S4-110403CL		BUCHOLTZ WILLIAM F	A	Claim L	6/1/1931	ST,DG		CFS			35.0N 28.0E 23		1	SPRING
S4-110404CL		BUCHOLTZ WILLIAM F	A	Claim L	5/1/1934	ST		CFS			35.0N 28.0E 23		1	SPRING
S4-110400CL		BUCHOLTZ WILLIAM F	A	Claim L	6/1/1948	ST		CFS			35.0N 28.0E 24		1	SPRING
S4-110401CL		BUCHOLTZ WILLIAM F	A	Claim L	5/1/1934	ST		CFS			35.0N 28.0E		1	SPRING

											24			
S4-097859CL		HAMPTON HELEN	A	Claim L	1/1/1911	ST,IR		CFS			35.0N 28.0E 24		1	SPRING
G4-097860CL		HAMPTON HELEN	A	Claim L	1/1/1911	ST,DG		GP M			35.0N 28.0E 24		1	WELLS
S4-093487CL		TWENTY BAR THREE GRAZING	A	Claim L	6/1/1898	ST		CFS			35.0N 28.0E 24		1	SPRING
S4-051804CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1898	ST		CFS			35.0N 28.0E 25		1	UNNAMED CREEK
S4-125818CL		HUEBLER LYNN A	A	Claim L	1/1/1942	ST		CFS			35.0N 28.0E 26		1	SPRING
G4-110398CL		BUCHOLTZ WILLIAM F	A	Claim L	1/1/1910	DG		GP M			35.0N 28.0E 26		1	WELL
S4-110399CL		BUCHOLTZ WILLIAM F	A	Claim L	5/1/1948	ST		CFS			35.0N 28.0E 26		1	POND
S4-051790CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1900	ST		CFS			35.0N 28.0E 26		1	UNNAMED STREAM
G4-028154CL		Bratrude Amos	A	Claim L	6/1/1969	IR,DG		GP M			35.0N 28.0E 26		1	WELL
S4-051791CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1900	ST		CFS			35.0N 28.0E 27		1	SPRING
S4-051792CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1900	ST		CFS			35.0N 28.0E 27		1	SPRING
G4-154617CL		SHOVE RAYMOND G	A	Claim L	6/1/1914	ST		GP M			35.0N 28.0E 28		1	WELL
S4-154618CL		SHOVE RAYMOND G	A	Claim L	6/1/1914	ST		CFS			35.0N 28.0E 28		1	SPRING
G4-154620CL		SHOVE RAYMOND G	A	Claim L	6/1/1914	IR,DG		GP M			35.0N 28.0E 28		1	WELL
G4-154621CL		SHOVE RAYMOND G	A	Claim L	6/1/1914	ST		GP M			35.0N 28.0E 28		1	WELL
S4-051824CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 28		1	SPRING
S4-051826CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 28		1	UNNAMED CREEK
S4-051827CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 28		1	SPRING
S4-26778CWRIS		Crown Zellerbach Co	A	Cert	5/29/1980	ST	0.0 1	CFS	0.3		35.0N 28.0E 28	SW/S W	1	UNNAMED SPRING
S4-131234CL		OLIVER GEORGE B	A	Claim L	5/1/1908	ST		CFS			35.0N 28.0E 29		1	SPRING
S4-131233CL		OLIVER GEORGE B	A	Claim L	3/1/1912	ST,DG		CFS			35.0N 28.0E 30		1	SPRING
S4-131236CL		OLIVER GEORGE B	A	Claim L	1/1/1908	ST,DG		CFS			35.0N 28.0E 30		1	SPRING
G4-131237CL		OLIVER GEORGE B	A	Claim L	1/1/1920	ST,DG		GP M			35.0N 28.0E 30		1	WELL
S4-093503CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 30		1	SPRING
S4-051774CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 30		1	SPRING

S4-051775CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 30		1	SPRING
S4-032020CL		WA ST DEPT NAT RSO	A	Claim L	11/1/1889	ST		CFS			35.0N 28.0E 31		1	SPRING
S4-131232CL		OLIVER GEORGE B	A	Claim L	4/1/1910	ST,DG		CFS			35.0N 28.0E 32		1	SPRING
S4-131235CL		OLIVER GEORGE B	A	Claim L	4/1/1910	ST		CFS			35.0N 28.0E 32		1	SRPING
S4-051825CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 28.0E 32		1	SPRING
S4-032021CL		WA ST DEPT NAT RSO	A	Claim L	11/11/1889	ST		CFS			35.0N 28.0E 32		1	SPRING
S4-032022CL		WA ST DEPT NAT RSO	A	Claim L	11/11/1889	ST		CFS			35.0N 28.0E 32		1	SPRING
S4-125088CL		CLOUGH FLORENCE E	A	Claim L	1/1/1911	ST,DG		CFS			35.0N 28.0E 33		1	SPRING
S4-125086CL		CLOUGH FLORENCE E	A	Claim L	1/1/1911	ST,DG		CFS			35.0N 28.0E 34		1	SPRING
S4-125087CL		CLOUGH FLORENCE E	A	Claim L	1/1/1911	ST,DG		CFS			35.0N 28.0E 34		1	SPRING
S4-051776CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1910	ST		CFS			35.0N 28.0E 35		1	UNNAMED STREAM
S4-028155CL		Bratrude Amos	A	Claim L	12/1/1917	IR,DG		CFS			35.0N 28.0E 36		1	TUNK CREEK
S4-019704CL		WN ST DEPT NAT RSO	A	Claim L	11/1/1889	ST		CFS			35.0N 28.0E 36		1	UNNAMED STREAM
S4-*01176CWRIS	340	ARRINGTON S W	A	Cert	8/13/1924	IR,DS	0.5	CFS		20	35.0N 28.0E 36		1	TUNK CREEK

Total Records: 114

ATTACHMENT H WRTS List T. 35 N., R. 29 EWM

File #	Cert #	Person	Stat	Doc	Priority Dt	Purpose	Qi	UOM	Qa	Ir Acres	TRS	QQ/Q	Src's	1stSrc
S4-26786AKTCWRIS		USFS	A	Cert	5/29/1980	ST	0.03	CFS	0.4		35.0N 29.0E 06	SE/SW	1	UNNAMED SPRING
G4-154315CL		CHAMPION WILLIAM M	A	Claim L	1/1/1925	ST		GP M			35.0N 29.0E 07		1	SPRING
S4-021701CL		WN ST DEPT NAT RSO	A	Claim L	11/11/1889	ST		CFS			35.0N 29.0E 07		1	UNNAMED SPRING
S4-019610CL		WN ST DEPT NATRSO	A	Claim L	11/11/1889	ST		CFS			35.0N 29.0E 07		1	UNNAMED SPRING
S4-019679CL		WN ST DEPT NATRSO	A	Claim L	11/11/1889	ST		CFS			35.0N 29.0E 17		1	UNNAMED SPRING
S4-019702CL		WN ST DEPT NAT RSO	A	Claim L	11/11/1889	ST		CFS			35.0N 29.0E 17		1	UNNAMED SPRING
S4-095019CL		FRITZ WILLARD C	A	Claim L	1/1/1910	ST,DG		CFS			35.0N 29.0E 18		1	SPRING
S4-095020CL		FRITZ WILLARD C	A	Claim L	1/1/1910	ST		CFS			35.0N 29.0E 18		1	SPRING
S4-095021CL		FRITZ WILLARD C	A	Claim L	1/1/1910	ST		CFS			35.0N 29.0E 18		1	SPRING
S4-28865CWRIS		BROTHERS DENNIS E	A	Cert	2/11/1986	DS	0.0178	CFS	2		35.0N 29.0E 18	SW/NE	1	UNNAMED SPRING
S4-32932		Fritz Francis	A	NewAp p	9/11/2000	ST	0.02	CFS			35.0N 29.0E 18		1	UNNAMED SPRING
S4-095512CL		MC KAY NORA C	A	Claim L	1/1/1910	ST,DG		CFS			35.0N 29.0E 19		1	SPRING
S4-*22243PWIRIS		THORSON B N	I	Pmt	5/22/1970	DS	0.01	CFS	1		35.0N 29.0E 20		1	UNNAMED STREAM
S4-051828CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 29.0E 20		1	SPRING
S4-26805CWRIS		USFS	A	Cert	5/29/1980	ST	0.01	CFS	0.13		35.0N 29.0E 20	SW/NE	1	UNNAMED SPRING
S4-26680CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.14		35.0N 29.0E 20	SE/NW	1	UNNAMED SPRING
S4-26804CWRIS		USFS	A	Cert	5/29/1980	ST	0.01	CFS	0.13		35.0N 29.0E 21	SW/NW	1	UNNAMED SPRING
S4-051856CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 29.0E 29		1	SPRING
S4-051857CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 29.0E 29		1	SPRING
S4-051858CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 29.0E 30		1	SPRING
S4-051864CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			35.0N 29.0E 30		1	UNNAMED CREEK
S4-26661CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.3		35.0N 29.0E 30	NW/SE	1	UNNAMED SPRING
S3-+00721PWIRIS		MOORE JERRY E	I	Pmt	12/2/1971	DS	0.01	CFS	1		35.0N 29.0E 32		1	UNNAMED SPRING
S4-25405AWRIS		AULT BUD	I	NewAp	7/27/1977	IR,FR	0.05	CFS		1	35.0N 29.0E		1	CRAWFISH LAKE

				p							32			
S4-015713CL		FITTERER FRANK C.	A	Claim L		DG		CFS			35.0N 29.0E 32		1	
S4-008137CL		SODERBERG PAUL E.	A	Claim L	5/1/1971	DG		CFS			35.0N 29.0E 32		1	UNNAMED SPRING
S4-29085CWRIS		USFS Okanogan	A	Cert	9/8/1986	ST	0.01	CFS	2.3		35.0N 29.0E 32	SW/N W	1	RIMROCK SPR
G4-24060CWRIS		AULT BUD A	A	Cert	9/5/1975	FR,DS	14	GP M	2		35.0N 29.0E 32		1	WELL
S4-26808ABBCWRIS		USFS	A	Cert	5/29/1980	ST	0.04	CFS	0.5 4		35.0N 29.0E 33	NE/NW	4	UNNAMED SPRING

Total Records: 29

ATTACHMENT I WRTS List T. 36 N., R. 27 and 28 EWM

File #	Cert #	Person	Stat	Doc	Priority Dt	Purpose	Qi	UOM	Qa	Ir Acres	TRS	QQ/Q	Src's	1stSrc
S4-133213CL		FIGLENSKI EDWARD W	A	Claim L	1/1/1950	ST		CFS			36.0N 27.0E 34		1	POND
S4-008548CL		WN ST DEPT NAT RSO	A	Claim L	6/1/1902	ST		CFS			36.0N 27.0E 36		1	
G4-143364CL		WILSON ALBERT E	A	Claim L	1/1/1910	ST		GPM			36.0N 28.0E 29		1	WELL
G4-143365CL		WILSON ALBERT E	A	Claim L	6/1/1910	ST		GPM			36.0N 28.0E 29		1	WELL
S4-143366CL		WILSON ALBERT E	A	Claim L	1/1/1890	ST		CFS			36.0N 28.0E 29		1	LAKE
S4-019673CL		WN ST DEPT NAT RSO	A	Claim L	11/11/1889	ST		CFS			36.0N 28.0E 29		1	
S4-093499CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			36.0N 28.0E 32		1	SPRING
S4-093500CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			36.0N 28.0E 32		1	SPRING
S4-093501CL		20 BAR 3 GRAZING ASSN	A	Claim L	4/1/1969	ST		CFS			36.0N 28.0E 32		1	SPRING
S4-093502CL		20 BAR 3 GRAZING ASSN	A	Claim L	9/1/1972	ST		CFS			36.0N 28.0E 32		1	SPRING
S4-093497CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			36.0N 28.0E 33		1	SPRING
S4-151472CL		LANGKOW EDWIN	A	Claim L	3/1/1968	IR,DG		CFS			36.0N 28.0E 34		1	DAVIS LAKE
S4-093495CL		20 BAR 3 GRAZING ASSN	A	Claim L	6/1/1972	ST		CFS			36.0N 28.0E 34		1	SPRING
S4-093496CL		20 BAR 3 GRAZING ASSN	A	Claim L	1/1/1917	ST		CFS			36.0N 28.0E 34		1	DAVIS LAKE
S4-051802CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1917	ST		CFS			36.0N 28.0E 34		1	UNNAMED CREEK
S4-051803CL		BILES COLEMAN LMBR. CO.	A	Claim L	1/1/1900	ST		CFS			36.0N 28.0E 35		1	SPRING
S4-26679CWRIS		Crown Zellerbach Co	A	Cert	3/27/1980	ST	0.01	CFS	0.2		36.0N 28.0E 35	SW/NE	1	UNNAMED SPRING

Total Records: 17