



State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE 04/23/1998	WATER RIGHT NUMBER S2-29469
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MAILING ADDRESS STEPHEN STUDLEY 1003 NW 62 ND ST VANCOUVER WA 98663	SITE ADDRESS (IF DIFFERENT) 23 WALDEN ISLAND SILVERLAKE WA 98645
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Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.02	CFS	0.34

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Domestic single	0.02		CFS	0.34		01/01 - 12/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
COWLITZ	SILVER LAKE	OUTLET CREEK	26-COWLITZ

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
SILVER LAKE	WF0320018	09N	01W	03	NW NE	46.2973	-122.7908

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

WF0321001 and WF0321002

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lots 22 and 23, SECOND SUBDIVISION, WALDEN ISLAND, SILVER LAKE, according to the plat recorded in Volume 10 of Plats, Page 44, records of said county.

Proposed Works

A screened surface-water intake pipe and pump serving a single residence.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
STARTED	February 1, 2020	February 1, 2022

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 (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.

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.

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

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/>

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. S2-29649, 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p> <p>Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p> <p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

Signed at Olympia, Washington, this day of 2018.

Michael J. Gallagher, 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>.

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S2-29649.

Table 1 Summary of Requested Water Right

Applicant Name:	Mark Fleischauer
Date of Application:	04/23/1998
Place of Use	Lots 22 and 23, SECOND SUBDIVISION, WALDEN ISLAND, SILVER LAKE, according to the plat recorded in Volume 10 of Plats, Page 44, records of said county.

Source	Tributary To	WRIA	County
Silver Lake	Outlet Creek	26-Cowlitz	Cowlitz

Purpose	Diversion Rate	Annual Quantity	Period of Use
Single domestic supply	0.02 cubic feet per second	0.34 acre-feet per year	Year-round, as needed

Source Name	Parcel	Township	Range	Section	QQ Q	Latitude	Longitude
Silver Lake	WF0320018	09N	01W	03	NW NE	46.2971	-122.7921

Legal Requirements for Approval of Appropriation of Water

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

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 Daily News* of Cowlitz County on April 28th and May 5th, 2018. No protests or letters of concern were received in response to this notice.

Consultation with the Department of Fish and Wildlife

The Department must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. Ecology received comments from WDFW regarding diversions from Silver Lake.

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

The following material was reviewed in support of this application:

- The State Surface Water Codes, administrative rules, and policies
- Department of Ecology's Water Right Tracking System database
- Topographic, geologic, and local area maps
- Notes from site visit conducted on December 12, 2017
- 2004 Grays-Elochoman and Cowlitz Watershed Management Plan
- 2014 WRIA 26 Water Supply and Stream Flow Review

Location and Project Area Description

This application was filed for an existing single-family residence on a waterfront lot near the west end of Walden Island (see Attachment 1) at Lots 22 and 23. The residence is situated on Lots 22 and 23.

Silver Lake is located approximately four and a half miles west of the city of Castle Rock in Col County, within the Cowlitz Water Resource Inventory Area (WRIA 26). The lake drains to Outlet Creek which empties into the Toutle River.

The lake drains an area of approximately 40 square miles. The outlet stream from Silver Lake is one of several main tributaries of the Toutle River. Below the lake, there are three documented culverts that form a barrier to the migration of anadromous fish (SalmonScape, 2017).

Silver Lake is situated in a low valley formed by erosion into Tertiary basalt and sedimentary rocks with a maximum depth of 10 feet. The lake sits along the contact between the sedimentary rocks to the north and the basalts to the south.

The lake shore is generally moderately developed on the north half with single-family residences and vacation cabins. The level of development decreases rapidly away from the lakeshore such that the hills surrounding the lake are mostly forested.

Walden Island is heavily developed with single-family homes relative to the size of the island. The whole island is 35 acres, but only the southwest 15 acres has land suitable to build upon and is where the houses are concentrated. The island is subdivided into 53 separate lots.

Proposed Use and Basis of Water Demand

This application requests 0.02 cfs to supply a proposed single-family residence. An annual quantity of 0.34 acre-feet per year is sufficient for in-house single domestic supply. This amounts to an average use of approximately 300 gallons per day.

Water Rights Appurtenant to the Place of Use

There are no other rights that are appurtenant to the place of use.

Beneficial Use

The use of water for domestic purposes is defined in statute as a beneficial use (RCW 90.54.020(1)).

Water Availability

For water to be available for appropriation, it must be both physically and legally available.

Physical Availability

The actual consumptive use of water is nearly insignificant compared to the volume of water in the lake due to the fact that 85 to 90 percent of the water diverted is returned back to the lake through septic systems.

Legal Availability

Silver Lake and the Toutle River are open to new appropriations. Furthermore, there are no Surface Water Source Limitations or instream flow rules for these water bodies.

Impairment Considerations

Impairment is an adverse impact on the physical availability of water for a beneficial use that is entitled to protection. A water right application may not be approved if it would interrupt or interfere with the availability of water at the authorized point of diversion of a surface water right. A surface water right

conditioned with in-stream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the in-stream flow more frequently or for a longer duration than was previously the case.

Existing Rights on Silver Lake

The Department of Ecology's Water Rights Tracking System (WRTS) database shows the following records of surface water use from the Summit Lake sub-basin:

- 5 water right certificates authorizing a total diversion of approximately 0.21 cfs and 127.2 acre-feet per year from Summit Lake. Three of these water rights are for domestic use and the remaining two are for fire protection/irrigation.
- 25 surface water right claims listing Silver Lake as the source are recorded.

Actual consumptive use of water from Silver Lake is considerably less than the amount represented by water rights. The majority of water used enters septic systems. This is especially true for authorizations that are restricted to in-house use. The vast majority (approximately 85 to 90 percent) of water entering septic systems becomes recharge to either Silver Lake. Also, many residences at Silver Lake are vacation or weekend cabins and are used only part-time or seasonally.

In-stream Flow Considerations

There are no established in stream flow rules in WRIA 26. Rulemaking was initiated but was subsequently halted and has not been restarted.

Public Interest Considerations

The WRIA 26 Watershed Planning Unit voted on a watershed plan in 2004 and it was adopted by Ecology. The watershed plan was amended in 2014 using public feedback on the original plan. Single-domestic usage of water from Silver Lake is not inconsistent with the WRIA 26 watershed plan.

Fisheries and In-stream flow Considerations

Washington Department of Fish and Wildlife (WDFW) provided comments on this application.

Steve Boessow of WDFW does not oppose the issuance of water rights on Silver Lake for single-domestic use. He also states that this application is consistent with agreements made in the 2014 watershed plan amendment.

Investigation of alternatives

There is no public water system on the island due to many factors. The main factors are surface water treatment for a Group A system is cost prohibitive for the residents, unfavorable geology on the island for a reliable water well, the complicated nature of getting a drill rig to the island, and finding a location on the island that meets all the required setbacks for a water well.

Consideration of Protests and Comments

No protests were filed against this application.

CONCLUSIONS

- Water is available from Silver Lake for in-house single domestic use.
- Domestic supply is a beneficial use.
- The proposed appropriation, as recommended, will not impair existing rights.
- The appropriation, as recommended, will not be detrimental to the public interest.

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 on pages 2 and 3 of this report.

Purpose of Use and Authorized Quantities

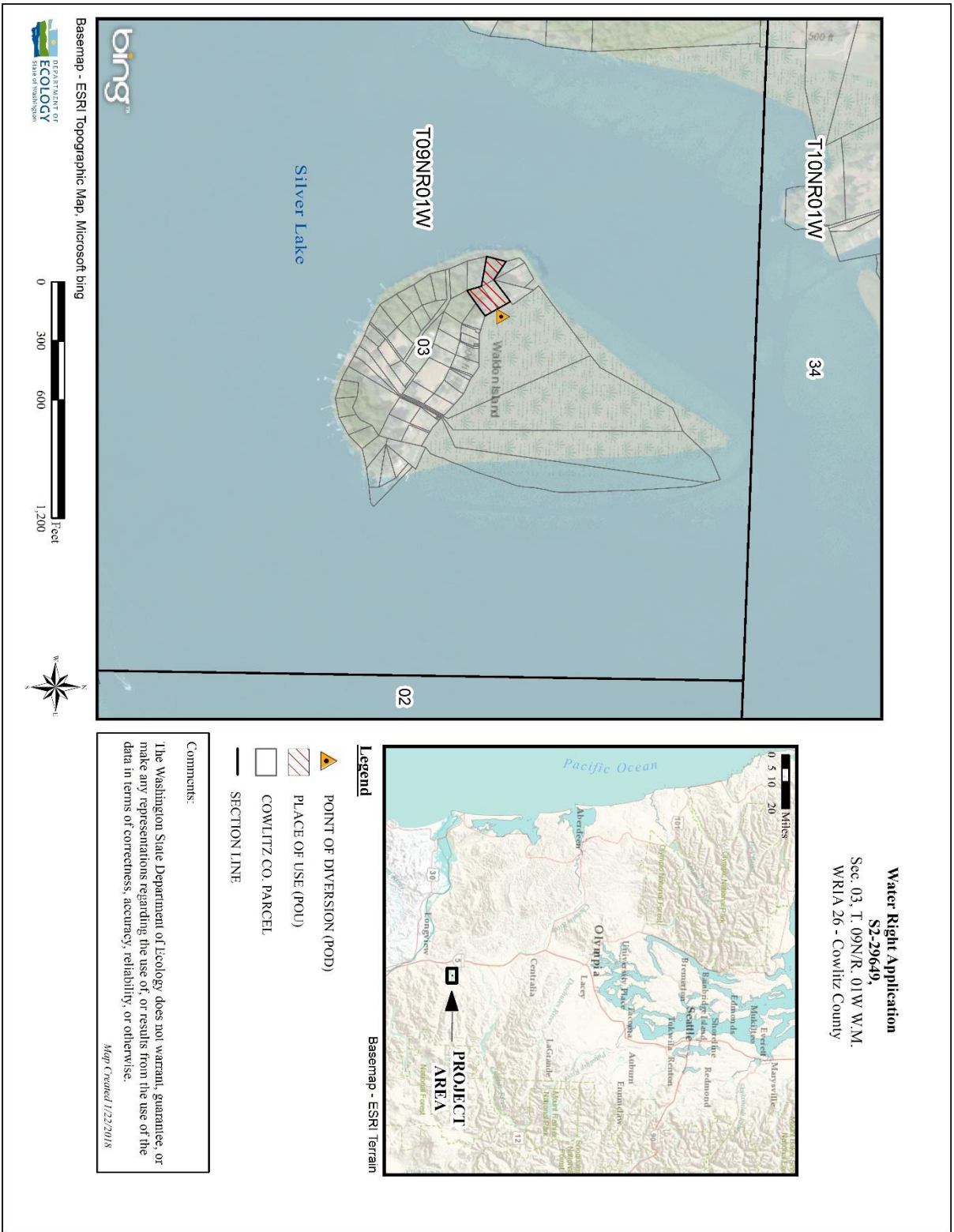
The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

- 0.02 cfs
- 0.34 acre-feet per year
- Single domestic supply
- Point of Diversion: NW¼, NE¼, Section 3, Township 09 North, Range 01 W.W.M.
- Place of Use: As described on page 2 of this Report of Examination

Report Writer

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.



Water Right Application
S2-29649,
 Sec: 03, T. 09N/R. 01W W.M.
 WRIA 26 - Cowlitz County

- Legend**
- POINT OF DIVERSION (POD)
 - PLACE OF USE (POU)
 - COWLITZ CO. PARCEL
 - SECTION LINE

Comments:

The Washington State Department of Ecology does not warrant, guarantee, or make any representations regarding the use of, or results from the use of the data in terms of correctness, accuracy, reliability, or otherwise.

Map Created 1/22/2018