DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE
1/6/2012

WATER RIGHT NUMBER
S3-30659

MAILING ADDRESS
Robert Lang
E. 8104 S. Riverway
Spokane Valley WA 99212

SITE ADDRESS (IF DIFFERENT)

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.02	CFS	0.25

Purpose

	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		
PURPOSE	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	PERIOD OF USE (mm/dd)
In-house single domestic supply	0.02		CFS	0.25		01/01 - 12/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
PEND OREILLE	Unnamed Stream	Bead Lake	62-PEND OREILLE

SOURCE FACILITY/DEVICE	PARCEL		TWP	RNG	SEC	LATITUDE	LONGITUDE
Unnamed stream		NW¼	32N	45E	04	TBD	TBD
						Datum: NAD83/WGS84	

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

453204519076, 453204519077 453204519078, 453204519079

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lot 2, 3, 4, 5 of Block 2 of Cunningham's Bead Lake Homestead Addition of Section 4, T. 32 N., R. 45 E.W.M.

Proposed Works

To be determined

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
10-1-2015	10-1-2018	10-1-2021

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 (gpm or cfs)

Provisions

The water source and/or water transmission facilities may not be wholly located upon the land owned by the applicant. Issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtainment of such right is a private matter between applicant and owner of that land.

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)
This stream does not appear to be fish bearing. The permittee should contact Fish and Wildlife to determine if the screening requirements are necessary. If required, 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/

This authorization may be subject to Washington Department of Fish and Wildlife screening criteria as outlined in a Hydraulic Project Approval. Please contact the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, Attention: Habitat Management Division, Phone (360) 902-2534, to obtain specific requirements for your project.

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.

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. S3-30659, 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 day of 2012.

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

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, February 8 and 15, 2012. No protests were received

Consultation with the Department of Fish and Wildlife

RCW 90.03.280 requires the Department to send notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. The department also provides notice to appropriate Indian Tribes. The department has developed an electronic procedure to meet this statutory requirement. Applications are posted to an RSS (Really Simple Syndication) feed to which Department of Fish and Wildlife, Tribes and other agencies have been advised to subscribe. Through subscription to the RSS feed, interested parties may review new water right applications and provide comment. This application was forwarded to the Washington State Department of Fish and Wildlife and the Kalispell Tribe for comments. The department did not receive any objections to the granting of this permit.

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 the following condition is 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.

Because this application does not meet this condition, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, claims, and

applications in the vicinity; (3) USGS topographic maps; and (4) discussions with Department of Ecology regional program staff.

A field investigation was conducted by Kevin Brown on September 6, 2012. Bead Lake is a 720 acre lake located in the mountains about ten miles northwest of Newport, Washington and east of the Pend Oreille River. There is no outlet of Bead Lake and surface water inlets to the lake are intermittent. The lake is within Water Resource Inventory Area (WRIA) 62, the Pend Oreille River watershed. The applicant proposes to divert from a small unnamed stream. The stream originates in Section 5 on forest service property and flows to Bead Lake. Some years the creek is dry in the lower reach. The flow estimate at the time of the field exam varied between 20 gallons per minute near the section line between Sections 4 and 5 to 3-5 gallons per minute on the applicant property.

The property is undeveloped other than a small storage shed. The applicant is currently recreating in a camper and is in the process of developing a septic system for the property. Once the septic is approved, he plans to proceed with construction of a residence. The proposed point of diversion is described as located in the NW¼ of Section 4 and place of use is located on Lot 2-5 Block 2 of the Cunningham Bead Lake Homestead Addition. The requested 0.02 cubic feet per second should be enough water for in-house single domestic use. The property immediately to the east is owned by neighbors. Should the diversion be placed on lands not owned by the applicant, he should obtain a right of way agreement.

A review of department records was conducted for existing water rights, permits, applications and claims within the vicinity of the proposed diversion. Multiple water rights exist for lots on the lake. One other water right is listed for this small stream.

Surface Water Certificate S3-22935 confirms a right of 0.02 cfs, 1 acre-foot per year for domestic supply for Lot 72 of Cunningham's Bead Lake Addition. The diversion is located upstream of the applicant property and a small 1¼ pvc line diverts from the creek. The applicant may tie into this diversion, or place his own line into the creek. It appears there is sufficient water to satisfy both rights in most years. The owners of Lot 72 have secured an alternate surface water certificate from Bead Lake when this certificate is unavailable from the creek. The applicant is aware that there may be times the creek may not support his use. The use of storage may help alleviate any interruption in service.

The majority of the applications that were investigated at Bead Lake are for existing water uses and for existing recreational cabins constructed on the lake. These property owners have been diverting water from the lake for many years. According to the "*Lakes of Washington, Volume 2 of Eastern Washington*", the volume of Bead Lake is approximately 77,708 acre-feet. Based on this fact and the minimal amount of water to be permitted for domestic uses under this application and others, it appears that water is available for appropriation. The decline of water level in Bead Lake in the summer months as a result of the new diversions would be negligible.

Conclusions

It is the conclusion of the this examiner that: (1) public surface water is available for appropriation for 0.02 cubic foot per second, 0.25 acre-foot per year, for in-house single domestic supply(2) the water use is a beneficial uses, and the appropriation (3) will not impair existing water rights, (4) nor will it be detrimental to the public welfare.

Recommendation

It is recommended that this application be **APPROVED** for 0.02 cubic foot per second, 0.25 acre-foot per year, for in-house single domestic supply.

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.