

State of Washington REPORT OF EXAMINATION FOR WATER RIGHT APPLICATION

PRIORITY DATE 12/22/1997	WATER RIGHT NUMBER S1-27873
MAILING ADDRESS JACK AND FRIEDA TAUB 4007 FIRST AVE NE SEATTLE WA 98105	SITE ADDRESS (IF DIFFERENT) 60027 INDEX-GALENA RD SULTAN, WA 98294

Quantity Authorized for Withdrawal or Diversion		
WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.02	CFS	0.25

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	0.25		01/01 - 12/31

REMARKS
Indoor use only.

Source Location								
COUNTY	WATERBODY	TRIBUTARY TO			WATER RESOURCE INVENTORY AREA			
SNOHOMISH	NORTH FORK SKYKOMISH RIVER	Skykomish			7-SNOHOMISH			
SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE	
NORTH FORK SKYKOMISH RIVER	00577000003500	28N	11E	20	NESW	47.897372	121.428018	
Datum: NAD83/WGS84								

Place of Use (See Attached Map)
LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE SKYKO RIVER TRACT No 3 BLOCK 000 D-00 - LOT 35 PLUS EQUAL & UNDIVIDED INTEREST IN PRIVATE ROAD

Proposed Works
Works are completed and in use. Water is pumped from river to fill a 200 gallon holding tank to provide for use in a 400 square foot recreation cabin. The cabin has one kitchen sink and one bathroom (toilet, sink, tub/shower). The pump is a portable 3 HP gasoline pump.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
N/A	Completed	September 30, 2020

Measurement of Water Use

How often must water use be measured?	Monthly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or 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 (DFW) 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/>

No dam or weir shall be constructed in connection with this diversion.

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.

Non-Additive to Confirmed Claims

The water use authorized under this filing shall be considered non-additive to any water rights confirmed for said claim as a result of a general adjudication through Superior Court, should adjudication be undertaken.

Proof of Appropriation

Since water use has been on-going for many years, a five year period will be set for gathering use data for use in determining the extent of the water right. At the end of the five year development period the water right holder shall file the notice of Proof of Appropriation of water under which the certificate of water right shall be issued. The Proof of Appropriation shall include records collected during the five year development period and shall provide details of the water system including pump horsepower and published pumping rate, the length and diameter of pipes, and to capacity of any storage or pressure tank utilized.

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. S1-27873, 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501</p>	<p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

Signed at Bellevue, Washington, this 9th day of December, 2015.



Tom Buroker, 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 -- Taub

Water Right Control Number S1-27873

Doug Wood, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S1-27873.

Table 1 Summary of Requested Water Right

Applicant Name:	Jack & Frieda Taub
Date of Application:	12/22/1997
Place of Use	Indoor use on Lots 35 & 36 of Skyko River Tracts No. 3

County	Waterbody	Tributary To	WRIA
Snohomish	North Fork Skykomish River	Skykomish River	7-Snohomish

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Domestic single	0.02	CFS	0.25	1-Jan	31-Dec

SOURCE NAME	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
North Fork Skykomish River	00577000003500	28N	11E	20	NESW	47.897372	121.428018

Datum: NAD83/WGS84

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: NAD83/WGS84.

Legal Requirements for Approval of Appropriation of Water

There are four principal tests that must be satisfied before a new water right permit can be issued.

These are:

1. Will the proposed appropriation impair existing rights?
2. Is water available for proposed use?
3. Is the proposed use beneficial?
4. Will the proposed appropriation prove detrimental to the public interest?

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 *Monroe Monitor & Valley News* on August 25, 2015 and September 1, 2015.

Consultation with the Department of Fish and Wildlife

The Department must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. Mr. Steve Boessow of DFW was contacted regarding this application on August 11, 2015.

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.

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

INVESTIGATION

Proposed Use and Basis of Water Demand

The quantities sought are based on usage by lot owner since building the cabin in the 1970's.

Other Rights Appurtenant to the Place of Use

The applicant filed a claim for vested use in 1974. This claim is registered under claim number S1-148207CL and is a Long Form claim declaring that the claim is for 200 gpm with no amount entered for annual quantity. The date of first use is given as 1961, which may indicate that this claim lacks standing.

The property is also the subject of a claim filed by the previous owner under registration number S1-075604CL. This is a short form claim for domestic use on lots 35 and 36 of the Skyko River Tracts.

Impairment Considerations

Impairment is an adverse impact on the physical availability of water for a beneficial use that is entitled to protection. A water right application may not be approved if it would:

- Interrupt or interfere with the availability of water to an adequately constructed groundwater withdrawal facility of an existing right. An adequately constructed groundwater withdrawal facility is one that (a) is constructed in compliance with well construction requirements and (b) fully penetrates the saturated zone of an aquifer or withdraws water from a reasonable and feasible pumping lift.
- Interrupt or interfere with the availability of water at the authorized point of diversion of a surface water right. A surface water right conditioned with instream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the instream flow more frequently or for a longer duration than was previously the case.

- Interrupt or interfere with the flow of water allocated by rule, water rights, or court decree to instream flows.
- Degrade the water quality of the source to the point that the water is unsuitable for beneficial use by existing users (e.g., via sea water intrusion).

Water Availability

For water to be available for appropriation, it must be both physically and legally available.

Physical availability is determined based on the presence or absence of water from the proposed source in quantities that can satisfy the requirements of the proposed use.

In the present case this means that enough water must be present in the river during the summer months, when the river is at its lowest flow levels, to provide flows in excess of approximately five gallons per minute. During the summer of 2015 the flows of the Skykomish River have been at record low levels and the flows still exceed 100 cfs in the area of the proposed use.

Legal availability refers to whether the source has been closed to further appropriation through administrative action, such as Instream Flow Rules, or at the request of DFW. Although an instream flow rule has been adopted for the North Fork of the Skykomish River, applications for single in-home domestic use are exempt from the rule under WAC 173-507-050.

Beneficial Use

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

Public Interest Considerations

The principal rationale for providing land for cabins in an area such as the North Fork of Skykomish valley is to provide recreation opportunities to the people of the state. The exception to the Snohomish Instream Flow Rule (WAC 173-507-050) for in-house single domestic use was in minor part for this type of recreational water use.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

This proposal for in-cabin domestic use will not impair existing rights and is exempt from consideration of flow impairment under the Instream Flow Rule for WRIA 7 (WAC 173-507-050). The proposed use is beneficial, water is available and the use of water for domestic purposes will not prove detrimental to the public interest.

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:

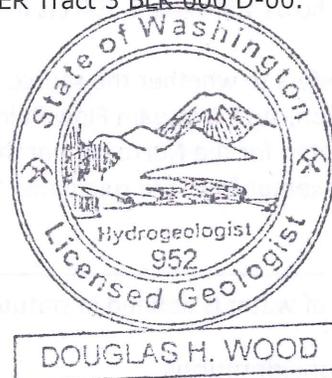
0.02 cfs
0.25 acre-feet per year
Single Domestic Supply

Point of [Diversion Withdrawal]

NE¼, SW¼, Section 20, Township 28 North, Range 11 East, W.M.

Place of Use

Indoor use only for cabin located on LOT 35 of SKYKO RIVER Tract 3 BLK 000 D-00.



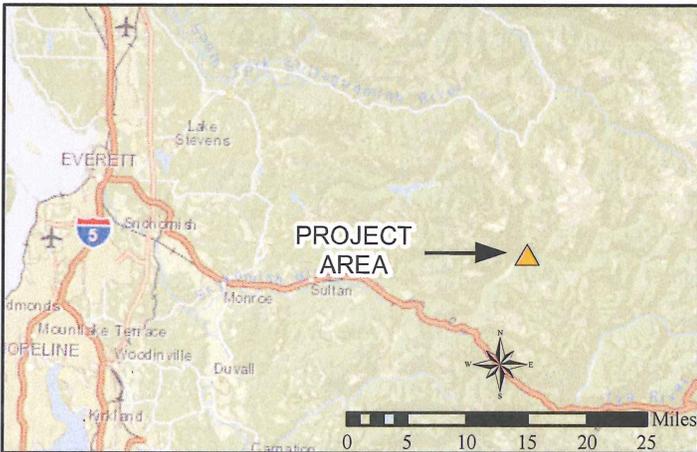
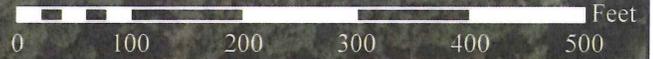
Douglas H. Wood
Douglas H. Wood, MS, P.Geo., LHG

Dec 8, 2015
Date

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.

ATTACHMENT 1

Map Date: 10/26/2015
 Basemaps: Bing Maps
 and Esri World Street Map



Legend

-  Authorized Place of Use
-  Cabin
-  Authorized Point of Diversion



Jack and Frieda Taub
 Water Right Document S1-27873
 Section 20 T 28N R 11E W.M.
 WRIA 7 - Snohomish County

Place of use and point(s) of withdrawal are as defined on the cover sheet under the headings, 'LOCATION OF WITHDRAWAL' and 'LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED.'