DEPARTMENT OF
ECOLOGY
State of Washington

# State of Washington
# DRAFT
# REPORT OF EXAMINATION
# FOR WATER RIGHT APPLICATION

**PRIORITY DATE**
May 19, 2011

**WATER RIGHT NUMBER**
S3-30638

**MAILING ADDRESS**
Richard Williams
1314 East Olympic Avenue
Spokane WA 99207-3354

**SITE ADDRESS (IF DIFFERENT)**

## Quantity Authorized for Diversion

| DIVERSION RATE | UNITS | ANNUAL QUANTITY (AF/YR) |
|---|---|---|
| 0.02 | CFS | 1.0 |

## Purpose of Use

| PURPOSE | DIVERSION RATE ADDITIVE | DIVERSION RATE NON-ADDITIVE | UNITS | ANNUAL QUANTITY (AF/YR) ADDITIVE | ANNUAL QUANTITY (AF/YR) NON-ADDITIVE | PERIOD OF USE (mm/dd) |
|---|---|---|---|---|---|---|
| 1/3 acre irrigation - lawn | 0.02 | --- | CFS | | 1.0 | May 1 – Oct 1 |

## Source Location

| COUNTY | WATERBODY | TRIBUTARY TO | WATER RESOURCE INVENTORY AREA |
|---|---|---|---|
| PEND OREILLE | PEND OREILLE RIVER | COLUMBIA RIVER | 62-PEND OREILLE |

| SOURCE FACILITY/DEVICE | PARCEL | TWP | RNG | SEC | QQ Q | LATITUDE | LONGITUDE |
|---|---|---|---|---|---|---|---|
| PEND OREILLE RIVER | 433634519014 | 36N | 43E | 34 | NE¼SE¼ | 48.57559 | 117.35097 |

Datum: WGS84

## Place of Use (See Attached Map)

**PARCELS (NOT LISTED FOR SERVICE AREAS)**
433634519014, 433634519013

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**
Lot 22 and 23 Browns Cold Springs Landing, within Government Lot 3, Section 34,Township 36 North, Range 43 E.W.M. Pend Oreille County, Washington

## Proposed Works

Jet pump, 1½ pvc line

## Development Schedule

| BEGIN PROJECT | COMPLETE PROJECT | PUT WATER TO FULL USE |
|---|---|---|
| January 1, 2014 | January 1, 2015 | January 1, 2016 |

## Measurement of Water Use

| | |
|---|---|
| How often must water use be measured? | Weekly |
| 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 Diversion (gpm or cfs) |

## Provisions

**Pend Oreille River Low Flow**
All irrigation shall cease when the flow of the Pend Oreille River falls below 7700 cubic feet per second at U.S. Geological Survey (U.S.G.S.) gage #12395500, Pend Oreille River at Newport, located within Section 24, Township 56 N., Range 6 W.B.M.

**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/

**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.

**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 Surface Water Application No. S3-30638, 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**<br>Attn: Appeals Processing Desk<br>300 Desmond Drive SE<br>Lacey, WA 98503 | **Department of Ecology**<br>Attn: Appeals Processing Desk<br>PO Box 47608<br>Olympia, WA 98504-7608 |
| **Pollution Control Hearings Board**<br>1111 Israel Road SW Ste 301<br>Tumwater, WA 98501 | **Pollution Control Hearings Board**<br>PO Box 40903<br>Olympia, WA 98504-0903 |

Signed at Spokane, Washington, this day of 2012.

Keith L. Stoffel, Section Manager

INVESTIGATOR'S REPORT
Water Right Application Number S3-30638

# BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30638.

### *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 October 10 and 17, 2012 and no protests were received

### *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 Kevin Brown on September 27, 2012. The proposed point of diversion consists of 1½ inch PVC pipe. The applicant has an existing trailer and had a well constructed for residential purposes. The applicant confirmed he does not intend to use the surface water diversion for domestic supply and wishes to obtain a permit for irrigation from the river for the lawn. Irrigation from the river will be considered non-additive to the authority obtained in the domestic well exemption (RCW 90.44.050) that allow for irrigation of up to ½ acre without a permit.

The applicant proposes to irrigate 1/3 acre of lawn. The Washington State Irrigation Guide (WA210-Vi-WAIG, AMEND.1NOVEMBER1990 at Newport, Washington) estimates that 34.44 inches of water or 2.87 acre-feet per acre (based on 70% system efficiency) will be required. Therefore, 1.0 acre-foot of water should be adequate for the irrigation of 1/3 acre.

## Beneficial Use

Irrigation is a beneficial use.

## Water Availability

An analysis of water availability must take into account not only the physical limitations on the source of supply, but the legal availability as well.

Hydrogeologic Analysis: The Department of Ecology has not closed the Pend Oreille River to further consumptive appropriations, however all diversions shall cease when the flow of the Pend Oreille River falls below 7700 cfs at U.S. Geological Survey (U.S.G.S.) gage #12395500. This low-flow is a recommendation from the Washington State Department of Fish and Wildlife (WDF&W) and applies to surface and ground water in hydraulic continuity with the Pend Oreille River since October 18, 1999.

Therefore, water is available for appropriation as long as irrigation ceases when the Pend Oreille River falls below the low flow recommendation from the Washington State Department of Fish and Wildlife. Should the river pump be curtailed, the applicant may exercise the ground water exemption on the property and irrigate up to ½ acre of non-commercial lawn or garden.

## Impairment Considerations

A review of department records was conducted for existing water rights, permits, applications and claims within the vicinity of the proposed diversion.

## 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.

Chapter 90.54 RCW provides that water allocation shall secure maximum net benefits to the people of the state, while also requiring that perennial rivers of the state shall be retained with base flows necessary to provide for the preservation of fish and other environmental values. To maintain these values the irrigation authorization shall be subject to the minimum instream flow of 7700 cfs as measured at U.S.G.S. gage #12395500 near Newport set by WDF&W on October 18, 1999.

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 Pend Oreille River, is available for 1/3 acre of irrigation. 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:

0.02 cubic foot per second
1.0 acre-foot per year
1/3 acre irrigation of lawn

Point of Diversion: Lot 23 of Browns Cold Springs Landing, Section 34, Township 36 North, Range 43 E.W.M.

All irrigation shall cease when the flow of the Pend Oreille River falls below 7700 cubic feet per second at U.S. Geological Survey (U.S.G.S.) gage #12395500, Pend Oreille River at Newport, located within Section 24, Township 56 N., Range 6 W.B.M.

*Kevin Brown, Report Writer* *Date*

*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.*