



State of Washington  
DRAFT  
REPORT OF EXAMINATION  
FOR WATER RIGHT APPLICATION

**PRIORITY DATE**  
July 18, 2005

**WATER RIGHT NUMBER**  
S3-30494

**MAILING ADDRESS**  
Charles and Dawn Loftis  
1434 Munro Lane  
Usk, WA 99180-0416

**SITE ADDRESS (IF DIFFERENT)**

**Quantity Authorized for Diversion**

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.11	CFS	1.81

**Purpose of Use**

PURPOSE	DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		IRRIGATION PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Irrigation	0.11	---	CFS	1.81	---	May 1 - Oct 1
Fire protection	---	0.11	CFS	---	---	As needed

**IRRIGATED ACRES**

ADDITIVE	NON-ADDITIVE
0.5	0

**PUBLIC WATER SYSTEM INFORMATION**

WATER SYSTEM ID	CONNECTIONS
N/A	N/A

**Source Limitations**

SOURCE FACILITY/DEVICE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (mm/dd)
PEND OREILLE RIVER	0.11 CFS	1.81	May 1- Oct 1

A|S: A=Alternate; S=Standby/Reserve

**Source Location**

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
PEND OREILLE	PEND OREILLE RIVER	COLUMBIA RIVER	62-PEND OREILLE

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
PEND OREILLE RIVER	443215510038 Lot 2, Pend Oreille Ranch Estates	32N	44E	15	NW¼NW¼	48.27831° N	117.23882° W

Datum: WGS84

### Place of Use (See Attached Map)

#### PARCELS (NOT LISTED FOR SERVICE AREAS)

443215510038

#### LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

That portion of Section 15, Township 32 North, Range 44 East of the Willamette Meridian, Pend Oreille County, Washington, described as follows:

Beginning at a point on the South line of Tract 3 of Pend Oreille Ranch (an unrecorded plat of Pend Oreille County), said point being South 89°59'27" East, 58.13 feet from an existing 5/8" rebar (set by RLS #9606. Said rebar being the Easterly side of an existing slough of the Pend Oreille River, North 89°59'27" West 2,136.74 feet from an existing 2" x 2" white stake near the southeast corner of said Tract 3); Thence North 60°0'0" East, 63.30 feet; Thence South 31°18'47" East 37.06 feet to its intersection with the South line of said Tract 3; Thence North 89°59'27" West along the South line of said Tract 3, 74.08 feet to the point of beginning.

Thence West and parallel with the North boundary of said Northwest quarter, 1,990 feet; Thence Northwesterly 2,090 feet, more or less, to a point on the North boundary of said Section 16; said point being 450 feet West of the Northeast corner of said Section 16; Thence East 450 feet to the true point of beginning;

EXCEPTING THEREFROM THE FOLLOWING PARCEL OF LAND:

BEGINNING at an existing 5/8" rebar (set by RLS #9606) on the North line of Tract 2 of Pend Oreille Ranch (an unrecorded plat of Pend Oreille County), said 5/8" rebar being on the Easterly side of an existing slough of the Pend Oreille River, North 89°59'27" West, 2,136.74 feet from an existing 2" x 2" white stake near the Northeast corner of said Tract 2; Thence South 89°59'27" East along the North line of said Tract 2, 58.13 feet; Thence South 60°0'0" West, 62.42 feet; Thence North 34°0'0" West 37.66 feet to its intersection with the North line of said Tract 2; Thence South 89°59'27" East along the North line of said Tract 2, 16.99 feet to the point of beginning. Section 15, Township 32 North, Range 44 East of the Willamette Meridian

### Proposed Works

1 horsepower portable pump, rainbird sprinklers

### Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Began	September 1, 2013	September 1, 2014

### Measurement of Water Use

How often must water use be measured?	Monthly
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 (gpm or cfs)

## Provisions

### **Pend Oreille River Low Flow**

All irrigation shall cease when the flow of the Pend Oreille River falls below 7700 cubic feet per second at U.S. Geological Survey (U.S.G.S.) gage #12395500, Pend Oreille River at Newport, located within Section 24, Township 56 N., Range 6 W.B.M.

### **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 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/>

### **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 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, 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 Surface Water Application No. S3-30494 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            2012.

\_\_\_\_\_  
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

Application for Water Right -- Loftis  
 Water Right Control Number S3-30494  
 Gene Drury, Department of Ecology

**BACKGROUND**

This report serves as the written findings of fact concerning Water Right Application Number S3-30494.

**Table 1 Summary of Requested Water Right**

<b>Applicant Name:</b>	Charles and Dawn Loftis
<b>Date of Application:</b>	JULY 18, 2005
<b>Place of Use</b>	<p>That portion of Section 15, Township 32 North, Range 44 East of the Willamette Meridian, Pend Oreille County, Washington, described as follows:</p> <p>Beginning at a point on the South line of Tract 3 of Pend Oreille Ranch (an unrecorded plat of Pend Oreille County), said point being South 89°59'27" East, 58.13 feet from an existing 5/8" rebar (set by RLS #9606. Said rebar being the Easterly side of an existing slough of the Pend Oreille River, North 89°59'27" West 2,136.74 feet from an existing 2" x 2" white stake near the southeast corner of said Tract 3); Thence North 60°0'0" East, 63.30 feet; Thence South 31°18'47" East 37.06 feet to its intersection with the South line of said Tract 3; Thence North 89°59'27" West along the South line of said Tract 3, 74.08 feet to the point of beginning.</p> <p>Thence West and parallel with the North boundary of said Northwest quarter, 1,990 feet; Thence Northwesterly 2,090 feet, more or less, to a point on the North boundary of said Section 16; said point being 450 feet West of the Northeast corner of said Section 16; Thence East 450 feet to the true point of beginning;</p> <p>EXCEPTING THEREFROM THE FOLLOWING PARCEL OF LAND:                  BEGINNING at an existing 5/8" rebar (set by RLS #9606) on the North line of Tract 2 of Pend Oreille Ranch (an unrecorded plat of Pend Oreille County), said 5/8" rebar being on the Easterly side of an existing slough of the Pend Oreille River, North 89°59'27" West, 2,136.74 feet from an existing 2" x2" white stake near the Northeast corner of said Tract 2; Thence South 89°59'27" East along the North line of said Tract 2, 58.13 feet; Thence South 60°0'0" West, 62.42 feet; Thence North 34°0'0" West 37.66 feet to its intersection with the North line of said Tract 2; Thence South 89°59'27" East along the North line of said Tract 2, 16.99 feet to the point of beginning. Section 15, Township 32 North, Range 44 East of the Willamette Meridian</p>

County	Waterbody	Tributary To	WRIA
Pend Oreille	Pend Oreille River	Columbia River	62-Pend Oreille

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation	0.11	CFS	1.81	01/01	12/31
Fire protection	0.11*	CFS	---	As needed	As needed

\*non-additive

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Pend Oreille River	443215510038	32N	44E	15	NW¼NW¼	48.27831° N	117.23882° 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: WGS84.

### *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 Newport Miner on March 15 and 22, 2006.

### *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.

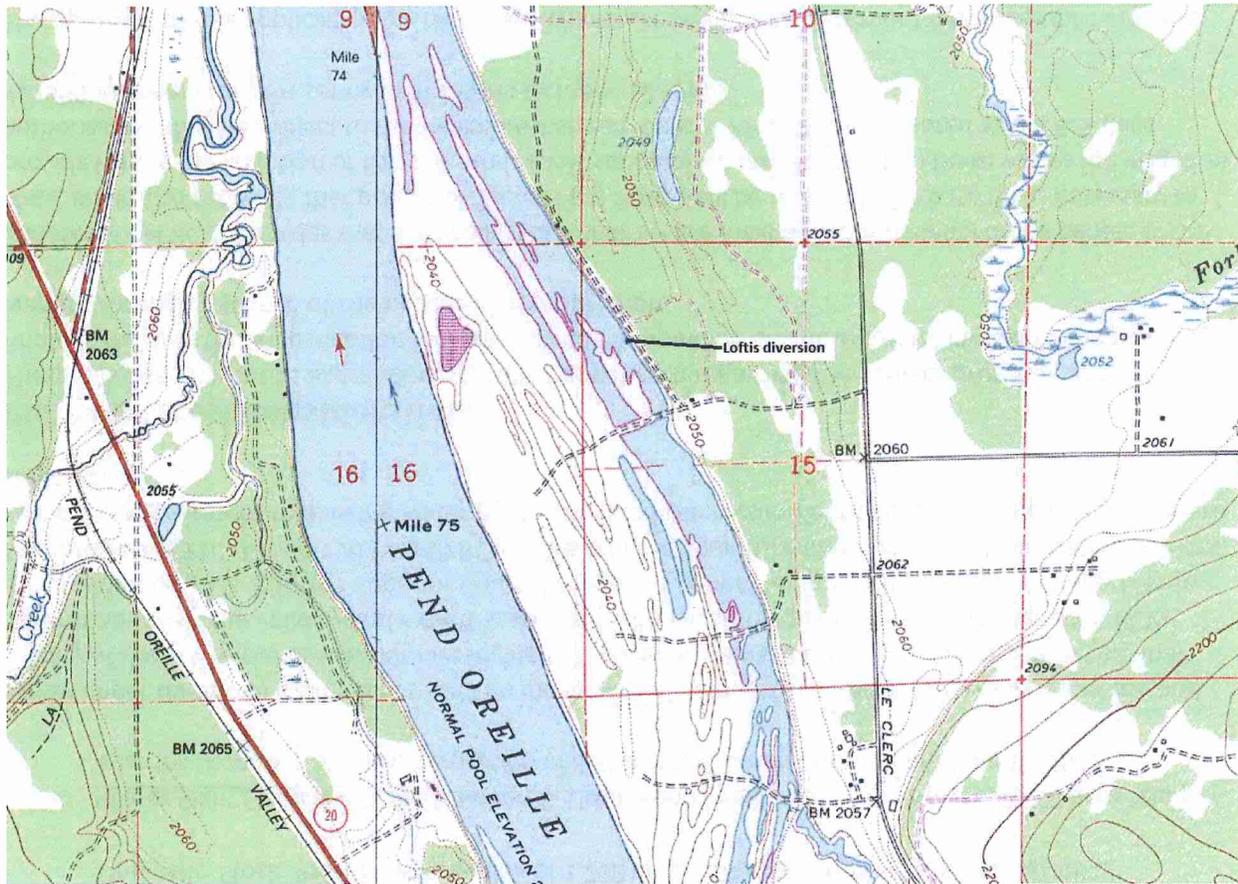
- (a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater 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 Gene Drury on August 21, 2012. The project is located on the east side of the Pend Oreille River, approximately 3 miles southeast of Usk, Washington, off LeClerc Creek County Road.

**Township 32 North, Range 44 E.W.M.**



USGS 7.5 Minute (Topographic Map) - "Skookum Creek"

The proposed place of use is on the Loftis 20 acre parcel of land (Lot 2 of Pend Oreille Ranch Estates). There is a home built on the property and a shared well that provides domestic drinking water to the applicant and the neighbor to the north (McGennis). The point of diversion will be located on the existing dock structure and water will be diverted from a slough of the Pend Oreille River. This system will consist of a portable 1 horsepower pump (Flotec Model #FP5162-08).

The applicant proposes to irrigate about one half acre of garden, including fruit trees and some grass. The Washington State Irrigation Guide (WA210-VI-WAIG, AMEND.1NOVEMBER1990 at Newport, Washington) estimates that crops including fruit trees could require up to 43.4 inches or 3.62 acre-feet per acre (based on 70% system efficiency). Therefore, 1.81 acre feet should be adequate for the irrigation portion under this permit.

### Beneficial Use

Irrigation and fire protection are both beneficial uses.

## **Water Availability**

An analysis of water availability must take into account not only the physical limitations on the source of supply, but the legal availability as well.

Hydrogeologic Analysis: The Department of Ecology has not closed the Pend Oreille River to further consumptive appropriations, however all diversions shall cease when the flow of the Pend Oreille River falls below 7700 cfs at U.S. Geological Survey (U.S.G.S.) gage #12395500. This low-flow is a recommendation from the Washington State Department of Fish and Wildlife (WDF&W) and applies to surface and ground water in hydraulic continuity with the Pend Oreille River since October 18, 1999.

Therefore, water is available for appropriation as long as irrigation ceases when the Pend Oreille River falls below the low flow recommendation from the Washington State Department of Fish and Wildlife.

## **Impairment Considerations**

A review of Ecology records was conducted for existing water rights, permits, and claims in the vicinity of the proposed point of diversion within the NW¼ of Section 15, T. 32 N., R. 44 E.W.M. Two water right claims were found to overlap the place of use under this application. Both claims were filed in 1974 and are recorded as follows:

- Water Right Claim No. 129447, Robert F. Utter, Skookum Creek, 100 cubic feet per second for Domestic, Stock, Power and Irrigation of 1,200 acres. Claimed Priority Date June 10, 1912
- Water Right Claim No. 129448, Robert F. Utter, Pend Oreille River, No Qi given, 2,400 acre-feet per year for Domestic, Stock and Irrigation of 600 acres. Claimed Priority Date June 10, 1912

Water under these two claims is not used on the applicant's property however, the overall water use and validity of these two claims was not investigated. The Department of Ecology recognizes that the final determination of the validity and extent associated with a claim registered in accordance with RCW 90.14 ultimately lies with the Superior Court through the general adjudication process provided for by Sections 90.03.110 through 90.03.240 RCW. The proposed appropriation under this application will not cause any impairment to existing water rights, provided the recommendations of the minimum flow are satisfied.

## **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.

Chapter 90.54 RCW provides that water allocation shall secure maximum net benefits to the people of the state, while also requiring that perennial rivers of the state shall be retained with base flows necessary to provide for the preservation of fish and other environmental values. To maintain these values the irrigation authorization shall be subject to the minimum instream flow of 7700 cfs as measured at U.S.G.S. gage #12395500 near Newport set by WDF&W on October 18, 1999.

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 Pend Oreille River, is available for the seasonal irrigation of 0.5 acre and fire protection as needed. 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:

0.11 cubic feet per second  
1.81 acre-feet per year  
Seasonal irrigation of ½ acre  
Fire protection as needed

Point of Diversion

NW¼NW¼, Section 15, Township 32 North, Range 44 E. W.M.

---

*Gene Drury, 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.***