



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

*REPORT OF EXAMINATION  
To Appropriate Public Waters of the State of Washington*

PRIORITY DATE	APPLICATION NO.	PERMIT NO.	CERTIFICATE NO.
April 17, 1991	S1-26148		

NAME		
Kenneth & Karen Speck		
ADDRESS/STREET	CITY/STATE	ZIP CODE
P.O. Box 884	Eastsound, WA	98245

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE		
Unnamed stream		
TRIBUTARY OF (IF SURFACE WATERS)		
Strait of Georgia		
MAXIMUM CUBIC FEET PER SECOND (cfs)	MAXIMUM GALLONS PER MINUTE (gpm)	MAXIMUM ACRE FEET PER YEAR (ac-ft/yr)
0.01		0.25
TYPE OF USE, PERIOD OF USE		
Single domestic supply, year-round		

**LOCATION OF DIVERSION**

APPROXIMATE LOCATION OF DIVERSION					
1550 feet west and 3775 feet north from the SE corner of Section 17					
LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY
W1/2 NE1/4	17	37 N	1W	2	San Juan
PARCEL NUMBER					
171712004000					

**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED**

That Parcel shown as the "Speck Parcel" on the certain Record of Survey, recorded May 29, 1997, in Book 14 of Surveys, at page 81, filed under Auditor's File Number 97052907, records of San Juan County, Washington, being a portion of Government Lot 2 and of the Southwest Quarter of the Northeast Quarter of Section 17, Township 37 North, Range 1 West, W.M.

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities as established, declared and described by Easement Agreement, recorded August 13, 1968, in Volume 15, of Misc. Records, at page 254, under Auditors File No. 69432, records of San Juan County, Washington.

TOGETHER WITH AND SUBJECT TO a non-exclusive easement over, under and across the road right-of-way as shown as 'Key Drive' on the map and as declared and dedicated to the lot owners in the Dedication of Evergreen, a short subdivision.

Situate in San Juan County, Washington.

Attachment 1 shows the location of the authorized place of use and point of diversion

**DESCRIPTION OF PROPOSED WORKS**

The Speck water system consists of a 6' by 6' concrete collection box placed into the stream bed. Water infiltrates into the collection box through perforations in the side of the box. Collected water flows from the box through a 4" pipe to two 1200 gallon underground storage tanks. Water leaves these tanks and flows down-gradient through a 2" pipe to a 5000 gallon above-ground wood stave storage tank. From there water is piped through an ultraviolet purification system and carbon filter to a pressure tank that serves the Speck residence.

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**DEVELOPMENT SCHEDULE**

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BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
Complete	Complete	January 1, 2010

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**PROVISIONS**

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**METER INSTALLATION:** An approved measuring device shall be installed and maintained for the diversion identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC.

Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed in a document titled "Water Measurement Device Installation and Operation Requirements".

**RECORDING & REPORTING:** Water use data shall be recorded annually and maintained by the property owner for a minimum of five years, and shall be promptly submitted to the Department of Ecology upon request.

**AUTHORITY TO ACCESS PROJECT:** 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.

**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.

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**FINDINGS OF FACT AND ORDER**

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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, the purpose of use is beneficial, there will be no impairment of existing rights, and there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S1-26148, subject to existing rights and the provisions listed above.

You have a right to appeal this ORDER. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

**1. To file your appeal with the Pollution Control Hearings Board**

Mail appeal to:

The Pollution Control Hearings Board  
PO Box 40903  
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board  
4224 – 6th Ave SE Rowe Six, Bldg 2  
Lacey, WA 98503

**2. To serve your appeal on the Department of Ecology**

Mail appeal to:

Deliver your appeal in person to:

The Department of Ecology  
Appeals Coordinator  
P.O. Box 47608  
Olympia, WA 98504-7608

OR

The Department of Ecology  
Appeals Coordinator  
300 Desmond Dr SE  
Lacey, WA 98503

**3. And send a copy of your appeal to:**

Andrew B. Dunn  
Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Ave SE  
Bellevue WA 98008

*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 Bellevue, Washington, this 3rd day of September, 2008.

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Andrew B. Dunn, LG, LHG  
Section Manager  
Water Resources Program  
Northwest Regional Office

## **BACKGROUND**

### **Project Proposal**

Kenneth and Karen Speck own a home on 6.95 waterfront acres near Raccoon Point on the northeast side of Orcas Island. The Speck's have requested a surface water right for the diversion of 0.01 cubic feet per second (4.5 gpm) from a small unnamed stream on their property. Water emanates from a spring at the upper (southern) end of their property and flows steeply downhill through a small stream channel (and the Speck's collection box) to the Strait of Georgia. The Speck's water system serves their single-family home, including minor outdoor uses.

### **Legal Requirements for Application Processing**

Chapter 90.03 RCW authorizes the appropriation of public water for beneficial use and describes the process for obtaining water rights. Laws governing the water right permitting process are contained in RCW 90.03.250 through 90.03.340.

The following legal requirements must be met prior to processing a water right application:

- **Public Notice**  
Public notice of the application was published in *The Journal of the San Juan Islands* on May 29 and June 5, 1991. There were no written protests during the statutory 30-day protest period.
- **State Environmental Policy Act (SEPA)**  
The subject water right application is categorically exempt under SEPA WAC 197-11-305 and WAC 197-11-800(4) because the instantaneous diversion rate is less than one cubic foot per second.

## **INVESTIGATION**

In considering this application, my investigation included, but was not limited to, research and/or review of:

- Information supplied with the application
- The USGS Mount Constitution 7.5 minute topographic map
- Water Supply Bulletin No. 46, Geology and Water Resources of the San Juan Islands, Dept. of Ecology, 1975
- Notes from my site visit
- Records of existing water rights within the place of use
- Records of other water rights in the vicinity

### **Geographic Setting of the Place of Use and Point of Diversion**

The requested place of use and point of diversion are located on a hillside just east of Buck Mountain and north of Mount Constitution. The elevation of the place of use ranges from more than 400 feet above sea level down to sea level.

### **Geologic/Hydrogeologic Information**

The northeastern shoreline of Orcas Island (where the Speck property is located) is underlain by a Pennsylvanian Period bedrock formation. Water Supply Bulletin No. 46 described this formation as marine beds of stratified to massive andesitic pyroclastic rocks and volcanic sediments; chiefly breccia, and lapilli-tuff and dark siliceous tuff with interbedded limestone. Minor beds of well sorted shale, siltstone and greywacke, in part carbonaceous, are also present. The rocks in this formation strike northwest and generally dip to the southeast.

The water supply for the Speck stream comes from precipitation and surface run-off during the wet season and from a spring during the dry season. The spring source is primarily groundwater discharge from cracks in the bedrock formation. Mr. Speck reported the spring and stream flow year-round.

### **Site Visit**

On June 25, 2008, I met with Mr. Speck at his property. Mr. Speck showed me the location of his point of diversion, storage tanks, and piping system.

Based on my observations of the steep stream gradient and low flow rate, I do not believe the Speck stream is utilized by any fish species. The subject application received no comments from the Washington State Department of Fish & Wildlife.

## **Other Water Rights Appurtenant to the Place of Use**

The Speck's currently hold water right certificate S1-25507C, which is appurtenant to the subject place of use. This certificate (priority date of August 22, 1989) is for 0.01 cfs and 0.5 acre-feet per year (ac-ft/yr) for single domestic supply. The point of diversion is from the same stream (400 feet upstream) as the subject point of diversion. This certificate was issued primarily for outside use and inside use if needed. At the time the certificate was issued, the primary domestic supply for the Speck home was from a well that had production problems during the summer months. The Speck home is now served entirely from the point of diversion described in this report. The point of diversion for certificate S1-25507C is used exclusively for outdoor uses.

## **Other Water Rights in the Vicinity**

Section 17 has four other water right records listed in Ecology's water rights tracking database. Two are water right claims and two are water right certificates. Both of the water right claims were submitted by John Leonard. One is for groundwater (claim #160361) and the other is for surface water (claim #160362). The water source for these claims is more than ¼ mile away and is clearly in a different stream drainage. One of the certificates (S1-25741C) was issued to Gregory Nebecker. The water source for this certificate is a spring located approximately 1900 feet to the west of the Speck diversion within a different stream drainage. The other certificate (S1-25497C) was issued to Eugene & Phyllis Key. The point of diversion for this certificate is approximately 400 feet east of the Speck diversion and is also within a different stream drainage.

## **FINDINGS**

Under state law the following four criteria must be met for an application 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

## **Water Availability**

There are no regulatory closures or restrictions affecting water availability from the subject stream, therefore I find water is legally available for this appropriation. Mr. Speck (a long-time resident of the subject property) confirmed the spring-fed stream flows year-round, therefore I find water is physically available for this appropriation.

## **Impairment Considerations**

The Speck's are the only water users on the stream. Therefore, there will be no impairment of existing rights.

## **Beneficial Use**

Single domestic supply is considered to be a beneficial use under RCW 90.54.020(1). The instantaneous and annual quantities for this appropriation seem reasonable for the purpose and place requested.

## **Public Interest Considerations**

No potential for detriment to the public interest could be identified during the investigation of this application.

## **RECOMMENDATIONS**

Based on the above investigation and findings, I recommend the subject application be approved, within the limitations listed below, and subject to the provisions on page 2.

## **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:

- 0.01 cubic feet per second
- 0.25 acre-feet per year
- For single domestic purposes, year-round

## **Point of Diversion**

W½ NE¼, Section 17, Township 37 North, Range 1 West, W.M.

**Place of Use**

As described on page 1 and as shown in Attachment 1.

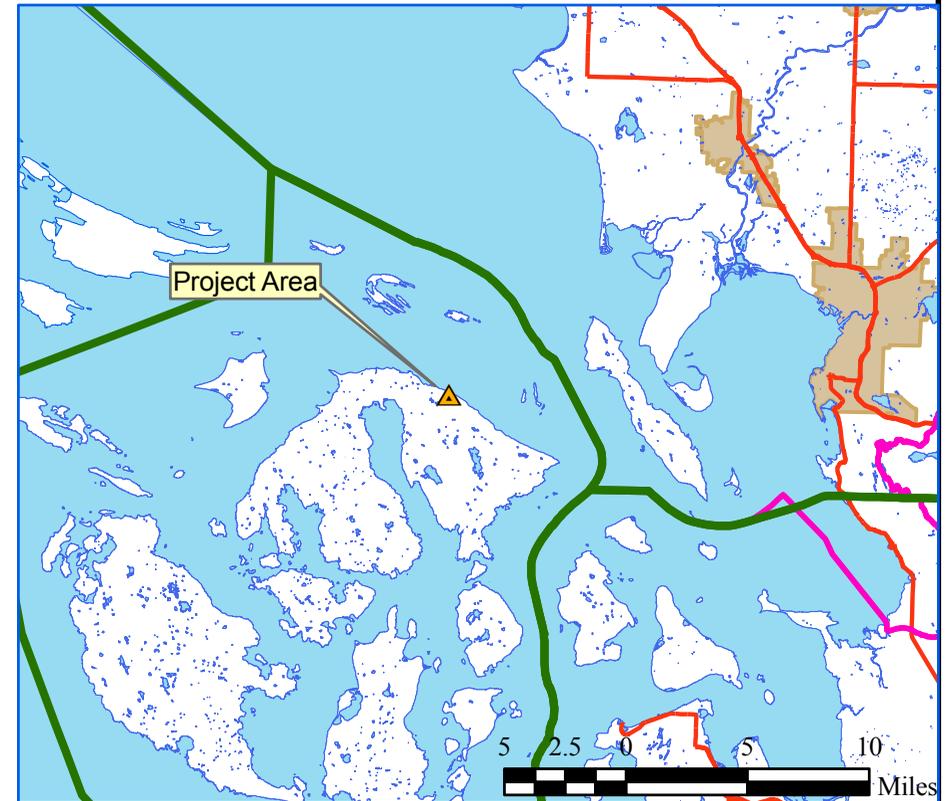
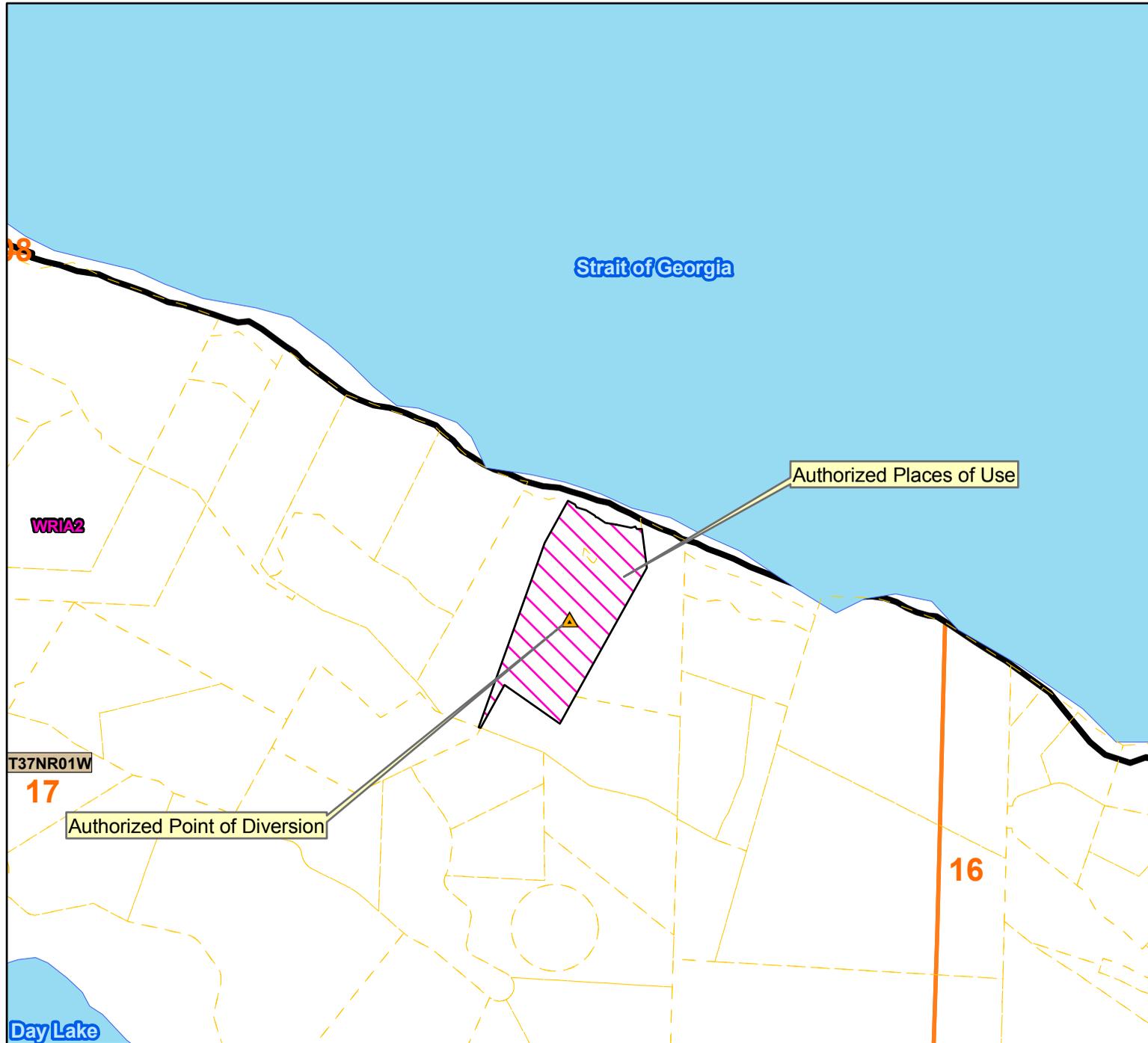
**CONCLUSIONS**

In accordance with chapter 90.03 RCW, I conclude there is water available from the source in question, the purpose of use is beneficial, there will be no impairment of existing rights, and there will be no detriment to the public interest.

Report by: \_\_\_\_\_ September 3, 2008 \_\_\_\_\_  
Buck Smith, LG, LHG Date

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Licensed Geologist/Hydrogeologist No. 1479

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**Legend**

-  County
-  WRIA
-  cities
-  Highways
-  Local Roads
-  Townships
-  Sections
-  Parcels
-  Authorized Point of Diversion
-  Authorized Place of Use

Place of use and point(s) of diversion/withdrawal are as defined on the cover sheet under the headings, 'LOCATION OF DIVERSION/WITHDRAWAL' and 'LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED.'

