STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

August 17, 2016

David Salter
994 165th Avenue SE
Bellevue, Washington 98008

Re: Application for Change under Surface Water Certificate No. S3-28594(A)

Dear Mr. Salter:

Enclosed is the Department of Ecology's *Report of Examination*. This report contains our decision regarding your application for change.

Your application for change has been approved.

You have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this document. 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 this document:

- File your appeal and a copy of this document 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 document on Ecology in paper form - by mail or in person. (See addresses below.) Email 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 Pollution Control Hearings Board 1111 Israel Road SW Suite 301 Tumwater , WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

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 .

If you have any questions, please contact Gene Drury at 509-329-3566.

Sincerely,

Keith L. Stoffel
Section Manager
Water Resources Program
Eastern Regional Office

KLS/GD:md
Enclosures: Report of Examination
Your Right To Be Heard
Focus on Water Right Relinquishment

By Certified Mail: 7015 0640 0003 6619 7027

State of Washington
REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

DEPARTMENT OF ECOLOGY
State of Washington

PRIORITY DATE	WATER RIGHT NUMBER
January 30, 1989	S3-28594(A)

NAME & ADDRESS
David Salter
994 165th Ave SE
Bellevue, WA 98008

Total Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.05	CFS	3.21

Purpose

	DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		
PURPOSE	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	PERIOD OF USE (mm/dd)
Irrigation of 1 acre	0.05		CFS	3.21		5/1-10/1

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

Source Limitations

SOURCE	DIVERSION RATE (CFS)	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (mm/dd)
Lake Roosevelt (Columbia River)	0.05	3.21	May 1 – October 1

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
STEVENS	Lake Roosevelt (Columbia River)	Pacific Ocean	61 - UPPER LAKE ROOSEVELT

SOURCE	PARCEL NO.	TWP	RNG	SEC	QQ	LATITUDE	LONGITUDE
Lake Roosevelt (Columbia River)	1961100	37 N.	38 E.	9	S½SW¼ (Gov't Lot 4)	46.71646°N	118.03868°W Datum: WGS84

Place of Use (See Attached Map)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Commencing at the South quarter corner of said Section 9; thence, along the East line of said Government Lot 4, North 2°37'11" West 800.00 feet; thence, leaving said East line and parallel with the

South line of said Government Lot 4, South 89°04'41" West 790.00 feet to the Northeast corner of that tract of land described in the deed recorded under auditor's file number 2006 0009336; thence, along the North line thereof, South 89°04'41" West 209.80 feet to the Southeasterly corner of that tract of land described in that deed recorded under auditor's file number 483357 and the point of beginning for this description; thence, leaving said North line and along the Easterly line of said tract of land described under auditor's file number 483357, North 22°29'23" West 47.04 feet to the intersection with the centerline, of an existing road, said point being the end of that 20.00 foot wide road easement described under auditor's file number 8704537 and the beginning of the road easement A as described in the record of survey recorded in Book 31 of surveys, Pages 139, 140 and 141, under auditor's file number 20110008757, said point hereinafter referred to as point "A"; thence, leaving said Easterly line and along the centerline of an existing road and along the centerline of the said road Easement "A", South 74°10'18" West 13.86 feet to the beginning of a curve concave to the North, having a radius of 157.00 feet; thence, along said centerline, and curve, Westerly 58.14 feet, through a central angle of 21°13'07"; thence North 84°36'34" West 88.18 feet; thence, North 82°33'22" West 79.55 feet to the beginning of a curve concave to the Southeast, having a radius of 148.50 feet; thence, along said centerline and curve, Westerly and Southwesterly 158.1 one foot through a central angle of 61°09'23" to the North line of that tract of land described in that deed recorded under auditor's file number 2006 0009336 and the end of said road Easement A; thence, leaving the centerline of said easement and along the North line of said tract of land, North 89°04'41" East 394.56 feet to the point of beginning: commencing at the South quarter corner of said Section 9; thence North 500 feet; thence West 1140 feet; thence North 150 feet to the true point of beginning; thence East 350 feet; thence North 150 feet; thence West 550 feet, more or less, to the East boundary line of the Columbia River Reservoir Grand Coulee Dam; thence South along said boundary line 150 feet, more or less, to a point which is South 89°00' West of the true point of beginning: thence Easterly to the true point of beginning. Tax #26: That part of Government Lot 4 in Section 9, Township 37 North, Range 38 East W.M., in Stevens County, Washington, described as follows: commencing at the South quarter corner of said Section 9; thence, along the East line of said Government Lot 4, North 2°37'11" West 800.00 feet; thence, leaving said East line and parallel with the South line of said Government Lot 4, South 89°04'41" West 790.00 feet the the Northeast corner of that tract of land described in the deed recorded under Auditor's file number 2006 0009336; thence, along the North line thereof, South 89°04'41" West 17.80 feet to the intersection with the centerline of an existing road and the point of beginning for this description, said centerline being the centerline of that 20.00 foot wide road easement as described under auditor's file number 8704537; thence, leaving the centerline of said existing road and continuing along the North line of said tract of land, South 89°04'41" West 192.00 feet to the Southeasterly corner of that tract of land described in that deed recorded under Auditor's file number 483357; thence, leaving said North line and along the Easterly line of said tract of land described under auditor's file number 483357, North 22°29'23" West 47.04 feet to the intersection with V the centerline of an existing road, said point being the end of that 20.00 foot wide road easement described under auditor's file number 8704537; thence, leaving said Easterly line and along the centerline of said existing road and easement, North 74°10'18" East 11.92 feet to the beginning of a curve concave to the South, having a radius of 250.00 feet; thence, along said centerline and curve, Easterly 77.87 feet through a central angle of 17°50'46"; thence South 87°58'56" East 52.05 feet to the beginning of a curve concave to the Southwest, having a radius of 76.50 feet; thence, along said centerline and curve, Easterly and Southeasterly 91.65 feet through a central angle of 68°38'22" to the point of beginning.

Sec. 9, T. 37 N., R. 38 E.W.M., all in Stevens County, WA. (Stevens County Parcel No. 1961100)

Description of Works

2 horsepower centrifugal pump, distribution and sprinkler system

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	Complete	In Use

Measurement of Water Use

How often must water use be measured?	Bi-weekly
How often must 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 Diversion (cfs)

Provisions

The point of diversion under this water right is shared. The total amount to be diverted shall not exceed 0.10 cubic foot per second under S3-28594(A) and S3-28594(B) combined.

This authorization relating to irrigation is classified as a Family Farm Permit in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). 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 this definition of a family farm.

This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations."

This authorization is subject to the following minimum flow provisions as specified in WAC 173-563-040 and WAC 173-563-050 and the following table. It is subject to regulation by the Department of Ecology for protection of instream resources whenever the March 1 forecast of April-September runoff at The Dalles is 60 MAF or less, and when gauged flows are predicted by the BPA 30-Day Power Operation Plan to violate the following minimum flow provision at:

	Primary Control Station River Mile Minimum Average Weekly Flow Columbia River Projects (1,000 cubic feet/second)						
	CHIEF JOSEPH*	WELLS & ROCKY REACH*	ROCK ISLAND & WANAPUM*	PRIEST RAPIDS	MCNARY	JOHN DAY	THE DALLES
Jan	30	30	30	70	60	60	60
Feb	30	30	30	70	60	60	60
Mar	30	30	30	70	60	60	60
Apr 1-15	50	50	60	70	100	100	100
16-25	60	60	60	70	150	150	160
26-30	90	100	110	110	200	200	200
May	100	115	130	130	220	220	220
June 1-15	80	110	110	110	200	200	200
16-30	60	80	80	80	120	120	120
Jul 1-15	60	80	80	80	120	120	120
16-31	90	100	110	110	140	140	140
Aug	85	90	95	95	120	120	120
Sep	40	40	40	40	60	85	90
Oct 1-15	30	35	40	40	60	85	90
16-31	30	35	40	70	60	85	90
Nov	30	30	30	70	60	60	60
Dec	30	30	30	70	60	60	60

*For the reach from Grand Coulee through Wanapum, minimum average weekly flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff adjustment) at Priest Rapids, whichever, is higher. As provided in WAC 173-563-505(1), the minimum average weekly flows set forth in this subsection are subject to a reduction of up to 25 percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cubic feet per second.

Department of Fish and Wildlife Requirement(s)
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/

Department of Fish and Wildlife Requirement(s)
A Hydraulic Project Approval (HPA) shall be obtained from Washington Department of Fish and Wildlife before any improvements/changes to the existing point of diversion are made.

Measurements, Monitoring, Metering and Reporting
An approved measuring device must 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, which 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.

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, will 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.

Real Estate Excise Tax
This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: http://dor.wa.gov/. E-mail: REETSP@DOR.WA.GOV.

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 a valid right exists; 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. CS3-28594C, 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).

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Signed at Spokane, Washington, this 17th day of August, 2016.

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
Gene Drury, Department of Ecology
Water Right Control Number CS3-28594C
SURFACE WATER CERTIFICATE NO. S3-28594C

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CS3-28594C.

An application for change/transfer was submitted by Melanie Bell and William Saw on October 19, 2015. The applicant's proposes to change the place of use to Surface Water Certificate S3-28594C by splitting the water right into two portions (A and B Certificates).

A notice of application was duly published in accordance with RCW 90.03.280 in the Statesman-Examiner on November 2 and 11, 2016 and no protests were received.

This application is categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW.

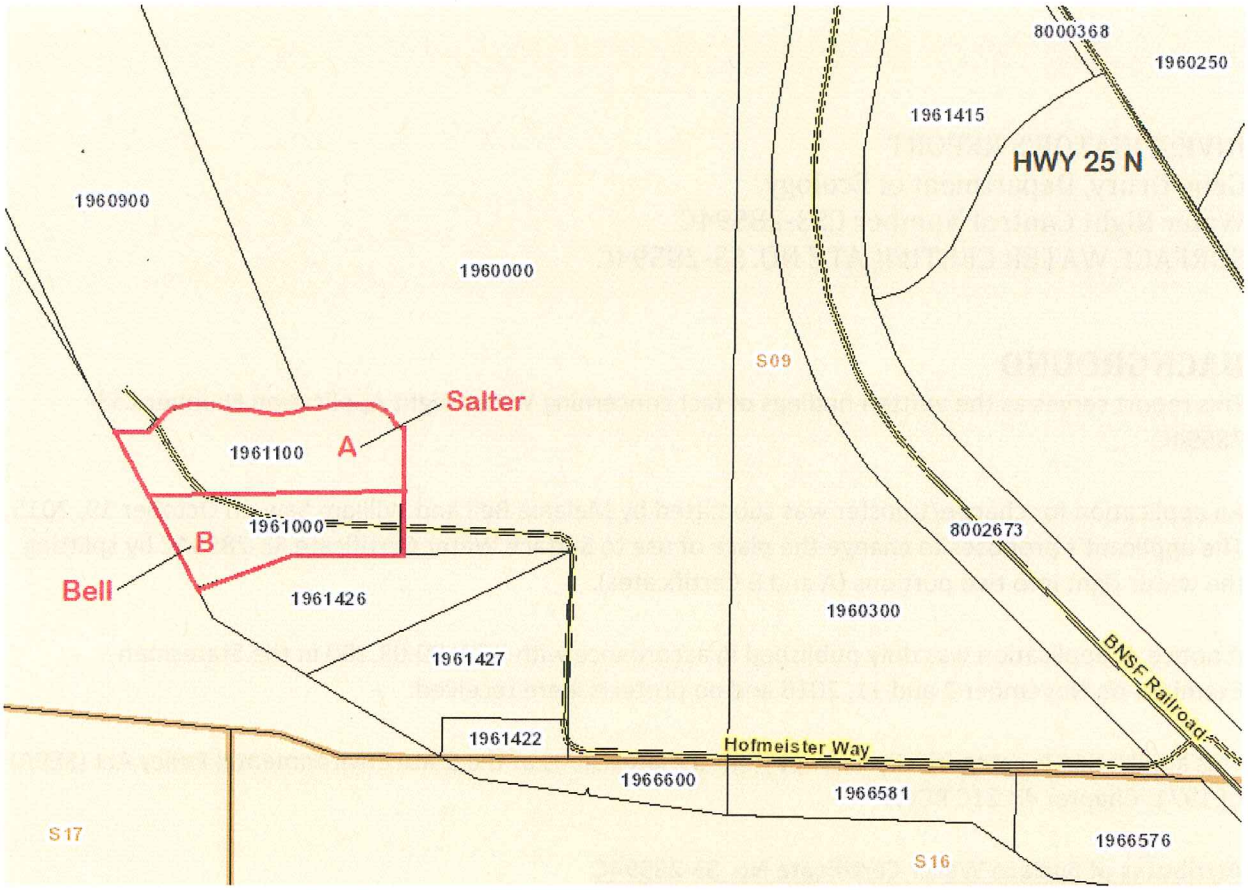
Attributes of Surface Water Certificate No. S3-28594C

Priority Date:	January 30, 1989
Instantaneous Quantity – Q(i):	0.10 cubic foot per second
Annual Quantity – Q(a):	16 acre-feet per year
Source:	Lake Roosevelt (Columbia River)
Point of diversion:	S½SW¼ (Gov't Lot 4) Sec. 9, T. 37 N., R. 38 E.W.M.
Purpose of Use:	Irrigation of 5 acres

INVESTIGATION

A site examination was conducted on May 19, 2016 by Gene Drury of the Department of Ecology, Water Resources Program. Melanie Bell and William Saw both were met on the property. The project site is located about 9 miles north of Kettle Falls, Washington on Hofmeister Way in Evans, WA.

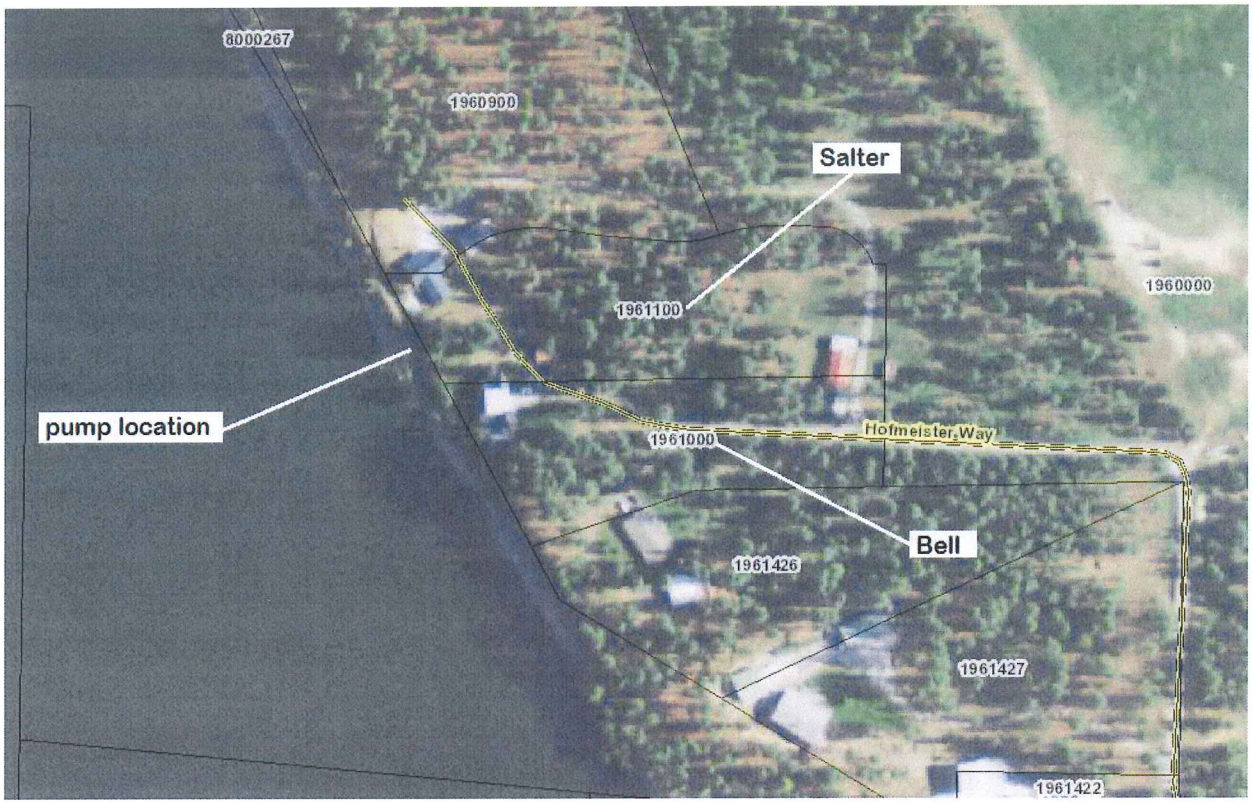
The project consists of two parcels of land with a home on each lot. Mr. Saw owned the north parcel (Stevens County Parcel No. 1961100) and Ms. Bell currently owns the south parcel (Stevens County Parcel No. 1961000). The Saw parcel has since been sold to David Salter of Bellevue, WA. An assignment of application from Saw to Salter is in process.



Evaluation of the Water Right and Beneficial Use Analysis:

The Washington State Supreme Court, in Okanogan Wilderness v. Town of Twisp and Department of Ecology, 133 Wn.2d 769, 947 P.2d 732 (1997), found that applications for change may be granted only to the extent the water has been historically put to beneficial use, as beneficial use determines the measure of a water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been lost for non-use before the Department can approve a change or transfer of the water right.

Surface Water Certificate S3-28594 has been continuously used at this location but to a lesser amount than originally authorized (originally authorized for 5 acres). Approximately 1 acre has been historically irrigated on the old "Saw" parcel and about 1½ acre on the Bell parcel. The surface water diversion is shared and consists of a 2 horsepower Berkeley centrifugal pump located just below the two parcels on Lake Roosevelt. A 1½ inch poly mainline tees into 1¼ poly pipe and transports the water to each parcel. The water is used to irrigate grass, landscape, garden areas and a small orchard on the Bell parcel. There are frost free water hydrants and spigots with garden hoses and sprinklers for watering. A shared well provides the domestic water to the two homes.



Surface Water Certificate No. S3-28594 confirmed a water use of 0.10 cubic foot per second and 16 acre-feet per year for the irrigation of 5 acres. The original authorization determined a water duty of 38.6 inches per acre (3.21 acre-feet per acre) based on a 70% efficiency system and two year frequency table for a maximum irrigation water requirement. Based on this previous calculation, the Salter (Saw) portion of this water right has been determined to have been perfected, put to beneficial use and valid in the amounts of 0.05 cubic foot per second, 3.21 acre-feet per year for 1 acre. The Bell portion of this water right has been determined to have been perfected, put to beneficial use and valid in the amounts of 0.05 cubic foot per second, 4.82 acre-feet per year for 1½ acre. The original right is proposed to be split into two separate water rights, an "A" portion and "B" portion. The "A" portion will be issued to Salter for 1 acre and the "B" portion will be issued to Bell for 1½ acre. The point of diversion will remain shared and the total amount to be diverted shall not exceed 0.10 cubic foot per second.

The original irrigation season was issued as April 1 to October 1, each year. According to Ms. Bell and Mr. Saw, water has never been diverted in April. Therefore, the irrigation season is being amended to May 1 to October 1 under each right.

CONCLUSIONS

It is the conclusion of this examiner that, in accordance with Chapters 90.03 and 90.44 RCW, a valid right exists. This application to change the place of use will not enlarge the quantity of water identified, nor will it impair existing rights provided the terms and conditions are followed.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that the request for change to Surface Water Certificate S3-28594 be approved in the amounts and within the limitations listed below and subject to the provisions.

Surface Water Certificate S3-28594(A)

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:

- 0.05 cfs
- 3.21 acre-feet per year
- Irrigation of 1 acre
- May 1 to October 1, each year

Point of Diversion

S½SW¼ (Gov't Lot 4), Sec. 9, T. 37 N., R. 38 E.W.M.

Place of Use

Stevens County Parcel No. 1961100

Report by: _____ 8-17-14

Gene Drury Date