



## SERVICES/INDEPENDENT CONTRACTOR AGREEMENT-

### **AGREEMENT NO. 23-13398**

#### **1. PARTIES**

Public Utility District No. 1 of Chelan County, Washington (hereinafter "District") has retained Washington State University, (hereinafter "Contractor"), an educational institution in the State of Washington, to perform services for the District pursuant to the terms of this Services/Independent Contractor Agreement ("Agreement"). This Agreement is authorized by the Interlocal Cooperation Act, RCW 39.34.

#### **2. DEFINITIONS**

**Acceptance:** Notice from District to Contractor that a Deliverable or Service has been completed in accordance with this Agreement.

**Deficient or Deficiency:** A failure of a Deliverable or an omission, defect or deficiency in a Deliverable, which causes it not to conform to Specifications, documentation or this Agreement to the District's satisfaction.

**Deliverables:** Contractor's products which result from the Services and which are prepared for District (either independently or in concert with District or third parties) during the course of Contractor's performance under this Agreement.

**Specifications:** The technical and other written specifications, directions and Deliverables that define the requirements between District and the Contractor.

#### **3. SCOPE OF SERVICES AND DELIVERABLES**

The Services to be performed and the Deliverables to be provided by the Contractor are described in the Scope of Services Exhibit, attached hereto, and by this reference herein incorporated. District shall have the right to review and test the Deliverables following Contractor's delivery of each to District to determine whether the Deliverables conform to the requirements of the Agreement to District's satisfaction. The District may either: reject a Deliverable if it is Deficient or contains a Deficiency, or accept each Deliverable ("Acceptance"). If the District rejects the Deliverables, Contractor shall, at District's request, promptly correct all Deficiencies and, thereafter, District shall again have the opportunity to review and test the Deliverables. If Contractor is not able to correct all Deficiencies in the Deliverables within 30 days following their receipt by District, District shall have the right to terminate this Agreement, which termination shall be deemed due to Contractor's default.

#### **4. PAYMENT**

Unless otherwise agreed and set forth in any exhibits hereto, the District will pay the Contractor monthly for undisputed amounts based on Services performed in accordance



with the terms of this Agreement and as itemized on a correct written invoice to the District, as verified by the District Project Leader. All correspondence and invoices should be plainly marked with the Agreement number referenced above. Invoices may be emailed to [APDept@chelanpud.org](mailto:APDept@chelanpud.org) or to Public Utility District No. 1 of Chelan County, 203 Olds Station Road., P. O. Box 1231, Wenatchee, WA 98807. Contractor shall bill the District on a monthly basis with net payment due thirty (30) days from the date that the correct invoice is received by the District. However, in no event shall the total amount of compensation to be paid by the District for said services, including all fees and costs incurred by the Contractor in the performance of this Agreement, exceed **\$3,000.00**. All undisputed and correct Contractor invoices shall be submitted to the District no later than **October 4, 2024**.

A Rate Schedule for Services is attached as an Exhibit. The same may be modified only in writing executed by both parties. The contractor shall charge only reasonable expenses. For example, air travel shall be coach fare only. If the Contractor charges for the use of equipment, computers or other items, the same must be included and agreed upon in advance in the Exhibit.

If Contractor fails to deliver Deliverables or to provide Services, which satisfy Contractor's obligations hereunder, District shall have the right to withhold any and all payments due hereunder. District may withhold any and all such payments due hereunder to Contractor, without work stoppage, until such failure to perform is cured.

#### **5. CHANGES TO SCOPE OF SERVICES, COSTS ESTIMATE OR SCHEDULE**

The Scope of Services, costs or schedule shall not be changed except in writing agreed to by both parties. The quoted fees and Scope of Services constitute the best estimate of the fees and tasks required to perform the Services as defined. This Agreement, upon execution by both parties hereto, can be amended only in writing and signed by both parties.

#### **6. RELATIONSHIP OF PARTIES**

The Parties intend that an independent contractor relationship will be created by this Agreement. The conduct and control of the Services and safety measures required by the Services lie solely with the Contractor. The Contractor is not to be considered an agent or employee of the District for any purpose and the Contractor is not entitled to any of the benefits that the District provides for the District's employees. It is understood that the Contractor is free to contract for similar services to be performed for other parties while it is under contract with the District, provided that any work for others does not prevent the Contractor from fulfilling all the Contractor's obligations pursuant to this Agreement.



Contractor, as an independent contractor, understands and acknowledges that it is not entitled and does not desire to be covered by any payroll taxes or other fringe benefits. Contractor agrees to pay its own social security taxes, income taxes and other health insurance benefits.

## **7. LIABILITY INSURANCE**

The Contractor shall, at its own expense, provide for the payment of workers compensation benefits to employees employed on or in connection with the Services covered by this Agreement, in accordance with the laws of the state in which the services are to be done. The Contractor shall also, at its own expense, provide for minimum insurance coverage as follows: general liability in the amount of \$1,000,000, employer's liability in the amount of \$1,000,000. This insurance shall be in effect prior to performing any Services covered by the Agreement. Additional insurance requirements or conditions may be added by amendment and the District, at its discretion, may require Contractor to provide evidence of such insurance. These insurance requirements shall not be deemed to limit the Contractor's liability to the District or any third party.

## **8. INDEMNITY**

Each party hereto agrees to be responsible and assume liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent required by law.

## **9. DURATION AND TERMINATION**

The Agreement shall be in effect upon the Effective Date, and shall be terminated by any of the following events: (a) death or dissolution of the Contractor, (b) failure to comply with any applicable law, (c) mutual agreement of the Parties, (d) District giving the Contractor not less than fifteen (15) days advance written notice of termination, or (e) failure of the Contractor to cure any material breach within (7) seven days of receipt of written notice from the District. The District may at any time stop performance of Services without terminating the Agreement. Otherwise, this Agreement shall remain in force until **October 4, 2024**, or earlier if the Services contemplated hereunder are completed to the satisfaction of the District.

## **10. CONDITIONS OF SERVICE AND NON-INTERFERENCE WITH PROJECT OPERATIONS**

The Contractor has informed itself of all conditions relating to the Services to be provided. Contractor understands that it may be performing Services hereunder at one or more of the District's hydroelectric projects or other facilities and that Contractor must at all times



conduct its business so as to create a minimum of interference with operation and maintenance of said projects and facilities.

#### **11. STANDARD OF PERFORMANCE**

Contractor will perform its Services with the level of skill, care and diligence normally provided by and expected of persons performing Services similar to and like those to be performed pursuant to this Agreement. Contractor understands and acknowledges that the District will be relying upon its accuracy, competence and credibility and the completeness of the Services to be provided hereunder. All personnel shall be fully qualified and authorized to perform the Services.

#### **12. REVIEW OF VENDORS'/CONSTRUCTION CONTRACTORS' SUBMITTALS**

Contractor's review and approval of submittals, required by vendors/construction contractors by the terms of construction contracts, shall not relieve the construction contractor of his obligations thereunder, nor be construed to confer any obligations of others upon Contractor.

#### **13. DISCLOSURE OF CONFIDENTIAL INFORMATION**

Contractor shall not divulge or sell to any third parties any information, which is not otherwise publicly available, obtained from or through the District or developed hereunder, including District retail customer private or proprietary information as defined in RCW 19.29A, without first obtaining approval from the District or its designated representative. Contractor shall supply all Deliverables provided hereunder in draft report form to the District for review and comment before any reports are finalized or distributed to any third Parties.

#### **14. PURCHASE OF MATERIAL/EQUIPMENT**

Contractor agrees that any materials and/or equipment purchased hereunder at the direction of the District shall be in compliance with Washington public works and bid laws. Verification of compliance shall be provided upon written request by the District. Any materials and/or equipment purchased hereunder are the property of the District and upon completion of the Services, all such materials and/or equipment shall be returned to the District prior to the final payment. This includes all items purchased, which are charged to the District.

#### **15. ACCESS TO RECORDS**

The District shall have access to any book, document, paper and record of the Contractor which is pertinent to this Agreement for the purposes of making audits, examination, excerpt and transcriptions.



All such records and all other records pertinent to this Agreement and work undertaken pursuant to this Agreement not provided to the District shall be retained by the Contractor for a period of six (6) years after the completion of the work, pursuant to this Agreement, unless a longer period is required to resolve audit findings or litigation. In such cases, the District may request, and the Contractor shall abide by, such longer period for record retention.

#### **16. QUALIFIED PERSONNEL**

All services required hereunder will be performed by the Contractor or under Contractor's supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services. Contractor personnel assigned to perform services hereunder, as identified in Scope of Services Exhibit, shall not be replaced without written approval in advance by the District's Project Leader.

#### **17. COPYRIGHT**

Copyright in all material created by the Contractor as part of this Agreement shall be the property of both parties.

#### **18. COMPLIANCE WITH LAWS, RULES, AND REGULATIONS**

Contractor shall comply with all applicable federal, state and local laws and regulations, all of which are deemed to be incorporated into this Contract as if fully set forth.

#### **19. DRUG FREE WORKPLACE**

Contractor agrees to abide by the Drug Free Workplace Act of 1988. Contractor shall immediately remove any employee from further work when it is determined that they are not fit for duty. Contractor further agrees that failure to comply with the aforementioned shall be cause for the District to immediately terminate this Agreement without advance notice.

#### **20. VIOLENCE IN THE WORKPLACE**

The carrying or possession of firearms or other weapons is prohibited at all times in District buildings or on District property, including District parking lots and in vehicles. The carrying or possession of firearms or other weapons is prohibited on any other District location while performing duties for the District under this Agreement.

The Contractor shall immediately remove any employee from further work if it is determined that the person is carrying or in possession of firearms or other weapons, as



defined in the District's Violence in the Workplace Policy, a copy of which is available upon request.

The failure of the Contractor to comply with this section shall be deemed cause for the District to immediately terminate this Agreement without advance notice.

## **21. SAFETY**

The Contractor and subcontractors, if any, shall take all safety precautions and shall comply with all laws and regulations with regard to safety and the work to be performed.

## **22. SECURITY**

Contractor agrees to comply with the District's Security and Badging Program as may be amended. The District will issue badges or provide other security access as deemed appropriate by the District to Contractor employees who are authorized to enter District facilities. The District's Security policy is available to the Contractor upon request.

## **23. NOTICES**

Any notices shall be effective as personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the following addresses:

Public Utility District No. 1 of Chelan  
County

Attn: Von Pope

P. O. Box 1231

203 Olds Station Road

Wenatchee, WA 98807

Phone: (509) 663-8121

Email: [Von.Pope@chelanpud.org](mailto:Von.Pope@chelanpud.org)

Washington State University

Attn: Office of Research Support and  
Operations

Lightly Student Services Building, Rm

280/ PO Box 641060

Pullman, Washington 99164-1060

Phone: 509-335-9661

Email: [orso@wsu.edu](mailto:orso@wsu.edu)

## **24. INVASIVE SPECIES CONTROL**

Invasive Species can include aquatic and/or terrestrial insects, plants, and/or animal organisms. The Contractor is required to ensure all equipment, material, and other potential invasive species' conveyances are free of any/all invasive species prior to arrival at project site. Prior to mobilization to the project site, the Contractor is required to provide to the District's Project Manager a signed declaration, on the form provided as Exhibit B, stating Contractor is responsible to ensure, and has ensured, that all equipment, materials and other items arriving at the Project area from any locations other than Chelan, Douglas, Grant, or Okanogan Counties in Washington State are, and will be, free of all invasive species. The parties have executed an Invasive Species Declaration; it is



attached hereto as an Exhibit and the terms are incorporated into the Agreement by this reference.

## **25. WAIVER OF BREACH**

The waiver by either party of the breach of any provision of this Agreement by the other party must be in writing and shall not operate or be construed as a waiver of any subsequent breach by such other party.

## **26. ASSIGNMENT/SUBCONTRACTS**

Insofar as this Agreement pertains to services, the Contractor shall not assign or subcontract any portion of the Services without written permission from the District.

## **27. ATTORNEY'S FEES**

In the event it is necessary for either party to utilize the services of an attorney to enforce any of the terms of this Agreement, such enforcing party shall be entitled to compensation for its reasonable attorney's fees and costs. In the event of litigation regarding any of the terms of this Agreement, the substantially prevailing party shall be entitled, in addition to other relief, to such reasonable attorney's fees and costs as determined by the court.

## **28. GOVERNING LAW AND VENUE**

This Agreement shall be governed by the laws of the State of Washington. Contractor submits to the exclusive jurisdiction of the courts in the State of Washington, USA. Venue for any action to enforce or interpret this Agreement shall be in Superior Court for Chelan County, Washington.

The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

**This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.**





**29. AMENDMENTS**

The scope of work, costs, schedule and other terms of this Agreement shall not be changed except in writing. Any such writing shall be agreed to and properly executed by both parties prior to the change being effective.

**30. TIME IS OF THE ESSENCE**

Time is of the essence in performance of the Services. The Contractor agrees to complete the Services to the reasonable satisfaction of the District within the contract agreed upon by the parties.

**31. PRECEDENCE**

In the event there is any conflict between a provision of this Agreement and any statement, term or provision in any exhibit or attachment hereto, this Agreement shall be controlling unless the conflicting provision in the exhibit or attachment expressly states that it supersedes or replaces a specific provision or provisions of the Agreement.

**32. ENTIRE AGREEMENT**

This instrument and any exhibits hereto contain the entire and final Agreement of the parties.

**33. AUTHORIZED SIGNATURES**

Each individual executing this Agreement warrants they are fully authorized to bind their principal to the terms and conditions of this Agreement.

The parties acknowledge and agree that this document may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include those signed via electronic medium or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

IN WITNESS WHEREOF, the parties have executed this Agreement on  
5/1/2024 (Effective Date).

PUBLIC UTILITY DISTRICT NO. 1 OF  
CHELAN COUNTY

WASHINGTON STATE UNIVERSITY

By: Von Pope

By: Matthew Michener

Name: Von Pope

Name: Matthew Michener

Title: Senior wildlife Biologist

Title: Associate Director, Authorized Signatory





## EXHIBIT A SCOPE OF SERVICES, DELIVERABLES AND RATES

### SA NO. 23-13398 WASHINGTON STATE UNIVERSITY

Pursuant to the Agreement 23-13398, the Contractor agrees to perform the Services described below at the hourly rates or price set forth below:

#### **1. PROJECT DESCRIPTION AND DELIVERABLES**

Contractor agrees to perform the following Services:

Establish or increase the population of biological control insects in an effort to reduce the spread of noxious weeds on public lands within the Rocky Reach Wildlife Area (RRWA): Contractor shall collect approximately 3,000 United States Department of Agriculture (USDA) approved biological control agents, and release them on public lands at the project sites (also known as release sites) as shown on Figures 1-4, included herein, within the Rocky Reach Wildlife Area.

The purpose of the Services is to control Dalmatian Toadflax (*Linaria Genistifolia Damatica*) or Diffuse Knapweed (*Centaurea Diffusa*), collectively defined as "Target Weeds". Timing of the releases shall take into consideration the phenology of the Target Weeds at the proposed release sites. Releases may occur at different times and intervals to give the biological control agents the opportunity to become established at the proposed release sites. The number and location of release sites may change depending on phenology, cover, and availability of biological control agents.

The Contractor shall take a photo and record GPS coordinates, at each release site. The GPS coordinates and photograph(s) of the habitat where the biological controls are released shall be included with the final report and invoice to the District.

A draft summary report shall be provided to the District for review by **September 9, 2024**, showing the location of release sites, date of release, and approximate number of biological control agents released at each site.

District shall provide all comments to Contractor by September 16, 2024.

A final report addressing any comments or deficiencies in the draft report is due to the District by **September 27, 2024**.



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## **2. RATES**

The Contractor shall perform the Services and charge the following price(s) for the Services:

- \$3,000 upon delivery of final report for Services as described above.

## **3. PROJECT LEADERS**

The District's Project Leader is Von Pope, who may be reached by phone at [(509) 661-4625], and by email at [Von.Pope@chelanpud.org](mailto:Von.Pope@chelanpud.org).

The Contractor's Project Leader is Dale Whaley, who may be reached by phone at (509) 745-8531, and by email at [dwhaley@wsu.edu](mailto:dwhaley@wsu.edu).

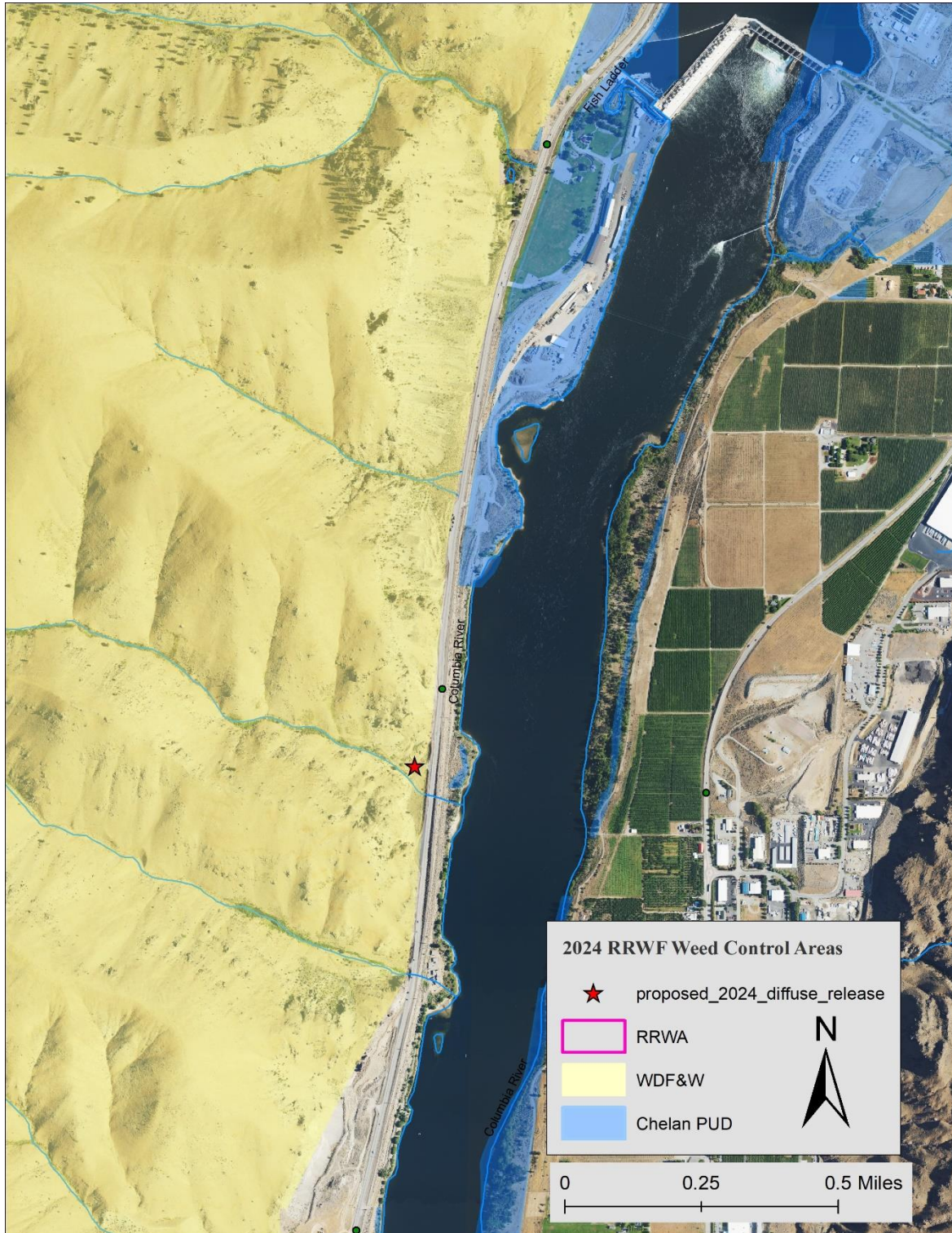


Figure 1. Location of release site below Rocky Reach Dam on Chelan County side near Highway 97A mile marker 202.





Figure 2. Location of release site below Tenas George Canyon in Chelan County.



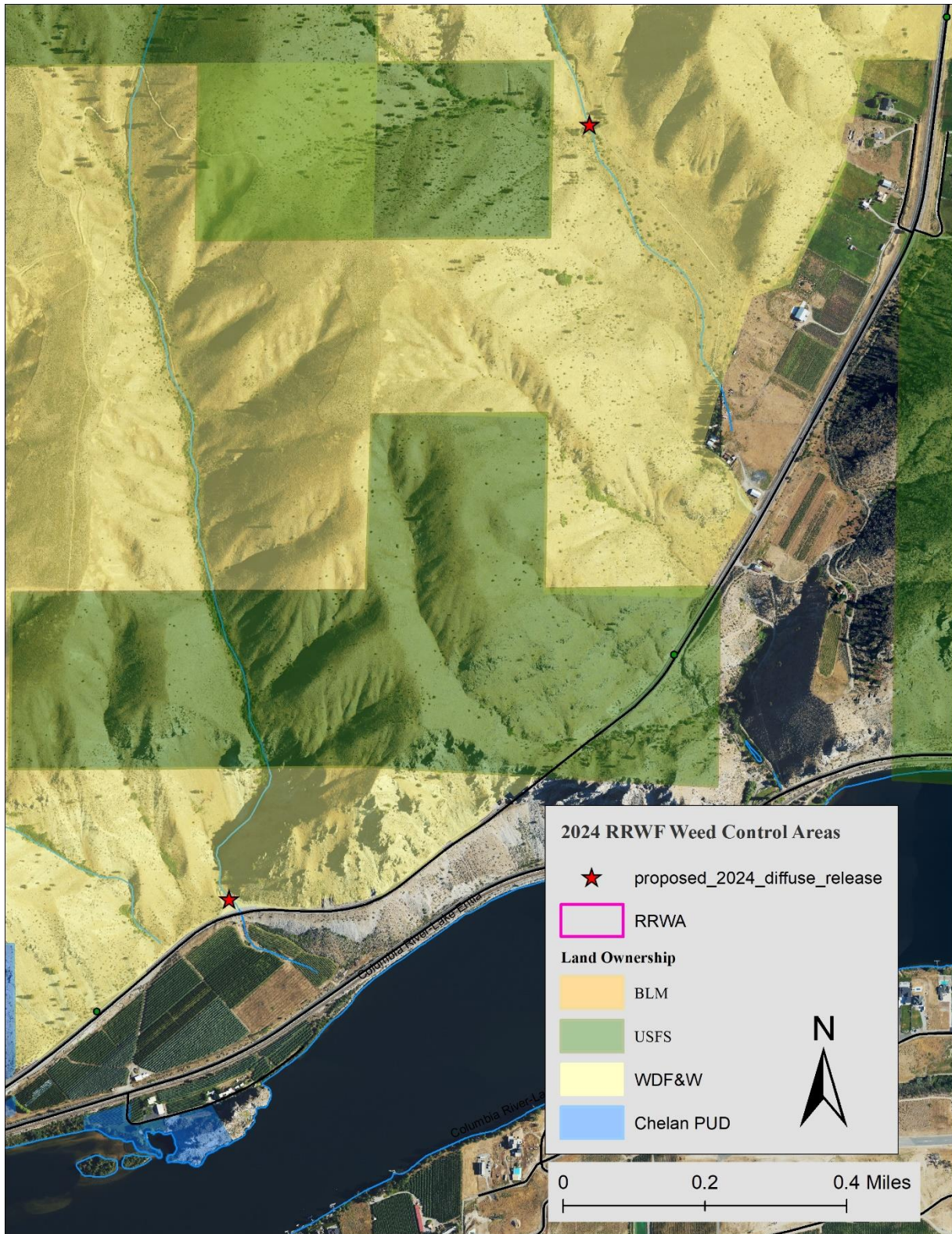


Figure 3. Location of release sites near the Chelan tunnel, Chelan County.



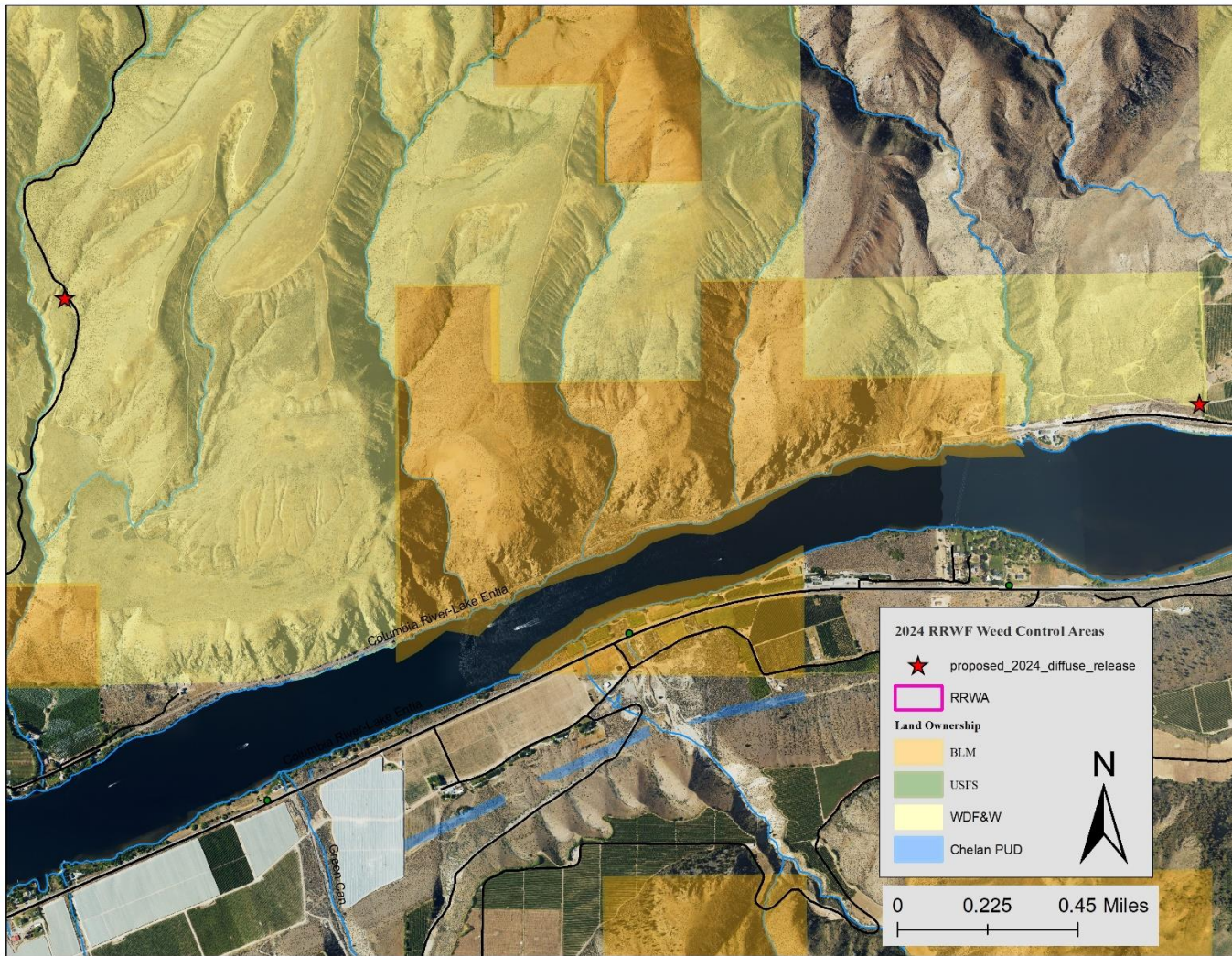


Figure 4. Location of release sites near Chelan Butte, Chelan County.



**EXHIBIT B      INVASIVE SPECIES CERTIFICATION**

Invasive Species can include aquatic and/or terrestrial insects, plants, and/or animal organisms. Contractor, in accordance with Section 25, understands that it is required to ensure that all equipment, material, and other potential invasive species' conveyances are free of any/all invasive species prior to arrival at the project site. Contractor hereby warrants that it has ensured, and shall continue to ensure throughout the execution of the Services, that all equipment, materials, and other items arriving at the project area from any locations other than Chelan, Douglas, Grant, or Okanogan Counties in Washington State are, and shall be, free of all invasive species.

The undersigned certifies and declares under penalty of perjury under the laws of the State of Washington that the matter stated herein is true and accurate, and warrants that he/she is fully authorized to act on behalf of Contractor in this regard.

The parties acknowledge and agree that this document may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include those signed via electronic medium or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

Contractor Name: Washington State University

Signature: Matthew Michener

Name (Print): Matthew Michener

Title: Associate Director, Authorized Signatory

Date: 4/30/2024