File NR S2-30325
WR Doc ID 4275151

DEPARTMENT OF
ECOLOGY
State of Washington

State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE	WATER RIGHT NUMBER
5/30/2006	S2-30325

MAILING ADDRESS	SITE ADDRESS (IF DIFFERENT)
BASIL BENA 7609 WILLOW GROVE RD LONGVIEW WA 98632	GRAUEL RAMAPO RD PORT ANGELES WA 98362

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.01	CFS	0.34

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Domestic single	0.02		CFS	0.34		01/01 - 12/31

REMARKS: In house use only.

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
CLALLAM	UNCLE BILLS CREEK	SALT CREEK	19-LYRE-HOKO

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
UNCLE BILLS CREEK	083010220100	N/A	30N	08W	10	NW NW	48.11252	-123.69868

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

083010220100

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

W 53 1/3 Rods of the NW Quarter; except any portion thereof, if any, lying within the East 106 2/3 rods of said NW Quarter of Section 10, Township 30 N, Range 8 W.W.M., Clallam County, Washington

Proposed Works

Mr. Bena plans on diverting water from the creek using a hose with a screened intake and pumping the water uphill to a reservoir tank. Water will gravity feed to the RV parked on the platform.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
October 1, 2016	October 1, 2018	October 1, 2021

Measurement of Water Use

How often must water use be measured?	Annually
How often must water use data be reported to Ecology?	Upon Request by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

Measurements, Monitoring, Metering and Reporting
An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.

WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

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

Proof of Appropriation
The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections
Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S2-30325, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Signed at Olympia, Washington, this 14th day of November 2013.

Michael J. Gallagher

Michael J. Gallagher, Section Manager

For additional information visit the Environmental Hearings Office Website: http://www.eho.wa.gov. To find laws and agency rules visit the Washington State Legislature Website: http://www1.leg.wa.gov/CodeReviser.

INVESTIGATOR'S REPORT
Application for Water Right -- Bena
Water Right Control Number S2-30325
Tammy Hall, Department of Ecology

BACKGROUND

On May 30, 2006, Basil D. Bena filed *Water Right Application* S2-30325 requesting 0.7 cubic feet per second (cfs) and an unspecified annual quantity for public domestic supply. This project is located in Water Resources Inventory Area 19, the Lyre-Hoko.

Attributes of Application

Table 1 Application Summary

Name	*Basil D. Bena*
Priority Date	5/30/2006
Instantaneous Rate	0.7 cfs
Annual Quantity	unspecified
Purpose(s) of Use	Domestic Supply
Period of Use	Continuous use
Place(s) of Use	W 53 1/3 Rods of the NW Quarter; except any portion thereof, if any, lying within the East 106 2/3 rods of said NW Quarter of Section 10, Township 30 N, Range 8 W.W.M., Clallam County, Washington

Table 2 Proposed Point of Withdrawal

Source Name	*Parcel*	*Twp*	*Rng*	*Sec*	*QQ Q*	*Latitude*	*Longitude*
Uncle Bills Creek	083010220100	30N	08W	10	NW NW	48.11252	-123.69868

Legal Requirements for Approval of Appropriation of Water

RCWs 90.03 and 90.44 authorize the appropriation of public water for beneficial use and describes the process for obtaining water rights. Laws governing the water right permitting process are addressed in RCW 90.03.250 through 90.03.340 and RCW 90.44.050. In accordance with RCW 90.03.290, Ecology must make determinations on these four criteria in order to approve an application for water rights:

- Water must be available for appropriation.
- There must be no impairment of existing rights.
- The water use must be a beneficial use.
- Approving the application must not be detrimental to the public interest.

This report serves as the written findings of fact concerning all things investigated regarding Water Right Application Number G2-29009.

Public Notice

The applicant published public notice for this project proposal in *The Peninsula Daily News* of Clallam County once a week for two consecutive weeks beginning on June 29, 2012 and ending July 6, 2012. No protests or letters of concern in response to this notice.

State Environmental Policy Act (SEPA)

A SEPA determination evaluates if a proposed withdrawal will cause significant adverse environmental impacts. A SEPA threshold determination is required for:

1) Surface water applications for more than 1 cubic feet per second (cfs). For agricultural irrigation, the threshold increases to 50 cfs, if the project isn't receiving public subsidies.
2) Groundwater applications requesting more than 2,250 gpm.
3) Projects with several water right applications where the combined withdrawals meet the conditions listed above.
4) Projects subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA).
5) Applications that are part of several exempt actions that collectively trigger SEPA under WAC 197-11-305.

This application does not meet any of these conditions and is categorically exempt from SEPA.

INVESTIGATION

The material reviewed in support of this application included the following:

- The State Surface Water Codes, administrative rules, and policies.
- Department of Ecology's Water Right Tracking System (WRTS) database.
- Topographic and local area maps.
- Notes from a site visit on August 5, 2013.
- WRIA 19 Watershed planning documents.
- Recommendations from Steve Boessow (Washington Dept of Fish and Wildlife, WDFW).

Project Description and Proposed Use

The project is located in the Lyre-Hoko Water Resource Inventory Area (WRIA) 19.

Basil Bena owns 18.73 acres of undeveloped timberland in the foothills to the Olympic Mountains. The property is fairly steep and contains two tributaries to Salt Creek which flow into the Straits of Juan de Fuca. Mr. Bena requests to divert water from the west tributary, also known as Uncle Bills Creek for domestic supply (in house use only) for an RV that he plans to park seasonally on the property.

Mr. Bena plans on diverting water from the creek using a hose with a screened intake and pumping the water uphill to a reservoir tank. Water will gravity feed to the RV parked on the platform.

The surrounding property is heavily wooded and sparsely populated.

Water Demand
The original application requested 0.7 gpm cfs and 1.121 acre-feet per year, under this application. In the public notice the amount advertised was 0.7 cubic feet per second and an unspecified annual quantity. The water demand for a single residence for year-round use is closer to 0.02 cfs and 0.34 acre-feet per year. However, since use will only be seasonal, water demand is expected to be much less.

Other Rights Appurtenant to the Place of Use

There are no water rights or claims appurtenant to the place of use under this application.

Beneficial Use

The proposed use of water for domestic supply is defined in statute as a beneficial use (RCW 90.54.020(1)).

Water Availability

Uncle Bill's Creek originates in the Olympic National Forest north of Crescent Lake and flows year-round. The headwaters of the creek are roughly 2 ½ miles north of the proposed point of diversion. Uncle Bill's creek flows northward and empties into Salt Creek about 1 ½ miles downstream before emptying to the Straits of Juan DeFuca.

The day of the site visit, August 5, 2013, the creek was not visible at the proposed point of diversion because of dense vegetation and steep topography. However, about 1/3 mile downstream, the creek was about 8 to 10 feet wide and had an average depth of about 1 foot. The rate of flow was between 1 and 1 ½ cfs.

Impairment Considerations

Effects to area water users
A WRTS query shows the following:

- Twelve surface water claims and certificates for use of surface water from Salt Creek for domestic supply, stockwater, and irrigation. These are all downstream of the proposed project.
- One surface water certificate issued for hydropower and domestic supply from Uncle Bills Creek. A provision of this authorization requires by-pass of 0.5 cfs.

Area users are not expected to be impaired by the proposed use. The amount being diverted is very small and should not affect downstream users.

Fisheries and In-stream flow Considerations
Based on available literature and Washington Department of Fish and Wildlife (WDFW) databases, several species of ESA listed fish are present in Salt Creek. These species include Chinook, coho, chum, steelhead, rainbow trout, cut-throat trout, and other resident fish.

In a memo from Steve Boessow, fisheries biologist with Washington Department of Fish and Wildlife, dated October 29, 2012, he recommended groundwater be used as a source over surface water. Although there has been a history of concerns with low-flows in the Salt Creek watershed, the proposed rule for WRIA 19 allows surface water use from streams for in house use only when there is no

- .02 cfs
- 0.34 acre-feet per year
- Purpose: Single domestic in-house use

Proposed Point of Diversion:

- NW¼, NW¼, Section 10 Township 30 North, Range 8 W.W.M.

Place of Use

- As described on Page 1 of this Report of Examination.

Tammy Hall *Date* 11/13/2013

If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

alternative source available. Wells in the area are completed in fractured bedrock and typically yield little to no water. There is no public water system available.

Public Interest Considerations

Status of watershed planning

The Lyre-Hoko planning group completed a near-final draft watershed plan that includes instream flow recommendations, which were approved in November 2005 by a majority vote. Since that time, it has become apparent that details on data and water supplies may need refinement. Local and state planners continued working with the planning group through 2008 on a revised final draft. Public meetings were held in November 2008 and comments were received. Although there is interest in proceeding to Phase 4 after plan adoption, the plan has been shelved.

As such, there is no rule for WRIA 19. The Planning Group agreed to instream flow numbers and they plan to submit them to Ecology in their final plan. Ecology rule development will depend on availability of agency resources.

Under the recommendations, single domestic use, only in-house use, is exempt from instream flow regulations if there is no alternative source available.

Availability of an alternative source

There is no well or other alternative water source available. There is also no public water system in this area that is able to serve the Bena property.

A maximum diversion of .02 cfs and an average of 300 gallons per day, or 0.34 acre-feet per year, is adequate for in-house domestic supply. The proposed appropriation is consistent with local planning and will not be detrimental to the public welfare.

Conclusions

I find that:

- Water is available from Uncle Bills Creek.
- Domestic use is a beneficial use.
- The appropriation, as recommended, will not impair existing rights or in-stream flows.
- Approval of this application will not be detrimental to the public welfare.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

Water Right Application S2-30325,
Sec. 10 T. 30N, R. 08W
WRIA 19 - Clallam County

Basemap - Ecology 2011 1m

DEPARTMENT OF ECOLOGY State of Washington

0 500 1,000 2,000 Feet

Basemap - ESRI Terrain

Legend

- PLACE OF USE (POU)
- PROPOSED POINT OF DIVERSION (POD)
- PARCEL
- ROAD
- STREAM

Comments:

The Washington State Department of Ecology does not warrant, guarantee, or make any representations regarding the use of, or results from the use of the data in terms of correctness, accuracy, reliability, or otherwise.

Map Created 9/12/2012