

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

**PRIORITY DATE**  
8/22/2013

**WATER RIGHT NUMBER**  
S3-30696

**MAILING ADDRESS**  
GARY COTTER  
11 DRY DOCK COURT  
KETTLE FALLS WA 99141

**SITE ADDRESS (IF DIFFERENT)**

**Quantity Authorized for Diversion**

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.02	CFS	0.5

**Purpose**

PURPOSE	DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Single domestic supply including up to ½ acre of lawn irrigation	0.02		CFS	0.5		01/01 - 12/31

**Source Location**

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
FERRY	MINK CREEK		58-MIDDLE LAKE ROOSEVELT

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
MINK CREEK	73520500032000	35 N.	37 E.	20	NW¼NE¼	48.5225788	118.1869024

Datum: NAD83/WGS84

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

**PARCELS (NOT LISTED FOR SERVICE AREAS)**  
73520500016000

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**

Lot 16 of Martin Creek Tree Farm as per Plat volume 2 page 25 records of Ferry County and a parcel of land in Govt. Lot 3, Section 20, T. 35 N., R. 37 E.W.M. described as follows:

Beginning at a point on the North and South center line of Section 20, Township 35 North, Range 37 E.W.M., 980 feet South of the Northwest corner of the NE¼ of said Section; thence at right angles, easterly on a straight line to the intersection of said line with the West boundary of property owned by the United States adjacent to the Columbia River, said point of intersection being the NW¼ of the NE¼ (part of Lot 3) Section 20; thence in a southwesterly direction at various angles along the West boundary of said property owned by the United State to the point of intersection of said government property line with the North and South center line of said Section 20; thence northerly along said centerline to the place of beginning.

**Proposed Works**

Small diversion dam and gravity feed pipe to property

**Development Schedule**

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
February 1, 2015	February 1, 2017	February 1, 2019

**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 volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (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.

At no time shall the diversion exceed ½ the flow of the creek. If the creek is less than 10 gallons per minute, this authorization is limited to in-house domestic supply only. The system design must include a shutoff. Water is not allowed to be diverted continuously when not in use. The applicant may want to evaluate the possibility of installing a storage tank to be used for a settling tank prior to piping to the house.

If this right is used on Lot 16 of the Plat of Martin Creek it shall be alternate/non-additive to the rights of the Martin Creek Community Association. If this right is developed on the small triangle piece of

property, it is outside of the proposed service of the Martin Creek Community Association and will be a primary right.

**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/>

**Easement and Right-of-Way**

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

**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, contracting with a Certified Water Rights Examiner (CWRE), 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. S3-30696, 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 16th day of January, 2014.




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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 S3-30696

### BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30696.

#### 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 Ferry County View on September 18 and 25, 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.

### INVESTIGATION

A site visit was conducted by Kevin Brown with the applicant on October 23, 2013.

The application requests authorization for single domestic supply and irrigation up to ½ acre. Two parcels of land were requested in the application. The proposed place of use was reduced to one parcel. The property is currently undeveloped. A portion of this parcel, Lot 16 of the Plat of Martin Creek, is within the service area of the Martin Creek Community Association (MCCA). The MCCA is having difficulty meeting its demand. If this authorization is developed

on Lot 16, it will be an alternate non-additive right to the existing system. A portion of this parcel is not within the service area of MCCA, and if developed on this small triangle piece of property, it will be a primary right. It is unknown at this time where the actual development will occur.

The diversion was constructed many years ago but is no longer in use. A small dam is located in the creek. The creek was flowing approximately 20-30 gallons per minute at the time of the field examination. An old ditch is evident along the creek and traverses part way to the property. If developed the old ditch would be excavated and a small pvc pipe would be placed in the old ditch. The diversion would also need to be rebuilt. Any work within the water will require notification to the Department of Fish and Wildlife for a Hydraulic Project Approval.

The Department of Fish and Wildlife was notified of the application. No comments were received.

There are no downstream water rights below this diversion.

### **Existing Water Rights**

A portion of the property in this application includes Lot 16 of the Plat of Martin Creek and a portion of land excluded from the service area of Martin Creek Community Association. Martin Creek Community Association holds two ground water rights and a surface water right for use within the Plat of Martin Creek. The surface water right S3-30697 proposes to divert water from the Columbia River for irrigation of the lawns within the Plat of Martin Creek and the ground water rights propose to serve domestic supply within the plat of Martin Creek. These three rights overlap on Lot 16. Should Martin Creek supply water under S3-30697 for irrigation purposes, that portion of this authorization would be reduced proportionally. A portion of this authorization may be considered non-additive to S3-30697 depending on the final construction of the systems.

Martin Creek Community Association holds a total of two ground water rights in this area. These water rights authorize the use of 101 gallons per minute, 50 acre-feet per year for the domestic use within the community of Martin Creek. A portion of the land proposed to receive domestic water under this application is not within the service area of the Martin Creek Community Association. Should Martin Creek supply water under their ground water rights for domestic purposes, that portion of this authorization would be reduced proportionally. A portion of this authorization may be considered non-additive depending on the final construction of the systems.

**Beneficial Use**

Single domestic supply and irrigation of 0.5 acres are beneficial uses.

The applicant requested ½ acre-foot for domestic supply and lawn irrigation.

**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 proposed point of diversion and the Columbia River. The use of water should not significantly reduce the flow of the creek. The system design must include a shutoff. Water is not allowed to be diverted continuously when not in use. The applicant may want to evaluate the possibility of installing a storage tank near the diversion to be used for a settling tank prior to piping to the house.

The creek flows vary significantly between spring and summer. During late season, if the creek flow is below 10 gallons per minute, this authorization will be limited to in-house use only.

**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**

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 creek is available for single domestic supply, irrigation of 0.5 acres. 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:

0.02 cubic feet per second

0.5 acre-feet per year

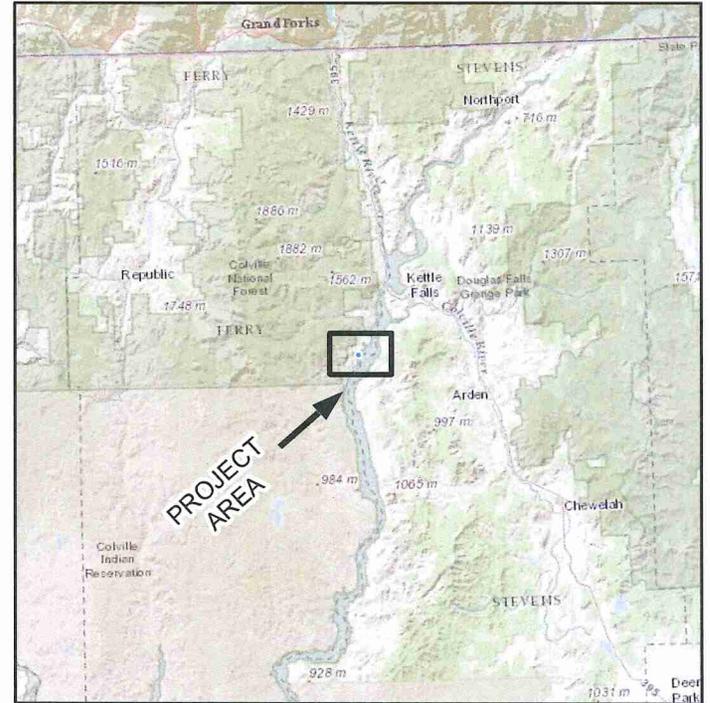
Single domestic supply and irrigation of 0.5 acres

  
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.*

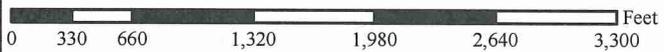
Gary Cotter  
 S3-30696  
 T35N/R37E



Basemap - (ESRI US Topographic Maps)

**Legend**

-  Authorized Place of Use
-  Townships
-  Sections
-  Authorized Point of Diversion



Basemap - (NAIP 2011 1m color)



Map Date: 12/6/2013



**Comment:**

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.