State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

DEPARTMENT OF ECOLOGY
State of Washington

PRIORITY DATE
6/12/2000

WATER RIGHT NUMBER
S3-30297

MAILING ADDRESS
WILLIAM SPENCER
4552 PARADISE WAY
HUNTERS WA 99137-7000

SITE ADDRESS (IF DIFFERENT)

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.32	CFS	14.5

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE ADDITIVE	WITHDRAWAL OR DIVERSION RATE NON-ADDITIVE	WITHDRAWAL OR DIVERSION RATE UNITS	ANNUAL QUANTITY (AF/YR) ADDITIVE	ANNUAL QUANTITY (AF/YR) NON-ADDITIVE	PERIOD OF USE (mm/dd)
Seasonal Irrigation of 14.5 acres and continuous stockwater when available	0.32			14.5		04/01 - 8/1

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
STEVENS	pond		58-MIDDLE LAKE ROOSEVELT

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
pond	1613327		31 N.	37 E.	28	SE¼NW¼		

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)
1613327, 1613326, 1613328

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Beginning at the NW corner of the SE ¼ NW ¼ section 28, Township **31** North, Range **37** East Willamette Meridian; thence S1-56-4E along the west line of the SE ¼ NW ¼ 458.624 feet to the point of beginning; thence S51-45-52W 172.668 feet; thence S41-12-31E 314.291 feet; thence S27-58-46E 42.771 feet; thence following a curve to the Right having a central angle of 15°33'55", a radius of 1,192.434 ft and a chord bearing of South 36°49'41" East; thence N90-0-0E 50.755 feet; thence S27-54-41E 247.113 feet; thence N89-49-9E 374.176 feet; thence N1-53-46W 1034.561 feet; thence N29-55-26W 92.295 feet; thence S43-57-30W 101.295 feet; thence S39-57-27W 251.407 feet; thence N47-51-45W 73.749 feet; thence N1-38-12W 91.183 feet to the point of beginning for this legal description.

Proposed Works

Small pond, piped gravity feed to hand line sprinklers, stock tanks or flood irrigation

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	12-1-2014	12-1-2015

Measurement of Water Use

How often must water use be measured?	Monthly
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.

A measuring device is required for Completion of Construction. Metering records are required for Proof of Appropriation.

A Voluntary Relinquishment of Surface Water Certificate 141 will be required to be signed and submitted prior to issuance of a permit under this authorization. Failure to provide the Voluntary Relinquishment may result in cancellation of this authorization.

Family Farm Permit

This authorization to use public waters of the state is classified as Family Farm Permit in accordance with Chapter 90.66 RCW. 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.

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, contracting with a Certified Water Right Examiner (CWRE), the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

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.

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. S3-30297, 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 16th day of January, 2014.

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.

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30297.

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 Chewelah Independent on November 15 and 21, 2012 and no protests were received.

The Department of Fish and Wildlife (Fish and Wildlife) was notified of the application and submitted comments. The comments will be discussed later in the report.

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 with the applicant on August 21, 2013.

The pond and point of diversion is currently constructed. The area is approximately 0.20 acres. An impoundment structure is developed at the bottom of the small valley. The area was excavated, dammed and a small pond was created that is approximately 0.20 acres in size and is approximately ten feet deep. The water from the pond is diverted into a pipe to stock tanks and the existing irrigation system. Water may still be stored and available in the pond up to August 1, but typically the pond is empty by August 1.

The intermittent creek flows during spring runoff and typically dries up by mid July. Water is diverted from the pond by gravity to the stock tanks and handlines to a field approximately 14.5 acres in size. If the pond had not been constructed, the creek would flow out into the field and terminate on the applicant's property. The pond was dry at the time of the field examination. The diversion is not equipped with a measuring device. A measuring device and metering records are required in order to accurately proof this authorization due to seasonal fluctuations in water availability.

The draw runs southwesterly across the property from the springs located in the NW¼NE¼ of Section 28. Some years the creek may originate in the SW¼SE¼ of Section 21. The small intermittent creek forms downslope of the springs and flows southwesterly towards the SW¼NW¼ of Section 28. The pond is seasonal and dries up in late summer. The flow of water goes subsurface in the field below the pond, if the pond overflows. It does not directly contribute to Harvey Creek.

A ditch runs northerly through the lower portion of the applicant's property. A right was confirmed in the Harvey Creek Adjudication for irrigation of 20 acres. This ditch has not been used for irrigation for more than 10 years. It appears the right has relinquished for non-use. The applicant has agreed to a Voluntary Relinquishment of the right.

Two additional applications were filed by the applicant.

Surface Water Application S3-30298 requests authorization to divert 0.11 cfs from this spring for group domestic supply of 12 homes. This application will have a separate decision.

Surface Water Application S3-30296 requests authorization to divert 0.02 cfs from a spring located in the SW¼NE¼ of Section 28 for domestic supply at his residence. This application will have a separate decision.

Existing Water Rights

This property lies within the Harvey Creek Drainage Basin.

Harvey Creek was adjudicated in the Stevens County Superior Court, in a formal legal proceeding. The Department of Ecology initiated proceedings to determine the extent and relative rights to the waters of the Harvey Creek Basin. In 1969, a summons issued upon the named defendants to file with the proceeding and provide evidence and testimony as to the claimed extent and validity of their rights. Evidentiary hearings were held, and a Referee entered a Report of Referee to all parties claiming a right within the basin, establishing a quantification and relative priority of the claimed rights to water. Those rights were decreed by the Superior Court, and memorialized in the final Decree, entered November 12, 1974. The rights to the springs located in the N½ of Section 28 were confirmed to the extent they were historically perfected and maintained under Certificates 119 and 142.

Two Water Right Certificates were issued subject to the Decree from the springs located in the NE¼NW¼ and NW¼NE¼ of Section 28. Certificate No. 142 issued to Floyd and Louise Secrest for the use of water from unnamed springs located in the NE¼NW¼ of Section 28, to be used for domestic supply and stockwater for the original residence located in the NE¼NW¼ of Section 28, T. 31 N., R. 37 E.W.M. The priority date of first use is 1900.

Certificate No. 119 issued to George and Georgie Llewellyn for use of water from an unnamed spring located in the NW¼NW¼NE¼ of Section 28, to be used for domestic supply and stockwater for the original residence located within the SW¼NW¼ of Section 28, T. 31 N. R. 37 E.W.M. The priority date of first use is 1910. This property is lying west of the highway.

The springs described above are upslope of the intermittent creek and pond and would not be affected from use.

Beneficial Use

Agricultural irrigation and stockwater are beneficial uses.

For irrigation purposes, ten gallons per minute per acre should be adequate.

Although the intermittent creek cannot sustain the instantaneous flow, the pond storage releases may support the 0.32 cfs for short periods of time. The pond should have the capacity to satisfy the instantaneous rate for short period and then require refilling. Once the pond is drained, it may take a while to refill. There may be years that water is not available from the creek to refill the pond, however storage may be available up to August 1.

Based on the seasonal nature of the request and the limited physical availability of water from the creek, one acre foot of water per acre is recommended.

There may be times that the intermittent creek may not be able to provide sufficient water to satisfy this authorization.

Water Availability

Water is seasonally physically available for appropriation. The quantity recommended for approval should not impair existing rights.

Impairment Considerations

A review of department records was conducted for existing water rights, permits, applications and claims within the vicinity of the proposed diversion. There are water rights appurtenant to the applicant's property, Surface Water Certificate 141 for irrigation and stockwater. This right has not been diverted from Harvey Creek for more than ten years and the applicant has agreed to a Voluntary Relinquishment. A voluntary Relinquishment will be required to be submitted prior to issuance of a permit under this authorization.

The applicant has been using the pond for more than ten years. There was a complaint filed on the water use in 1998 by the landowners under Certificate 119. The applicant indicated the landowner of Certificate 119 as having constructed a well and no longer using the spring located above the pond. The spring for Certificate 119 is north and upslope of the applicant's pond and proposed point of diversion.

A spring/well was confirmed for a source located in the SW corner of the applicant's property for use at the Cedonia Store. The applicant indicated they have stopped using the spring and constructed a well. A well log is on file for this property.

Based on the quantity authorized for use, the existing rights should not be impaired.

Public Interest Considerations

Fish and Wildlife comments were received for the subject application. They confirmed the intermittent creek has no surface connection to downstream waters and no fish use. No limitations were recommended. They asked that if the source was found to be under direct influence with the Columbia River, Instream Flows under WAC 173-563 should be included in the permit. The intermittent stream source terminates on the applicant's property approximately one mile from the river. The instream flows will not be added to this authorization.

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 intermittent creek, is available for stockwater and irrigation of up to 14.5 acres. 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:

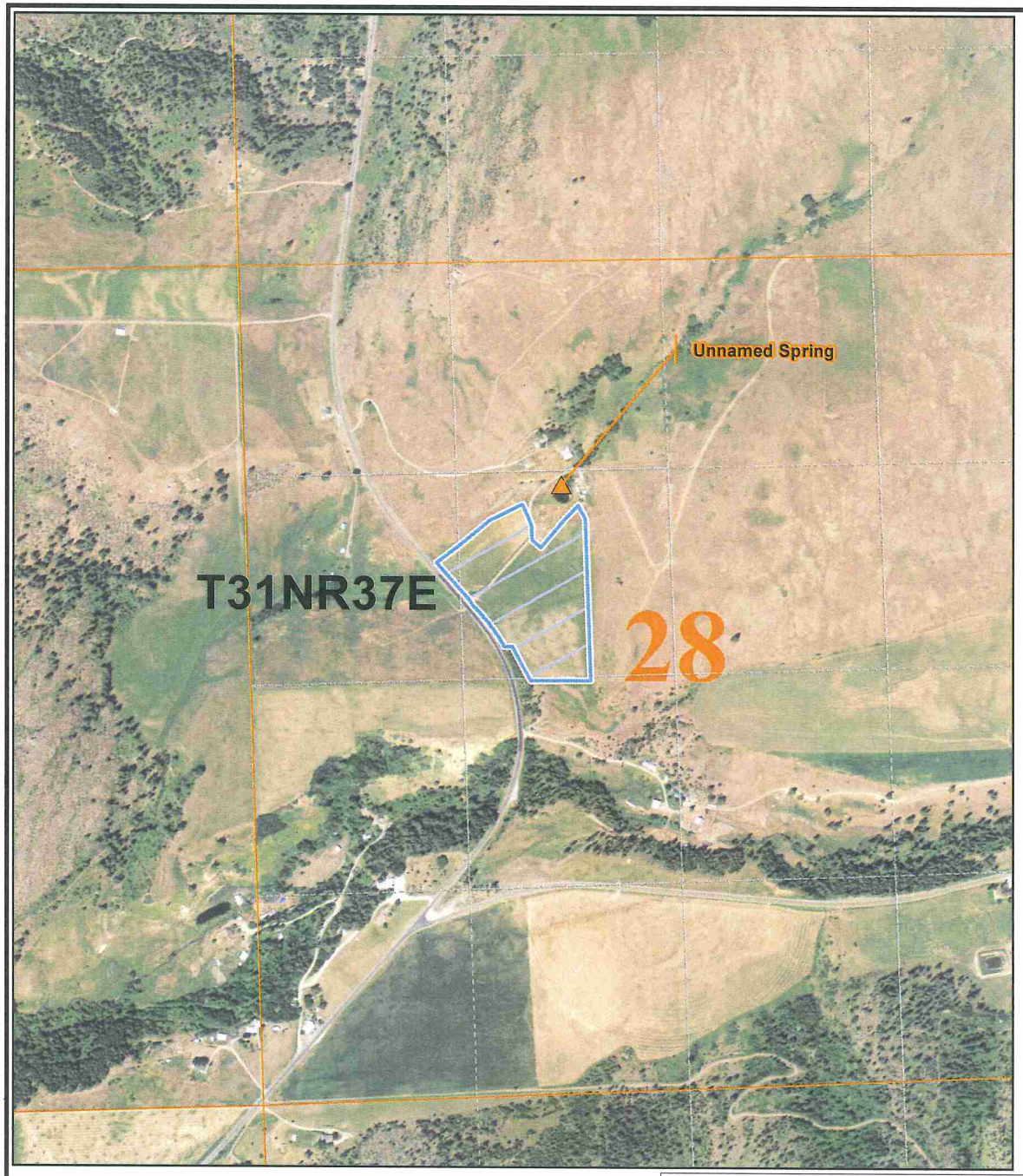
0.32 cubic feet per second (from the pond)
14.5 acre-feet per year
Stockwater and irrigation of 14.5 acres when available

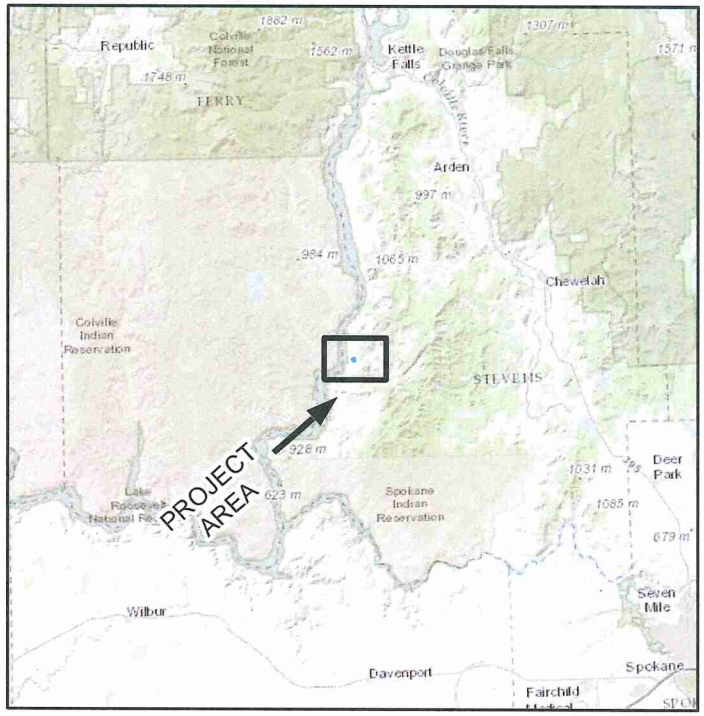
Kevin Brown 1·16·14

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.

William Spencer
S3-30297
T31N/R37E





Basemap - (ESRI US Topographic Maps)

Legend

Authorized Place of Use

Townships

Sections

Authorized Point of Diversion

0 330 660 1,320 1,980 2,640 3,300 Feet

Basemap - (NAIP 2011 1m color)

DEPARTMENT OF ECOLOGY State of Washington

Map Date: 12/3/2013

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

ATTACHMENT 1