



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

**PRIORITY DATE**  
 10/8/2013

**WATER RIGHT NUMBER**  
 S3-30699

**MAILING ADDRESS**  
 GLORIA DOWNING  
 16150 FISHERMAN'S CV. E.  
 WILBUR WA 99185

**SITE ADDRESS (IF DIFFERENT)**

**Quantity Authorized for Withdrawal or Diversion**

<b>WITHDRAWAL OR DIVERSION RATE</b>	<b>UNITS</b>	<b>ANNUAL QUANTITY (AF/YR)</b>
0.067	CFS	0

**Purpose**

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Hydropower	0.067		CFS	0		01/01 - 12/31

**Source Location**

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA				
LINCOLN	UNNAMED SPRING		53-LOWER LAKE ROOSEVELT				

  

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
UNNAMED SPRING	2833035200030		28 N.	33 E.	35	NW¼NW¼	47.8868345	118.6346701

Datum: NAD83/WGS84

**Place of Use (See Attached Map)**

PARCELS (NOT LISTED FOR SERVICE AREAS)

2833026900020

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

SE¼SW¼ of Section 26, T. 28 N, R. 33 E.W.M.

**Proposed Works**

Excavate in the spring area, install tiles and divert into a 1-2" PVC pipe. Pipe will traverse to the small hydropower plant and discharge back into the creek.

## Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
December 1, 2014	December 1, 2016	December 1, 2018

## 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 rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

## Provisions

### Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use 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 contracting with a Certified Water Right Examiner (CWRE) 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 Application No. S3-30699, 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW Ste 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this            day of            2013.

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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**  
Water Right Application Number S3-30699

**BACKGROUND**

This report serves as the written findings of fact concerning Water Right Application Number S3-30699.

**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 Wilbur Register, October 21 and 31, 2013 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.

The applicant requested Ecology consider the application for Priority Processing under WAC 173-152-050(2)(b). The request for Priority Processing was approved by Keith Stoffel, Water Resources Section Manager.

Fish and Wildlife representative Jason Kunz conducted an inspection on the property and had no comments.

**INVESTIGATION**

A site visit was conducted by Kevin Brown and Jeff MacLennan with the applicant on October 30, 2013.

The applicant proposes to excavate out the springs located in the NW¼NW¼ of Section 35 and install tiles. The water would be piped down the canyon 2500 feet to a location approximately 1300 feet east and 800 feet north of the SW corner of Section 26. The power plant would be installed near this location and discharge the water back into the creek.

Multiple springs originate in the NW¼NW¼ of Section 35. The springs converge and flow northerly to the confluence of another small creek flowing easterly near the SW corner of Section 26. The creek flows northeasterly to the small valley turning north and going subsurface near the center of Section 26.

Both creeks were flowing approximately 20-30 gallons per minute at the confluence. The diversion and construction of the power plant are all on the land owned by the applicant. The water will be returned to the creek at the power plant. The creek terminates near the center of Section 26 and goes dry.

The residence is in the process of being built. The old house foundation was used for the new residence. The house is located in the SE¼SW¼ of Section 26.

### **Existing Water Rights**

Water Right Claim 058385 claims the use of 62 gallons per minute, 33.14 acre-feet per year for irrigation of 30 acres and stockwater. The applicant is using the claimed source for domestic supply and irrigation around their residence. The point of diversion is located near the confluence of the two creeks just upstream of the confluence. The claimed place of use describes the S½ of Section 26 and the S½N½ of Section 26, T. 28 N., R. 33 E.W.M.

The applicant owns the south 1644 feet of Section 26 and the N½NW¼ of Section 35.

The applicant has also filed application S3-30645 requesting 0.067 cfs for single domestic supply, stock and irrigation of 30 acres. This application requests the same diversion point as Surface Water Claim 058385. The diversion is located near the confluence of the two creeks and consists of a small plastic barrel in the creek bottom and a 1" pvc pipe to the house. This application will have its own decision.

### **Beneficial Use**

Hydropower is a beneficial use.

### **Water Availability**

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

### **Impairment Considerations**

There are no rights between the point of diversion and the discharge. The creek originates from multiple springs in the head of the canyon. The use of water from one spring source should not significantly reduce the flow of the creek. The entire reach lies wholly on the applicant's property.

### **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.

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 surface water from the spring is available for non-consumptive hydropower. 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, it is recommended 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:

0.067 cubic feet per second  
0 acre-feet per year  
Non-consumptive hydropower

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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.*