



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

February 9, 2011

Mr. James William Tills  
4766 County Road P43  
Fort Calhoun, Nebraska 68023

Re: Water Right Application No. S3-30542

Dear Mr. Tills:

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

Your application has been approved.

A permit will be issued consistent with the enclosed *Report of Examination for Change* after the appeal period has expired, if no appeals have been filed.

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.





S3-30542  
4460237

## State of Washington Report of Examination for Water Right Application

<b>PRIORITY DATE</b> 8/3/2007	<b>WATER RIGHT NUMBER</b> S3-30542
<b>MAILING ADDRESS</b> JAMES WILLIAM TILLS 4766 COUNTY ROAD P43 FORT CALHOUN, NEBRASKA 68023	<b>SITE ADDRESS (IF DIFFERENT)</b>

### Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.02	CFS	0.25

### Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		
	ADDITIVE	PRIMARY	UNITS	ADDITIVE	NON-ADDITIVE	PERIOD OF USE
In-house single domestic		0.02	CFS		0.25	01/01 - 12/31

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

### Source Limitations

SOURCE FACILITY/DEVICE	WITHDRAWAL OR DIVERSION RATE	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (IF SOURCE SPECIFIC)
BLACK LAKE	0.02 cfs	0.25 acre-foot	01/01 - 12/31

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

### Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Stevens	Black Lake	Colville River	59 Colville

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
BLACK LAKE	5614100		35N	41 E	03	GL 11	N.48.56479	W.117.62412

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

PARCELS (NOT LISTED FOR SERVICE AREAS)

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**

The north 330 feet of Govt Lot 11 of Section 3, T35 N., R. 41 E.W.M.

**Proposed Works**

Small pump in lake

**Development Schedule**

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
July 1, 2011	July 1, 2012	July 1, 2013

**Measurement of Water Use**

How often must water use be measured?	Weekly during use
How often must water use data be reported to Ecology?	Annually during development of the permit then upon request by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Peak Rate of Withdrawal (gpm or 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.

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

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://www.wdfw.wa.gov/reg/regions.htm>

**Water Use Efficiency**

Use of water under this authorization shall be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

**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 Application No. S3-30542, subject to existing rights and the provisions specified above.

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).

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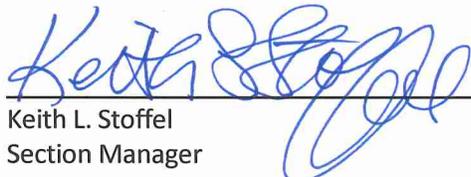
Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503  Pollution Control Hearings Board 4224 – 6th Avenue SE Rowe Six, Building 2 Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608  Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Please also send a copy of your appeal to:

Mr. Keith L. Stoffel  
Department of Ecology  
Eastern Regional Office  
4601 North Monroe Street  
Spokane, WA 99205-1295

*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> .*

Signed at Spokane, Washington, this 9th day of February, 2011.



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Keith L. Stoffel  
Section Manager  
Water Resources Program

KLS:KB:ka

INVESTIGATOR'S REPORT  
 Application for Water Right -- Tills  
 Water Right Control Number S3-30542  
 Department of Ecology

**BACKGROUND**

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Description and Purpose of Proposed Application

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Table 1 Application Summary

Attributes	Summary
Name	James William Tills
Priority Date	August 3, 2007
Instantaneous Quantity	0.02 cfs
Annual Quantity	0.25 af/yr
Purpose of Use	In-house single domestic supply
Period of Use	continuous
Place of Use	The north 330 feet of Govt lot 11, Section 3, T. 35 N., R. 41 E.W.M.

Table 2 Proposed Sources of Withdrawal or Diversion

Source Name	Parcel	Twn	Rng	Sec	QQ Q	Latitude	Longitude
Black Lake	5614100	35	41	3	GL 11	N.48.56482W.11762400	

Legal Requirements for Approval of Appropriation of Water

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RCW 90.03 authorizes the appropriation of public water for beneficial use and describes the process for obtaining water rights. Laws governing the surface water right permitting process are contained in RCW 90.03.250 through 90.03.340. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for water rights to be approved:

- Water must be available
- There must be no impairment of existing rights
- The water use must be beneficial
- The water use must not be detrimental to the public interest.

This report serves as the written findings of fact concerning all things investigated regarding Water Right Application Number S3-30542.

#### *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 area where the water is to be stored, diverted and used. Notice of this application was published in the Statesman Examiner during the weeks of May 13 and May 20, 2009. No protests were received.

#### *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 (RCW 77.57.020). No comments 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

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, claims, and applications in the vicinity; (3) USGS topographic maps; and (4) discussions with Department of Ecology regional program staff.

A field investigation was conducted by Gene Drury on July 14, 2009. Black Lake is located in the mountains about ten miles east of Colville, Washington.

## **BACKGROUND**

An application to appropriate public surface water was submitted by Mr. Tills to the Department of Ecology on August 3, 2007. The application was accepted and assigned Surface Water Application No. S3-30542. The applicant proposes to divert water from Black Lake in the amount of 0.02 cubic foot per second for continuous in-house single domestic supply. The proposed point of diversion is to be located within a portion of Government Lot 11, within the W½ of Section 3, T. 35 N., R. 41 E.W.M.

It was noted that the project had been completed. A small recreational cabin is on site. The application identifies the intent to construct a surface water pump to supply water to the cabin during summer recreational periods.

The applications that were investigated at Black Lake are for existing recreational cabins constructed on the lake. Some of these property owners have been diverting water from the lake for many years. According to the *"Lakes of Washington, Volume 2 of Eastern Washington"*, the volume of Black Lake is approximately 1890 acre-feet. Based on this fact and the minimal amount of water to be permitted for in-house domestic uses under this application and others (1 acre-foot or less is the total of all withdrawals permitted), it appears that water is available for appropriation.

The Colville River basin is managed under WAC 173-559. Black Lake flows into Gap Creek and into the Little Pend Oreille River. The Little Pend Oreille River and its tributaries are closed to further consumptive appropriations between June 1 to October 31, except that applications for single in-house domestic use may be approved if no alternate source of water supply is available and the proposed use will not impair existing rights.

Attempts have been made around the lake to construct ground water wells. These efforts have not been successful in many areas. The applicant attempted to construct wells in 2005. One well was constructed to a depth of 500 feet and another to a depth of 600 feet. Attempts were made to hydrofracture the wells. Both wells produced no water. There are no domestic water systems available to serve these lots. This proposed application together with the other applications are intended for in-house domestic supply for recreational use. It is likely the annual use may not exceed 0.1 acre-foot per year for each of these applications. Metering data will be reviewed and a water right certificate will be issued based on actual water use.

## **CONCLUSIONS**

It is the conclusion of this examiner that: (1) public surface water is available for appropriation for 0.02 cubic foot per second, 0.25 acre-foot per year, continuously, for in-house single domestic supply; (2) the water uses are beneficial uses, and the appropriation; (3) will not impair existing water rights; (4) nor will it be detrimental to the public welfare.

## RECOMMENDATIONS

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It is recommended that this application be **APPROVED** for 0.02 cubic foot per second, 0.25 acre-foot per year, continuously, for in-house single domestic supply.

### Purpose of Use and Authorized Quantities

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0.02 cfs

0.25 acre-feet per year

Continuous in-house single domestic supply

### Point of Diversion

2400 feet south and 2000 feet east of the NW corner of Section 3, being within Govt Lot 11, Section 3, Township 35 North, Range 41 E.W.M.

*Kevin Brown*  
Report Writer

*2/7/2011*  
Date

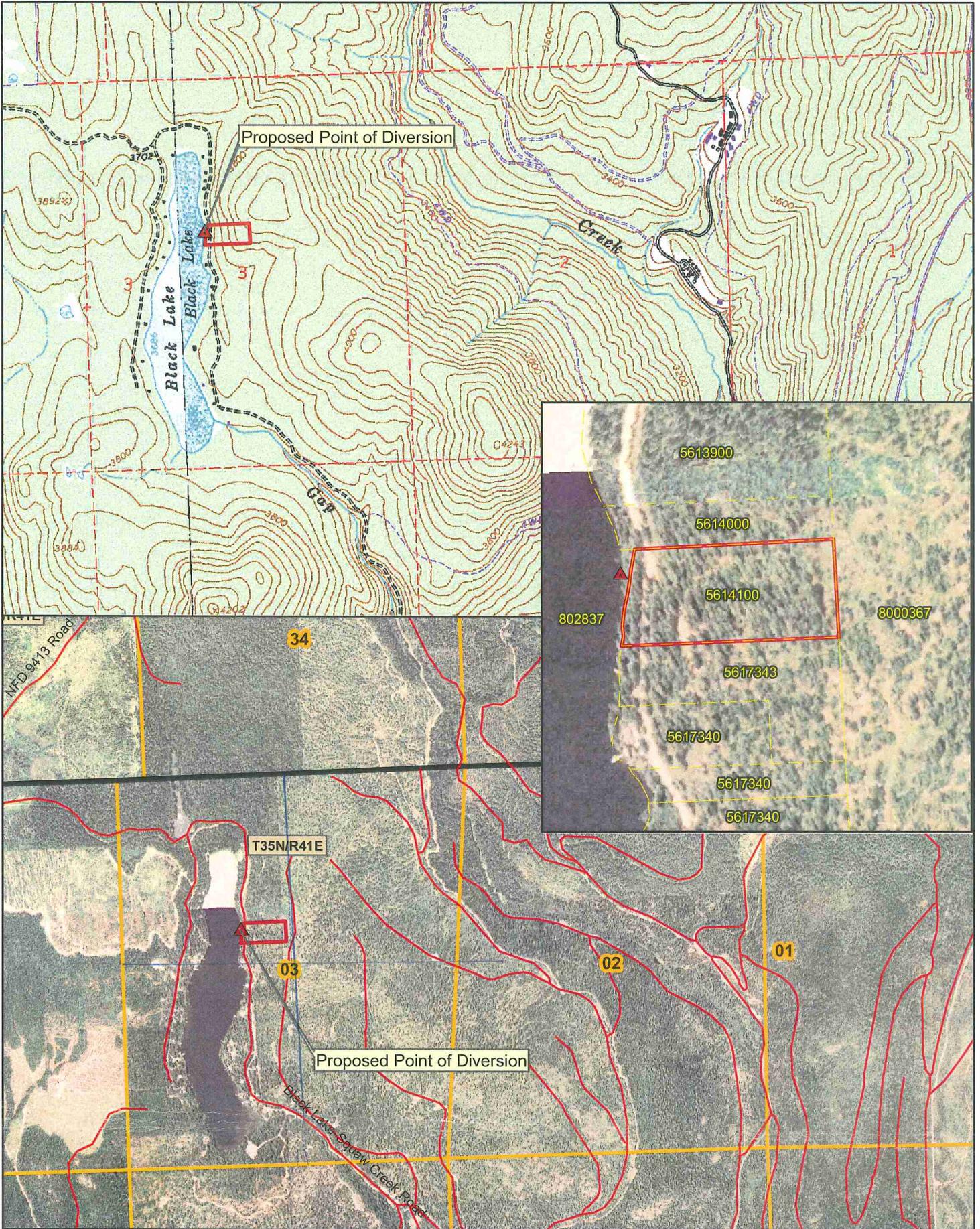
*If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*

### Selected References

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Map based on Application for a Water Right Permit Received 8/06/2007



**Legend**

- County Parcels
- Section
- Township / Range
- County
- WRIA
- Roads
- Proposed Point of Diversion
- Proposed Place of Use



Comments: