



State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE November 7, 2005	WATER RIGHT NUMBER S1-28302
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MAILING ADDRESS CHARLES MILLER 11616 TROUT FARM ROAD SULTAN WA 98294-8677	SITE ADDRESS (IF DIFFERENT)
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Quantity Authorized for Withdrawal or Diversion

DIVERSION RATE 0.01	UNITS CFS	ANNUAL QUANTITY (AF/YR) 0.25
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Purpose

PURPOSE	DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Domestic	0.01		CFS	0.25		01/01 - 12/31

REMARKS

Indoor Domestic Use Only

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
0	0	NA	1

Source Location

COUNTY SNOHOMISH	WATERBODY UNNAMED SPRING	TRIBUTARY TO UNNAMED POND	WATER RESOURCE INVENTORY AREA 7-SNOHOMISH
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SOURCE FACILITY/DEVICE UNNAMED SPRING	PARCEL 28081900400300	TWP 28N	RNG 08E	SEC 19	QQ Q SWSE	LATITUDE 47.893381 N	LONGITUDE 121.82687 W
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Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

28083000101500

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

The place of use is the indoor areas of buildings located on Snohomish County Parcel No. 28083000101500.

Proposed Works

Water is collected within a plastic box buried in a spring, then flows from the collector into a 1,000 gallon reservoir. A 2-inch PVC pipe carries the water 961 linear feet from the reservoir at elevation 267 feet down to the house at elevation 220 feet. Static head provides 19.5 PSI at the house. An overflow at the top of the reservoir dumps excess water back into original flow path whenever reservoir is full. The entire system operates using gravity, is constructed using plastic and, except for the reservoir, is buried underground.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Completed	Completed	September 30, 2021

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 in 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.

Recorded water use data shall be submitted to Ecology via the Internet. To set up an Internet reporting account, contact the Northwest Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Northwest Regional Office for forms to submit your water use data.

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 Project Review

The applicant is responsible for contacting the Department of Fish and Wildlife and for seeking Hydraulic Project Approval (HPA) where required.

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 a notice of Proof of Appropriation of water (through which a 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 full 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 of use is beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S1-28302, 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 RD SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Bellevue, Washington, this day of 2016.

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 -- Miller
Water Right Control Number S1-28302
Doug Wood, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S1-28302.

Mr. Charles Miller filed for a new surface water right on November 7, 2005. He subsequently proceeded to construct and develop a spring collection system to provide water for his newly constructed home located approximately 2 miles north of downtown Sultan, Washington.

Table 1 Summary of Requested Water Right

Applicant Name:	Charles Miller
Date of Application:	November 7, 2005
Place of Use	In-home domestic use only

County	Waterbody	Tributary To	WRIA
Snohomish	Unnamed Spring	Unnamed Pond	7-Snohomish

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Domestic single (indoor)	0.01	CFS		01/01	12/31

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
UNNAMED SPRING	28081900400300	28N	08E	19	SWSE	47.893381 N	121.82687 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: NAD83/WGS84.

Legal Requirements for Approval of Appropriation of Water

The Washington Water Code states that there are four basic requirements that need to be satisfied before an application to develop a new water right can be approved. These are:

- Water is available physically and legally available,
- the proposed use is beneficial,
- approval of the proposal will not impair existing water rights, and
- the proposed new use will not prove detrimental to the public interest.

Water availability includes both the physical availability, as related the purpose of and timing of the proposed use, and to the legal availability, as related to rules and statutes that have been placed on certain water sources.

Use is beneficial if it adds value (monetary, esthetic, or otherwise). Only unnecessary waste is generally considered to be not beneficial. Most purposes of use that are proposed for water rights, including, but

not limited to domestic and municipal supply, industrial and commercial supply, irrigation and environmental uses, can be considered beneficial.

Water right impairment is defined as preventing another water right holder from fulfilling the purpose of their water right. Impairment also includes impacts to minimum instream flows established under instream flow rules and otherwise.

Perhaps the most difficult of the four criteria for approval of a new water right is the public interest test. The Water Code states that proposals not “prove detrimental to the public interest” (RCW 90.03.290). It also provides the caveat that Ecology needs to consider that proposed use while keeping “in mind the highest feasible use of the waters belonging to the public”. This means that Ecology weights the various elements of the project as it relates to the overall interests of the public without favoring one segment of public opinion over another.

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 Tribune* on May 11, 2016 and May 18, 2016.

No protests were filed within the 30-day public protest period for this application.

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 the Department of Fish and Wildlife (WDFW) was contacted on July 18, 2016 and provided with information about this application. He responded on July 22, 2014 stating that the WDFW has no concerns with indoor single domestic uses so long as screens are used for intakes in surface water bodies where fish are present, and that the project is submitted to WDFW for HPA review.

State Environmental Policy Act (SEPA)

Water right applications are 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, and as such is categorically exempt from SEPA and a SEPA threshold determination is not required.

INVESTIGATION

Proposed Use and Basis of Water Demand

The project seeks to provide water for a single home and outbuildings located northwest of the city of Sultan, WA on a property adjacent to the Sultan River.

The applicant will be using water for domestic uses, including cooking, washing and window flower boxes. The applicant will not be using water for irrigation of lawns or landscaping or any other outdoor uses.

Other Rights Appurtenant to the Place of Use

No other water right are associated with this property or project.

Water Availability

Physical availability

The spring that serves this project is fed by groundwater that originates as infiltrated rainwater in upland areas north and east of the springs. The spring flows all year.

Legal availability

Surface and groundwater within the Sultan River sub-basin are not closed to appropriation under Chapter 173-507 WAC, therefore water is legally available appropriation so long as the other three criteria for approval are satisfied. In addition water rights serving indoor single domestic needs are exempt from the instream flow rule under 173-507-050.

Beneficial Use

The use of water for domestic purposes is beneficial.

Impairment Considerations

The proposal here is to capture spring water that would contribute to the flow of the Sultan River, and ultimately to the flows of the Skykomish and Snohomish Rivers, which are protected through minimum instream flows established under WAC 173-507-020. It is therefore possible that when any of these minimum instream flows are not met that use of water under this proposal would result in impairment. However, domestic in-house use for a single residence, such as is proposed here, is exempt from the minimum instream flows under WAC 173-507-050.

The spring drains an undeveloped area that is not likely to be developed and only the applicant's property exists between the spring and the Sultan River.

Public Interest Considerations

The public interest was fully vetted in establishing an exemption to the rule for in-house single domestic when the rule was promulgated in 1979. The issues affecting the public interest have not substantially changed between 1979 and 2016 as this report is being written.

Conclusions

All four criteria required for approval are satisfied. Water is available, the proposed use is beneficial, approval will not result in impairment of existing rights, and approval should 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:

0.01 cfs

0.25 acre-feet per year

Indoor Single Domestic Supply purposes

Point of Diversion

SW¼, SE¼, Section 19, Township 28 North, Range 08 E, W.M.

Place of Use

Indoor use only within home and outbuildings of Snohomish County Parcel No. 28083000101500.

Report Writer

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.

Selected References

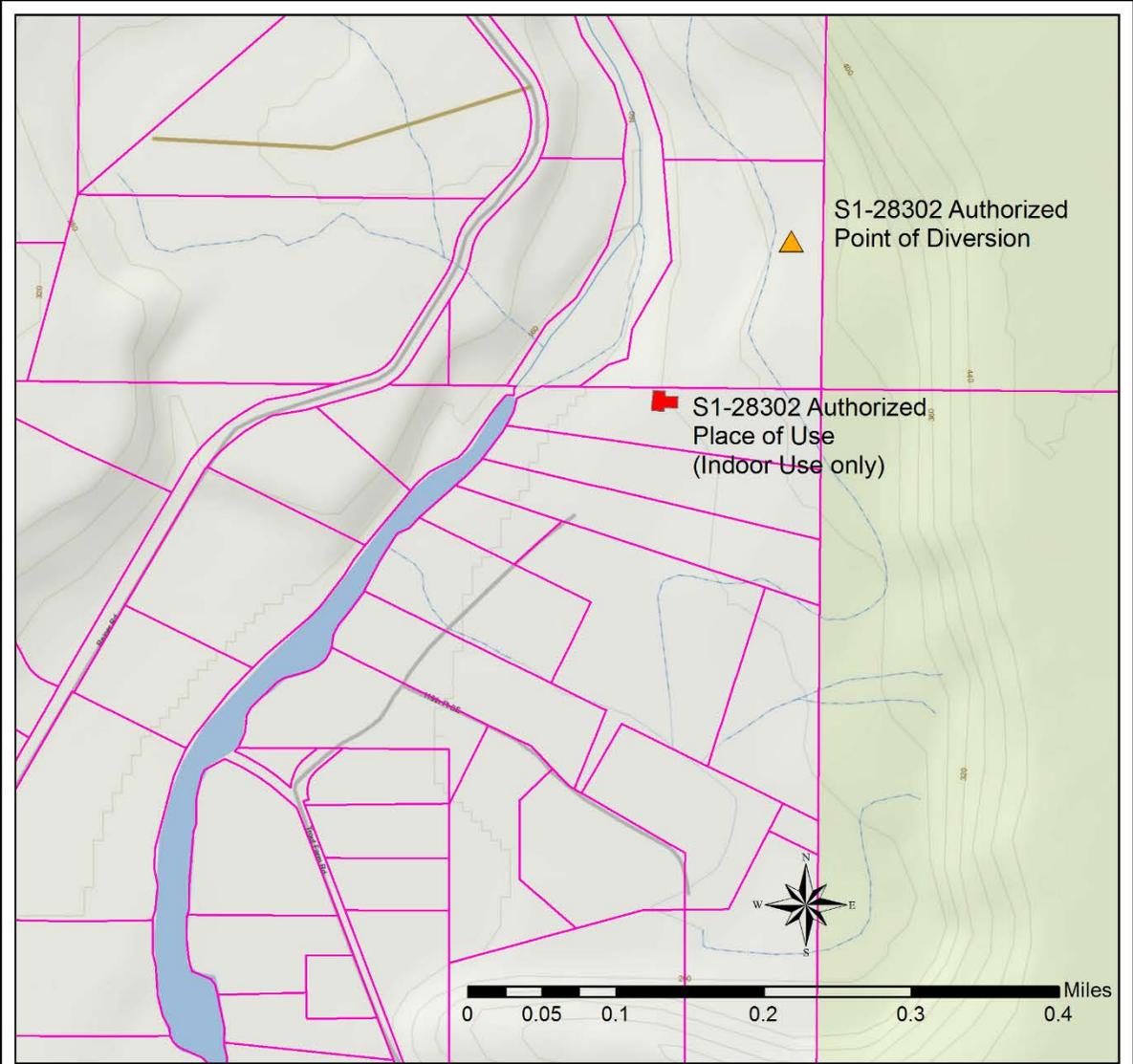
Reiser, D.W., Gagner, M.R., Huang, C.M., Morello, C., Sullivan, T.J., Beck, S.M., Mightengale, T.L., 2009

- Determination and Evaluation of Habitat – Flow Relationships in the Sultan River, Washington, 152 pages plus 15 appendices.

Water Resources Program, 1979 – Snohomish River Basin Instream Resources Protection Program, Including proposed Administrative Rules and Supplemental Environmental Impact Statement (Water Resources Inventory Area 7), 124 pages.

DRAFT

ATTACHMENT I



Legend

-  S1-28302 Diversion (POD)
-  S1-29302 House (POU)
-  Snohomish Co. parcels



Charles B. Miller
Water Right Application S1-28302
Section 19 T28N R08E W.M.
WRIA 07 - Snohomish County