



STATE OF WASHINGTON
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

File: S2-29071
WR Doc ID 2221704

PRIORITY DATE	WATER RIGHT APPLICATION NUMBER
July 20, 1994	S2-29071

NAME AND MAILING ADDRESS	SITE ADDRESS (IF DIFFERENT)
Michael & Katherine Leon 711 Riverside Drive Washougal, WA 98671	711 & 631 Riverside Drive Washougal, WA 98671

Total Rate and Quantity Authorized for Diversion	
DIVERSION RATE (cfs)	ANNUAL QUANTITY (ac-ft/yr)
0.02	0.70

cfs = Cubic Feet per Second; ac-ft/yr = Acre-feet per Year

Attention: Water Right Claim S2-126907CL filed by Louis La Rue in 1974 is associated with this property. Approval of this application will be non-additive to S2-126907CL.

Associated Water Right(s)			
DOCUMENT NUMBER	INSTANTANEOUS RATE (cfs)	ANNUAL QUANTITY (ac-ft/yr)	REMARKS
S2-126907CL	0.02 (10 gpm)	1.0	The amount of water that would be considered valid in an adjudication would be limited to what was in use prior to 1917. The validity of a claim can only be established through an adjudication.

Purpose(s)					
PURPOSE	DIVERSION RATE (cfs)		ANNUAL QUANTITY (ac-ft/yr)		PERIOD OF USE
	ADDITIVE	NON-ADDITIVE	ADDITIVE	NON-ADDITIVE	
Domestic-multiple	-	0.02	-	0.70	01/01-12/31

SPECIAL REMARKS:

Approval is based on in-house domestic use only for two residential connections (711 & 631 Riverside Drive).

Source Location			
COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Skamania	Unnamed Spring	Columbia River	WRIA 28 – Salmon-Washougal

SOURCE NAME	PARCEL	WELL TAG	TOWNSHIP	RANGE	SECTION	QQ Q	LATITUDE	LONGITUDE
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Unnamed Spring	01051120040000	N/A	1N	05E	11	SW NW	45.58752	-122.16411
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QQ.Q = Quarter Quarter Datum: NAD83/WGS84

Place of Use

PARCEL(S)
Skamania County Parcels: 01051120070000 (711 Riverside Dr) & 01051120070400 (631 Riverside Dr)

LEGAL DESCRIPTION OF THE AUTHORIZED PLACE OF USE

Lots 1 and 2 of the LaRue Short Plat in a Portion of Government Lot 1, Section 11, Township 1 North, Range 5 East, Willamette Meridian, Skamania County Washington – Tax Parcel No. 01051120070000 and 0105002007040

- Skamania County Tax Parcel: 01051120070400 – LOT 1 LARUE SP BK 2 PG 14
- Skamania County Tax Parcel: 01051120070000 – LOT 2 LARUE SP BK 2 PG 14

Proposed Works

An existing spring box captures water from an unnamed spring on Skamania County Tax Parcel 01051120040000. Wire fencing surrounds the unnamed spring and spring box. From the spring, water flows (gravity) through a 1-inch diameter PVC pipe to two 1,750-gallon storage tanks. Water is then pump to the residence at Lot 1 via a pressure tank, or pump directly to Lot 2.

Development Schedule

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	PUT WATER TO FULL USE BY THIS DATE
Started	January 1, 2024	January 1, 2026

Attention: These dates represent deadlines that must be met or risk cancellation of this authorization. Submittal of formal documentation for each stage is required. Extensions may be requested.

Measurement of Water Use

HOW OFTEN MUST WATER USE BE MEASURED AND RECORDED?	Annually
HOW OFTEN MUST WATER USE DATA BE REPORTED TO ECOLOGY?	Upon request by Ecology
WHAT QUANTITY SHOULD BE REPORTED?	Total annual quantity in acre-feet
WHAT RATE SHOULD BE REPORTED?	Annual peak rate of diversion in cfs

Progress Report **Due Date**

Meter Installation-Form 1 Submittal	August 1, 2023
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Provisions

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”, chapter 173-173 WAC, 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 (Ecology) for modifications to some of the requirements.

Water use must be recorded annually and maintained by the water right holder for a minimum of five years and must be promptly submitted to Ecology upon request.

Proof of Appropriation

Consistent with the development schedule given in this report (unless extended by Ecology), the water right holder must file a Notice of Proof of Appropriation (PA) of Water with Ecology. The PA documents the project is complete and all the water needed has been put to full beneficial use (perfected). In order to verify the extent of water use under this permit, an inspection of water use is typically required, known as a “proof exam”.

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.

Easement 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 change 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 Rights Represented by Water Right Claims

The water use authorized under this filing shall be considered non-additive to any water rights confirmed for S2-126907CL as a result of a general adjudication through Superior Court, should adjudication be undertaken.

Water Right Claims

This water right allocation includes quantities claimed under Water Right Claim S2-126907CL. Nothing in this approval shall be construed as lessening or enlarging any water rights represented by this claim.

Findings of Fact and Order

Upon reviewing the investigator’s report, I find all facts, relevant and material to the subject application, have been thoroughly investigated.

Therefore, I ORDER **APPROVAL** of Application No. S2-29071, 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 to 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
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Ste 301 Tumwater, WA 98501	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>.

Authorizing Signature

Signed at Olympia, Washington, this _____ day of _____, 2023.

Michael J Gallagher, Section Manager
Water Resources Program/Southwest Regional Office
Department of Ecology

INVESTIGATOR'S REPORT

Water Right Application No.: S2-29071 (Michael & Katherine Leon)

Investigator: Matthew Kogle, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S2-29071.

S2-29071 was filed on July 20, 1994 requesting a surface water diversion of 0.02 cfs from an unnamed spring for in-house domestic use for two residential connections (domestic-multiple).

Table 1. Summary of Requested Water Right

Applicant Name	Michael & Katherine Leon
Priority Date	July 20, 1994
County	Skamania
WRIA	28 – Salmon-Washougal
Water Source	Unnamed Spring
Tributary to	Columbia River
Place of Use	Lots 1 and 2 of the Larue Short Plat, Skamania County, Skamania County Tax Parcel: 01051120070000 & 01051120070400

Purpose	Instantaneous Rate (cfs)	Annual Quantity (ac-ft/yr)	Begin Season	End Season
Domestic-multiple	0.02	not specified	01/01	12/31

Source Name	Parcel	Well Tag	Township	Range	Section	QQ Q	Latitude	Longitude
Unnamed Spring	01051120040000	NA	01 N	05 E W.M.	11	SW NW	45.58752	-122.16411

WRIA = Water Resource Inventory Area; cfs = Cubic Feet per Second; ac-ft/yr = Acre-feet per Year; QQ Q = Quarter Quarter

Datum: NAD83/WGS84

INVESTIGATION

My evaluation of this application to change the point of diversion under Water Right CS2-SWC6835 included review of the following:

- Chapters 90.03, 90.44, and 90.54 RCW.
- Chapter 173-528 Washington Administrative Code (WAC), *Water Resources Management Program for the Salmon-Washougal Basin, WRIA 28*.
- *Salmon-Washougal and Lewis Watershed Management Plan*, Lower Columbia Fish Recover Board, Lead Agency, Counties of Clark, Cowlitz and Skamania, July 21, 2006.
- Information recorded in the Department of Ecology's Well Log database and Water Rights Tracking System (WRTS) database.

A site visit was conducted on September 28, 2022 to examine the existing infrastructure and to meet with the Leons.

Proposed Use and Basis of Water Demand

Site Description

The Leon parcels are located between Highway 14 and the Columbia River within the Columbia Gorge Scenic Area, about 12 miles east of the town of Washougal. Riverside Drive meanders and loops around this developed area. The area accessed by Riverside Drive consists of a variety of single-family residences that are used for both full time residence and vacation homes. With the exception of a couple lots, lot size tends to be one acre or larger.

The two Leon parcels are adjacent to each other, irregular in shape, and total approximately 5.4-acres (Parcel 0105112007000 – 2.9 acres and Parcel 01051120070400 – 2.5 acres). The land surface surrounding the properties has a hummocky slope from northwest to southeast. To the north, Highway 14 is at roughly 235 ft above mean sea level (amsl) and to the south is the Columbia River at approximately 13 ft amsl. On their respective lots, houses are situated on a relative flat portion of the property ranging between 170 feet and 180 feet amsl.

No surface water bodies are mapped on the Leon parcels.

WDFW's SalmonScape shows an unnamed ephemeral stream approximately 700 feet to the east of the subject spring. Additionally, Candiana Channel, a perennial stream, is located approximately 1925 feet to the southwest. Both are tributaries to the Columbia River. The northern shoreline of the Columbia River is approximately 900 feet to the south.

Water System Description

The existing surface water diversion, point of diversion (POD), is located on the Skamania County Parcel 01051120040000. This parcel, located north of the Leon parcels, is developed with a single-family residence and is currently owned by the Hopmeiers. The POD is located in a forested area roughly 130 feet north of the Leon's northern property line.

The POD consists of a spring box with an 8-foot diameter concrete pad. A 20 inch diameter fiberglass sump is located in the center of the concrete pad. The base of the fiberglass sump is lined with clean sand. Wire fencing surrounds the POD. A gravity fed 1-inch diameter PVC pipe with wire mesh screen connects the spring box to two linked 1,750-gallon storage tanks located on Lot 2. Water from the southern storage tank is pumped to an adjacent pump house housing a pressure tank. The pressure tank is plumbed to the residence on Lot 1 (Leon's rental property). The northern storage tank is equipped with a pump and is plumbed to the residence on Lot 2 (Leon's residence). Overflow from the two storage tanks discharges approximately 250 feet east of the storage tanks.

Legal access to the POD is by means of a deeded access agreement between the Leons and the Hopmeiers (current owners of Skamania County Parcel 01051120040000).

History of Water Use

The applicant asserts water was first used on the original homestead. In the 1970's, the original homestead parcel was sub divided into three lots, the LaRue short plat. The original homestead was located in the southeast corner of Lot 1 of the LaRue short plat. Following the short plat, water use continued on Lots 1 and 2.

When Michael Leon purchased Lot 2, water was being used at a mobile home on the property. In 1995 the mobile home was removed when the Leon's built the current residence and took occupancy. At the same time, new water tanks (two 1,750 gallon storage tanks), pumps, pressure tanks, and plumbing were installed.

In 2005, Michael and Katherine Leon purchased Lot 1 and demolished the original homestead.

In 1993, the Leons drilled a well to serve Lot 2. Since drilled, the well has not been used due to high mineral content, turbidity, and low production rate. The well is equipped with a pump and acts as a backup water supply in the case of an emergency.

Proposed Use

The proposed water use is for multiple domestic supply for two residences for in-house use only. Based on 0.01 cfs for 2 connections, the maximum instantaneous quantity is 0.02 cfs. Estimating a maximum daily average of 300 gallons per day (gpd) per connection, an annual quantity of 0.70 ac-ft/yr is appropriate.

Other Rights Associated with Project or Place of Use

Claim S2-12690CL is appurtenant to the proposed place of use. Louis La Rue filed S2-12690CL in 1974 claiming pre-code use for domestic supply from an unnamed spring with a date of first use of prior to 1917. The face of the claim specifies an instantaneous quantity of 10 gallons per minute (0.02 cfs) and 1 acre-foot per year. The development history and information provided by the applicant indicates this water use was associated with the original homestead and water use was for domestic supply to a single residence.

Only an adjudication can confirm the validity of this claim. That said, the extent of valid use under this claim would be limited to use prior to 1917, provided such use was continuous and did not relinquish from non-use. Any amount considered valid would be non-additive to the quantity authorized under the subject application.

Site Conditions

The Leon parcels are situated in the Columbia River Gorge at the foot of bluffs overlooking the Columbia River. The land surface is relatively hummocky, composed largely of landslide deposits (Phillips, 1987). These landslide deposits typically consist of colluvium, unconsolidated silts/clays, sands, and gravels and basalt rock.

The springs, which serve as the source for the subject application, occur where permeable zones situated between layers of flood basalts are exposed at the ground surface. The subject spring is one of many unnamed springs scattered throughout the area lining the bluffs above the Columbia River Gorge.

Site Visit

A site visit was conducted September 28, 2022 to meet with Michael Leon, observe current site conditions during a relatively dry period of the year, and to document the existing water system. The POD is in a wooded area consisting of second and third growth conifer and deciduous trees. The understory and groundcover consisted of native and non-native species.

Flowing water was not observed on the ground surface. Although, areas surrounding the POD were saturated. Water within the sump was just below the surrounding ground elevation. As water upwells from the base of the sump, water flows to the two holding tanks. When the holding tanks are full, overflow discharges to an unnamed ephemeral stream (not mapped) channel located to the north of Lot 2.

ANALYSIS

Under Washington State law (RCW 90.03.290), each of the following four criteria must be met for an application for a new water right permit to be approved:

- Water must be available for appropriation.
- Water diversion and use must not cause impairment of existing water rights.
- The proposed water use must be beneficial.
- Water use must not be detrimental to the public interest (public welfare).

Water Availability

For any new appropriation, water must be both physically and legally available.

Physical Availability

For water to be physically available for appropriation, water must be present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. An analysis of physical availability is required for both surface water and groundwater applications.

Based on historical use of water from the unnamed stream, water is physically available for appropriation.

Legal Availability

To meet the legal availability test, the proposed appropriation may not divert and use water that is already “spoken for”, such as water from sources that are protected by administrative rule or court order.

The proposed surface water diversion is in the Columbia River Tributaries subbasin of Water Resource Inventory Area (WRIA) 28 – Salmon-Washougal. Instream flows have been established for this watershed under the provisions of chapter 173-528 Washington Administrative Code (WAC). Specifically, all surface waters in the Columbia River tributaries subbasin from the Columbia River to headwaters, including tributaries are closed to future consumptive appropriations, as outlined in Table III of WAC 173-528-070. Although, WAC 173-528-070 (3) states “*Applications for a withdrawal that would not affect the closed reaches, listed in Table III, shall be evaluated on a case-by-case basis under applicable law.*”

The subject spring in this application, is one of many that discharge between permeable inter beds found between the layers of basalts that form the bluffs above the Columbia River. While some springs may coalesce to form surface streams eventually making their way to the Columbia River, most do not. These springs are primarily diffuse seeps that saturate the soil and provide little to no subsurface flow to the Columbia River. Because they do not contribute to flows to a tributary or to the mainstem of the Columbia River, the proposed surface water diversion will not have an adverse impact and be contrary the intent of this chapter 173-528 WAC. Therefore, it is determined that water is legally available to appropriate for in-house domestic use only.

Impairment

In analyzing impairment, Ecology must make a determination as to whether existing water rights, including adopted instream flows, may be impaired by the diversion and proposed use.

A search of Ecology’s Water Rights Tracking System (WRTS) database for surface water permits, certificates, and claims within a half-mile radius showed the following:

- Four surface water certificates for domestic supply and irrigation. These total 0.08 cfs and 5 ac-ft per year.
- Ten surface water claims for water use from springs and streams for domestic supply and irrigation.

The springs and streams in the area originate from diffuse seeps that bleed off the hillside and are not hydraulically connected to the spring in the subject application. As such, other users are not expected to be impaired by approving the subject application.

Beneficial Use

The proposed appropriation must be for a beneficial use of water.

Multiple connections (two) for in-house domestic use is considered a beneficial use of water under RCW 90.54.020(1).

Public Interest

The diversion and associated use must not be detrimental to the public interest. At a minimum, the following are considered when making this assessment.

Notification to the Washington Department of Fish and Wildlife

Per RCW 90.03.280 and 77.57.020, Ecology must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw, use, or store water.

WDFW was provided notice of this water right application on March 8, 2021. On January 18, 2022, Steve Boessow with WDFW provided a letter stating:

“Based on impacts to fish and/or wildlife and the habitat they rely on, and pursuant to 77.57020 RCW, WDFW does not oppose the issuance of this application. It is presumed that there are no fish in the spring. This spring is less than 700 feet from the Columbia River. The river is inhabited by numerous fish species, including ESA listed salmon. There is not surface connection between the spring and the river.”

State Environmental Policy Act (SEPA)

Under chapter 197-11 WAC, a water right application is subject to a SEPA threshold determination (i.e., an evaluation of whether there will be significant adverse environmental impacts) if any of the following conditions are met:

- It is a surface water right application for more than 1 cfs, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cfs, so long as that irrigation project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gpm;
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- 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);
- 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.

Considering that none of the above conditions are met, the application under review is categorically exempt from a SEPA threshold determination.

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 twice in the Skamania County Pioneer. The first public notice was advertised on January 31, 1996 and February 7, 1996 and the second public notice was advertised on May 11, 2022 and May 18, 2022.

No protests to this water right application were received.

Consideration of Comments [Delete section if no comments received from draft ROE posting]

The Department of Ecology received comments from the following party(ies):

Commenter	Date of Comment	Summary of Comment

Other Public Interest Concerns

The WRIAs 27 and 28 Watershed Management Plan describes the Columbia River Tributaries as a drainage area of approximately 85 square miles of relatively small spring-fed creeks. Development in this area is low and there are no extensive major water users. Additionally, the area is developed with various small communities and there is no larger public water system available to provide service these communities. Approval of this application does not conflict with the goals and recommendations of WRIAs 27 and 28 Watershed Management Plan.

Based on the location and the characteristics of the subbasin, it is not detrimental to the public interest to approve this application for in-house domestic supply.

Conclusions

I find that:

- Water is physically and legally available.
- The appropriation will not impair existing rights.
- The proposed domestic multiple use is a beneficial use.
- Approval of this application will not be detrimental to the public interest.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend this request for a water right be **APPROVED** in the amounts and within the limitations listed below and subject to the provisions listed above.

Recommended Quantities, Purpose of Use, and Project Location

The rate and quantity of water recommended are maximum limits. The permit holder may only divert water at a rate and quantity within the specified limits that are reasonable and beneficial:

Table 2. Recommended Limits and Location

Maximum Instantaneous Rate (cfs)	0.02
Maximum Annual Quantity (ac-ft/yr)	0.7, non-additive to existing rights
Purpose(s) of Use	Domestic-multiple
Point of Diversion	SW ¼, NW ¼, Section 11, Township 1 North, Range 05 E W.M.
Place of Use	As described on Page 1 of this Report of Examination

Report Writer

Date

To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. Persons with impaired hearing may call Washington Relay Service at 711. Persons with speech disability may call TTY at 877-833-6341.

References

Mickelson, K. A. et. al., July 2018, Landslide Inventory and Susceptibility of the Columbia Gorge in Clark, Skamania, and Klickitat Counties, Washington, Washington Geological Survey, Report of Investigation 40.

Norman, D. K. and Roloff, J. M., March 2004, *A Self-Guided Tour of the Geology of the Columbia River Gorge – Portland Airport to Skamania Lodge, Stevenson, Washington*, Washington Division of Geology and Earth Resources, Open File Report 2004-7.

Phillips, William M., 1987 (Revised Nov. 1987), *Geologic Map of the Vancouver Quadrangle, Washington and Oregon*, Washington Division of Geology and Earth Resources, Open File Report 87-10.

Skamania County Washington Geographic Information System, 2022, Self Service Government MapShifter, Retrieved from <https://skamaniawa-mapsifter.publicaccessnow.com/defaultHTML5.aspx>.

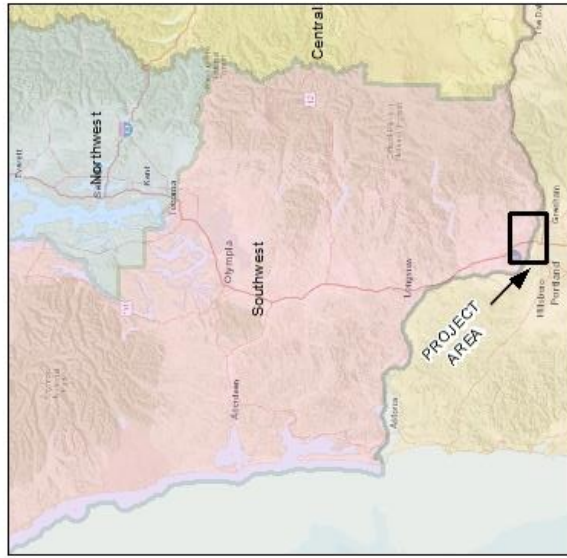
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Washington State Department of Ecology, 2022. [Interactive web map displaying all records within the Well Log database]. *Washington State Well Log Viewer*. Retrieved from <https://fortress.wa.gov/ecy/waterresources/map/WCLSWebMap/default.aspx>.

Washington State Department of Ecology, 2022. [Interactive web map displaying all records within the Water Right Tracking System database]. *Washington State Water Resource Explorer*. Retrieved from <https://fortress.wa.gov/ecy/waterresources/map/WCLSWebMap/default.aspx>.

ATTACHMENT 1

Michael and Katherine Leon
 S2-29071
 T01N/R05E 11 SW NW
 WRIA 28 - Skamania County



Legend

-  Authorized Place of Use (In-house only)
-  Authorized Point of Diversion
-  Townships
-  Sections



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.



WRIA 28 - Skamania County
 ECOLOGY