

State of Washington
**REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION**

PRIORITY DATE NOVEMBER 13, 2012	WATER RIGHT NUMBER S3-30618
MAILING ADDRESS VICKI GREEN 6118 SW 144TH STREET EDMONDS WA 98026-3641	SITE ADDRESS (IF DIFFERENT)

Quantity Authorized for Diversion

DIVERSION RATE 0.06	UNITS CFS	ANNUAL QUANTITY (AF/YR) 15.35
-------------------------------	---------------------	-----------------------------------------

Purpose

PURPOSE	DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Irrigation	0.05	---	cfs	14.35	---	5/1-10/1
Stockwater	0.01	---	cfs	1.0	---	1/1-12/31

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
5	---	n/a	n/a

Source Limitations

SOURCE FACILITY/DEVICE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)
UNNAMED STREAM	0.06	15.35

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
PEND OREILLE	UNNAMED STREAM	PEND OREILLE RIVER	62-PEND OREILLE

SOURCE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
UNNAMED STREAM	453109110004	31N	45E	09	NE¼NE¼	48.20969° N	117.11349° W

Datum: WGS84

Place of Use (See Attached Map)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

SE¼SE¼ of Sec. 4, T. 31 N, R. 45 E.W.M. (Parcel # 453104400001)

Proposed Works

Gravity fed diversion

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	July 1, 2014	July 1, 2015

Measurement of Water Use

How often must water use be measured?	Monthly
How often must 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 (gpm or cfs)

Provisions

This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations.

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.

Easement and Right-of-Way

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

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.

Family Farm Permit

That portion of this authorization relating to irrigation is classified as a Family Farm Permit in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm - a geographic area including not more than 6,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 6,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm.

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. S3-30618, 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 Road SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 15th day of January, 2013.



 Keith L. Stoffel, 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 -- Green
 Water Right Control Number S3-30618
 Gene Drury, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30618.

Table 1 Summary of Requested Water Right

Applicant Name:	Vicki Green
Date of Application:	November 13, 2012 (Amended)
Place of Use	SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 4, T. 31 N, R. 45 E.W.M. (Parcel # 453104400001)

County	Waterbody	Tributary To	WRIA
Pend Oreille	Unnamed Stream	Pend Oreille River	62-Pend Oreille

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation	0.05	CFS	14.35	May 1	Oct 1
Stockwater	0.01	CFS	1.0	Jan 1	Dec 31

Total diversion limited to 0.06 cfs

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Unnamed Stream	453109110004	31N	45E	09	NE¼NE¼	48.20969° N	117.11349° W

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section;

WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum: WGS84.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Newport Miner on November 21 and 28, 2012.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

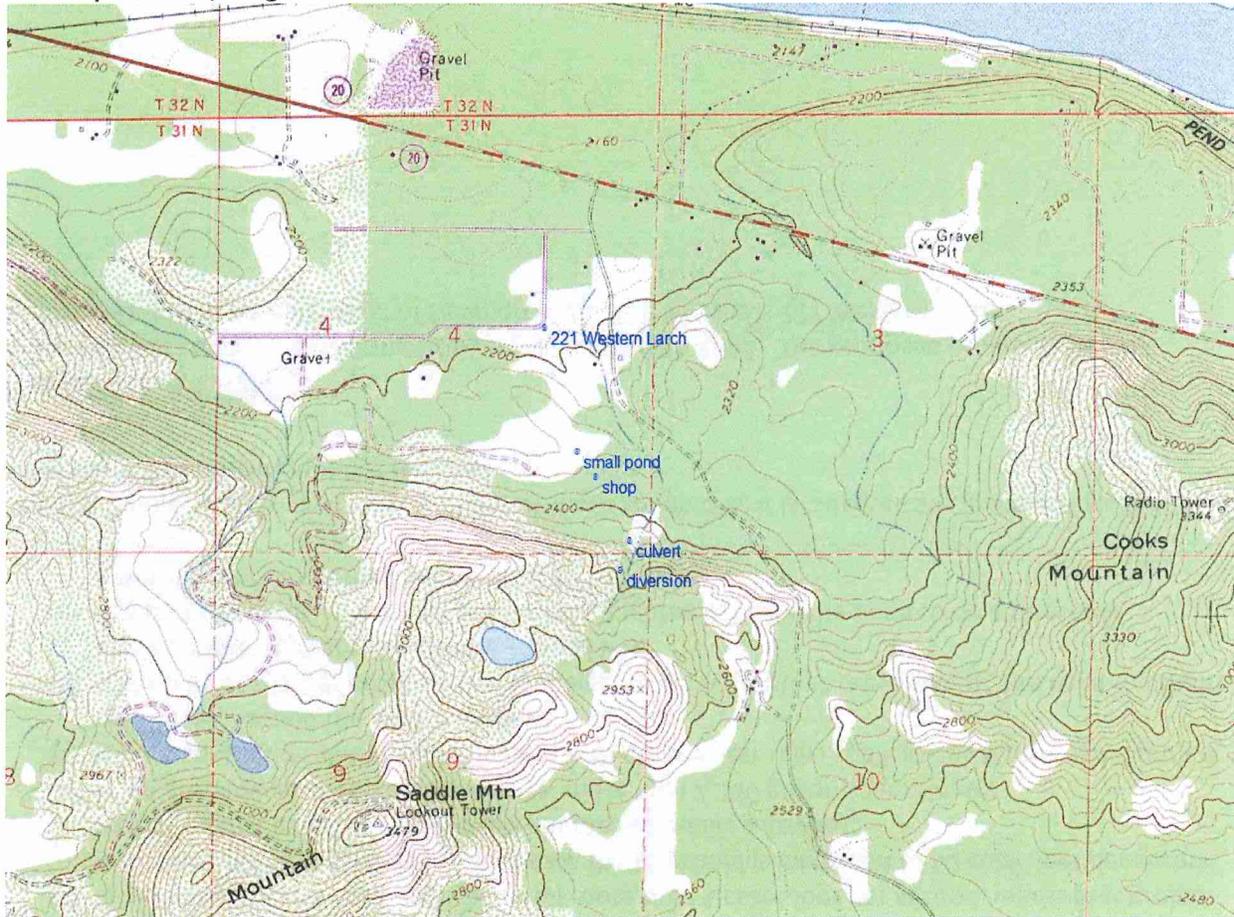
- (a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute;
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

A site visit was conducted by Gene Drury on November 27, 2012. The proposed project is located approximately 4 miles northwest of Newport, WA. The address is 221 Western Larch.

Township 31 North, Range 45 E.W.M.



USGS 7.5 Minute (Topographic Map) - "Newport"

The applicant proposes to divert water from an unnamed creek for the irrigation of five acres and continuous stockwater supply. The point of diversion is located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 9, T. 31 N., R. 45 E.W.M. The proposed place of use is to be located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 4, T. 31 N., R. 45 E.W.M. An old gravity fed system exists at the point of diversion but is not used. It consists of a small concrete dam (2 feet high by 10 feet long) and 3 inch pvc pipe which gravity used to feed the water downhill to the place of use. No water right exists for this old diversion. The applicant proposes to upgrade the existing diversion and use water to irrigate grass, garden and some fruit trees. Water would also be used for stockwater.

At the time of investigation, a shop was under construction at the site. A well has been drilled and will be used for domestic supply purposes. This well (#BBH324) was drilled in 2010 by Carl Pitts & Sons Drilling. The 6 inch well was drilled in granite to a depth of 720 feet deep and only produced 1 $\frac{1}{2}$ gallons per minute. A small pond (approximately 50-60 feet in diameter) is also located on the applicant's property downhill from the shop. The pond appears to be spring fed and is separate from the unnamed creek which is the source of this application. No water is diverted to or from the pond. On the day of examination, inflow of the pond equaled the outflow.

The applicant proposes to irrigate about five acres. The Washington State Irrigation Guide (WA210-VI-WAIG, AMEND.1NOVEMBER1990 at Newport, Washington) estimates that this would require 34.44 inches or 2.87 acre-feet per acre (based on 70% system efficiency). Therefore, 0.05 cubic foot per second and 14.35 acre-feet will be issued for the irrigation portion under this permit. The requested instantaneous rate for irrigation is low and the 14.35 acre-feet may not be reached in one irrigation season. Therefore, the annual quantity will need to be reduced to reflect the actual diverted amount before a final certificate is issued. A quantity of 0.01 cubic foot per second and 1 acre-foot will be sufficient for the stockwater purposes. Total diversion will be 0.06 cubic foot per second.

Impairment Considerations and Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water rights, permits, and claims on the unnamed creek and in the vicinity of the point of diversion. There are no other water rights appurtenant to the applicant's property. One water right claim was found from an unnamed spring located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 4, T. 31 N., R. 45 E.W.M. It was recorded under Water Right Claim Registry No. 0120333, James I. Miller, for 6.5 gallon per minute, $\frac{1}{2}$ acre-foot per year for domestic supply purposes. The claimed priority date was the year 1900.

The intent of the Claims Registration Act, Chapter 90.14 RCW, was to document those uses of surface water in existence prior to the adoption of the State Surface Water Code, Chapter 90.03 RCW, which was adopted in 1917, and those uses of ground water in existence prior to the adoption of the State Ground Water Code, Chapter 90.44 RCW, which was adopted in 1945. Since each code(s) adoption, the only means of acquiring a water right within the state is by filing for, and receiving, a permit from the Department of Ecology or one of its predecessors or by establishing a right under the "domestic exemption" under the ground water code (RCW 90.44.050). The Department of Ecology recognizes that the final determination of the validity and extent associated with a claim registered in accordance with RCW 90.14 ultimately lies with the Superior Court through the general adjudication process provided for by Sections 90.03.110 through 90.03.240 RCW. The proposed appropriation under the Green application will not cause any impairment to existing water rights.

Water Availability

Hydrogeologic Analysis: This unnamed creek is intermittent and never flows into the Pend Oreille River. The creek flows approximately one mile before going sub surface in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 4, T. 31 N. R. 45 E.W.M. just off the applicant's property. On the day of examination, the creek flow was measured at the trail crossing and culvert located just below the dam in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4. The creek flow is low this time of year but still measured at 30 gallons per minute. The creek flows are much higher earlier in the year according to the applicant. Water is available for this project.

Beneficial Use

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

Public Interest Considerations

There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be any detrimental impact to the public welfare through issuance of the proposed appropriation.

The approval of this application for this quantity and use will not be detrimental to the public interest.

Conclusions

Under Chapter 90.03.290 RCW, an application for permit may be approved if water is available for appropriation, and the proposed use would be a beneficial use, would not impair existing water rights, and would not be detrimental to the public welfare.

It is the conclusion of this examiner that public surface water, from the unnamed creek, is available for appropriation for the seasonal irrigation of five acres and continuous stockwater supply. This appropriation is considered a beneficial use and will not impair existing water rights or 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:

Quantities and Purpose of Use:

0.06 cubic foot per second; 15.35 acre-feet per year for the seasonal irrigation of five acres and continuous stockwater supply.

Point of Diversion

NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 9, T. 31 N, R. 45 E.W.M. (Parcel # 453109110004)

Place of Use:

SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 4, T. 31 N, R. 45 E.W.M. (Parcel # 453104400001)

Gene Drury, Report Writer

Date

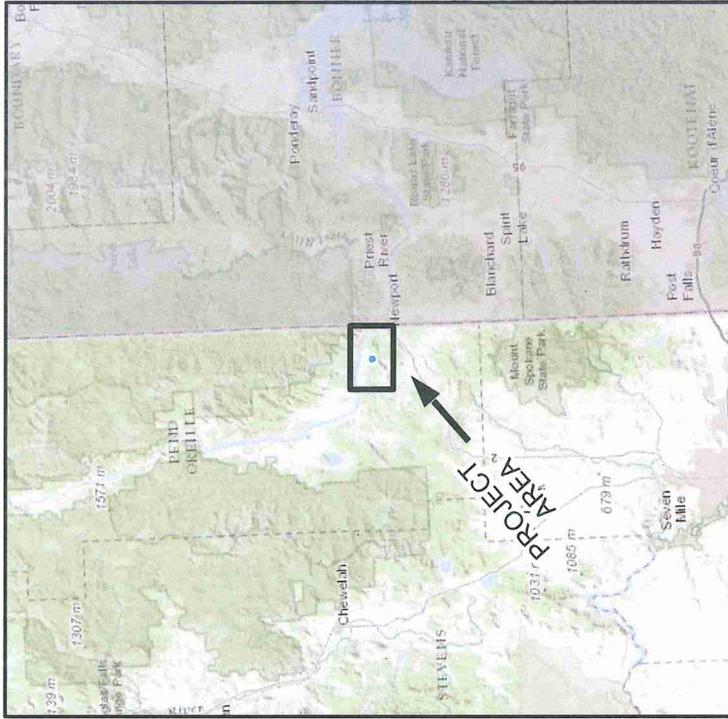


1-8-2013

If you need this publication in an alternate format, please call the 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.

ATTACHMENT 1

Vicki Green
S3-30618
T31N/R45E



Basemap - (ESRI US Topographic Maps)

Legend

-  Townships
-  Sections

 Authorized Place of Use

 Authorized Point of Diversion



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.



Basemap - (NAIP 2011 1m color)



Map Date: 12/14/2012

