

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

<b>PRIORITY DATE</b> 3/27/2014	<b>WATER RIGHT NUMBER</b> G1-28772
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<b>MAILING ADDRESS</b> WOODINVILLE WATER DISTRICT POST OFFICE BOX 1390 17238 WOODINVILLE DUVALL ROAD WOODINVILLE WA 98072	<b>SITE ADDRESS (IF DIFFERENT)</b>
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### Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
500	GPM	84

### Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Municipal (Emergency/ Standby)	500			84		up to 90 days

**REMARKS**  
This is to be used as an Emergency Source for use only during a declared emergency if existing municipal supply sources are destroyed or compromised.

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
0	0	41600Y	16,944

### Source Limitations

SOURCE	A/S	WITHDRAWAL OR DIVERSION RATE	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (mm/dd)
Well 1	S	130	25	up to 90 days
Well 2	S	500*	84*	up to 90 days

\* Full quantity is Conditional (see Provision 2); A=Alternate/S=Standby/Reserve

### Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
KING	GROUNDWATER		8-CEDAR-SAMMAMISH

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE*	LONGITUDE
Well 1	0126059022	BIS-301	26N	05E	01	SE SE	47.7629°N	122.1083°W
Well 2	0126059022	BIS-302	26N	05E	01	SE SE	47.7627°N	122.1083°W

\*Air Photo Based Estimate

Datum: NAD83/WGS84

### Place of Use (See Attached Map)

#### LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

The area immediately surrounding Wells 1 and 2 located at the Woodinville Water District Offices in the SE¼, SE¼, Section 1, Township 26 North, Range 5 E., W.M.

### Proposed Works

The applicant intends to operate the wells only if the existing water system has been rendered inoperable due to catastrophic failure. In such case, the wells will be operated by an on-site diesel generator capable of powering the 500 gpm pump on the 12-inch well and the 130 gpm pump on the 6-inch well. Both wells will be used to dispense water on site and are intended to operate at a combined rate of no greater than 500 gpm.

### Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	August 31, 2021	Status review by August 31, 2068

### Measurement of Water Use

How often must water use be measured?	Monthly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or cfs)

### Provisions

#### 1. Water Allocation:

- a) The total combined Instantaneous Quantity (Qi) from all sources authorized under this permit shall not exceed 500 gallons per minute (gpm).
- b) The total combined Annual Quantities (Qa) from all sources authorized under this permit shall not exceed 84 acre-feet per year (ac-ft/yr).

- i. It is noted that this quantity may be exceeded if an emergency were to cause a supply disruption lasting in excess of 90 days, however, written notification by the applicant to Ecology is required before operations can exceed 90 days.
- c) The authorized place of use shall be the same as the location of the point of withdrawal, meaning that water from emergency sources shall be distributed from the well site.
- d) The permit shall be issued for an indefinite period due to the nature of the allocation.
- e) A certificate of water right can be issued, but may only be done so for the quantity of water that has been withdrawn and applied to actual beneficial use.
  - i. Such quantity applied to actual beneficial use shall not exceed the quantity specified in this report of exam and will be calculated on the basis of the best information available to Ecology, including metering data and/or water duty analysis. The applicant is advised that the quantity of water allocated by this permit may be reduced at the time of final certification to reflect system capacity and actual usage.
  - ii. A water right certificate shall not be issued until a final investigation has been made.

**2. Well 2 Production Testing and Video Scanning:**

Prior to production testing of Well 2 the Instantaneous quantity ( $Q_i$ ) for the permit should be limited to the 130 gpm and the limit for annual quantity (90 day) limited to 25 ac-ft/yr. Production testing of Well 2 must be completed prior to September 1, 2021.

Upon completion of production testing a technical memo detailing the testing, and including discussion of sustainable production pumping capacity of the well shall be submitted to Ecology along with a completed Notice of Completion of Construction.

Upon Ecology review of the technical memo submitted by the permit holder, Ecology shall determine the final Authorized Instantaneous Quantity ( $Q_i$ ), which shall not exceed 500 gallons per minute (gpm) and 84 acre-feet per year (ac-ft/yr) for no more than 90 days in any one year for all wells used.

The applicant has indicated that it desires to include video scanning of Well 2 prior to Well 2 production. If video scanning is accomplished prior production testing, the technical memo must include a summary of what the video finds, but the video will not be a mandatory requirement for this permit.

**3. Permit is issued for Emergency Water Use Only:**

- a) This permit shall be issued for Standby-Reserve use only. Use of the sources described in the permit may only occur pursuant to catastrophic events that disrupt, compromise, damage, or otherwise affect existing public water supplies and related transmission, distribution, storage, fire flow, and treatment facilities in a manner that risks the public health and safety of local and transient populations.

- b) Authorization for emergency use does not extend to water shortages caused by drought conditions, or to emergency conditions that may be effectively relieved through use of emergency water interties. Inadequate water rights for a public water system to serve existing hook-ups or to accommodate future population growth or other future uses do not constitute a public health or safety emergency.
- c) Emergency supply sources may not be used to circumvent the water right permitting process, nor used for any beneficial uses that occur outside the context of an actual emergency event (described above).
- d) Emergency source water may only be put to beneficial use in lieu of water supplies and/or sources that are unavailable due to emergency conditions.
- e) Identification and intended use of emergency water sources should be clearly documented by public water systems within Comprehensive Water System Plans, Small Water System Plans, and/or Emergency Response Plans prepared consistent with applicable State Board of Health requirements, Department of Health statutes, guidelines, and regulations, and federal law.
- f) Periodic testing of the sources is authorized only between November 1<sup>st</sup> and April 30<sup>th</sup> so long as water produced during testing is routed to stormwater drains or to a nearby surface water pond or lake, thus water consumption. Testing water should not be disposed of in creeks in order to avoid scouring of stream channels.

**4. Emergency Water Source(s) use may only occur pursuant to:**

- a) Governor's Emergency Declaration;
- b) Determination of a local (government) Incident Response Commander or other authorized local official(s) that emergency conditions have so damaged or compromised existing water supplies and/or related facilities, as well as access to and use of emergency interties (if existing), that public health and safety are at risk, and thereby warrant the use of emergency water source(s).
- c) Incident Response Commanders or other officials responsible for authorizing emergency source use should notify the appropriate regional offices of the Department of Ecology and the Department of Health prior to authorizing use of an emergency source. If such contact is not feasible, notice should be provided as soon as possible thereafter.
- d) Emergency water source use should occur only within the service area of the local government and/or public utility.

**5. Duration of Emergency use:**

- a) The time duration for the use of emergency water sources will vary according to the severity of the emergency event and resulting condition(s), the response and recovery capability of public water systems and local governments, and the status of public health and safety risks and conditions.
  - i. If emergency use extends beyond 90 days, the permit holder must inform the Northwest Regional Office of the Water Resources Program in writing, providing an

explanation of the reasons for continued use and the steps being taken to remedy the situation.

- b) When the water supply emergency no longer exists, use of emergency water sources should be immediately terminated and the Department of Ecology and Department of Health so notified.
- c) The public water system officials should prepare a report consistent with Department of Health guidelines documenting the volume of water consumed, the quality of the water produced, the manner in which the water was used and/or consumed, and the reliability and ability of the emergency sources in meeting emergency need(s). This report should be submitted to the Department of Ecology and the Department of Health within 3 months after formal termination of locally or state declared emergency conditions.

#### **6. Special Conditions**

- a) Water produced from emergency sources shall be distributed from the site of the source and may not be distributed elsewhere by Woodinville Water District within its distribution system.
- b) The Water so produced is intended for human consumption during the emergency, including drinking, cooking, and washing.
- c) On site storage of water produced from emergency sources is authorized.

#### **7. Duties to Provide for Public Health and Safety are Paramount**

During the course of an emergency which authorizes the use of emergency sources herein described, it is understood by Ecology and the applicant that the duties of the Woodinville Water District to provide for the health and safety of the public shall be paramount to any and all restrictions detailed in the permit.

#### **8. Wells, Well Logs and Well Construction Standards**

All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.

All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

#### **9. 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.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Northwest Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Northwest Regional Office for forms to submit your water use data.

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.

#### **10. 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.

It should be noted however that in the present case the permit may remain in permit status permanently, or at least have that appearance since the catastrophe that triggers perfection of the right may not occur for a long time, if at all.

Woodinville Water District shall diligently develop Wells 1 and 2 and is expected to test them on an annual or bi-annual basis to ensure functionality of the emergency sources. If the sources have not been utilized for their intended purpose by August 31 2068, the permit shall be reviewed and may be extended for a further 50 years if approved by Ecology.

#### **11. Development 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. I also concur with the investigator that water is not legally available from the source in question; that there does not appear to be impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

This report differs from most however insofar as in this case the facts warrant approval in spite of the fact that one of the tests (legal availability) is failed. In this case the facts support approval however by invoking the “Overriding Consideration of the Public Interest” as provided in RCW 90.54.020(3).

Therefore, I ORDER approval of Application No. G1-28772, 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).

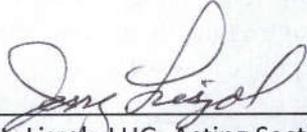
To appeal you must do the following within 30 days of the date of receipt of the Order.

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

Signed at Bellevue, Washington, this 9<sup>th</sup> day of October 2014.



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Jerry L. Liszak, LHG, Acting 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

Application for Water Right -- Woodinville Water District  
Water Right Control Number G1-28772  
Douglas H. Wood, Department of Ecology

### BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number G1-28772.

#### *Priority Processing*

This application is being priority processed because it qualified under the criteria under which an application may be processed prior to competing applications (WAC 173-152).

Table 1: Summary of Requested Water Right Attributes

<b>Applicant Name:</b>	Woodinville Water District
<b>Date of Application:</b>	3/27/2014
<b>Place of Use</b>	The area immediately surrounding Wells 1 and 2 located at the Woodinville Water District Offices in the SE¼, SE¼, Section 1, Township 26 North, Range 5 E., W.M.

County	Waterbody	Tributary To	WRIA
King	Groundwater		8-Cedar-Sammamish

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Municipal	500	GPM	84	01/01	12/31

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well 1	0126059022	BIS-301	26N	05E	01	SE SE	47.7629°N	122.1083°W
Well 2	0126059022	BIS-302	26N	05E	01	SE SE	47.7627°N	122.1083°W

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section;  
WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum: NAD83/WGS84.

#### Legal Requirements for Approval of Appropriation of Water

Woodinville Water District has submitted an application for a new water right to serve as an emergency standby groundwater source to be used in the event of a catastrophic loss of its existing source of water, an intertie with SPU's Tolt Pipeline.

Since the Sammamish River and groundwater in hydraulic continuity with it are closed to new appropriations of water under Chapter 173-508 WAC, there is a rather high bar for approval of appropriative water rights in closed basins that was established in statute through RCW 90.54.020(3).

This is often referred to as OCPI or "Overriding Consideration for Public Interest". This issue will be dealt with in more detail later in this investigation.

#### *Consultation with the Department of Fish and Wildlife*

The Department of Ecology provided notice to the Department of Fish and Wildlife (DFW) of this application on June 18, 2014. Mr. Steve Boessow of DFW replied on June 19, 2014 that:

"Based on impacts to fish and/or wildlife and the habitat they rely on, and pursuant to Chapter 77.57.020 RCW, WDFW does not oppose the issuance of this application. This application is consistent with state water law and will only be used in a declared emergency."

#### *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 Woodinville Weekly on July 21, 2014 and July 28, 2014.

#### *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.

This application does not meet any of these conditions, therefore it is categorically exempt from SEPA and so a threshold determination is not required.

## **INVESTIGATION**

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### Water Availability and Annual Allocation

Woodinville Water District is located within the Sammamish River sub-basin of the Cedar-Sammamish Watershed (WRIA 8). The Lake Washington drainage, including all tributary streams, was closed in 1979

to new allocations under Chapter 173-508 WAC. Water for any new rights is therefore not available unless an allocation is non-consumptive or exempt from closure under WAC 173-508-080.

The proposed purpose here, namely to construct an emergency groundwater source for municipal water supply, a consumptive purpose, is not exempt from the closure to future appropriations imposed by CHAPTER 173-508 WAC, nor by any of the exemptions or provisions of Chapter 173-508 WAC.

The temporary use of these wells for required periodic testing can be accomplished in a manner that minimizes consumption by disposing of the pumped water through the stormwater drainage system, or through discharge to ponds or lakes. This should ensure that pumped quantities are not removed from the Lake Washington basin. Testing may only be accomplished between November 1<sup>st</sup> and April 30<sup>th</sup> so as to minimize the loss of cool groundwater and spring flows to the Sammamish River and other surface water bodies.

New groundwater allocations may be approved under Chapter 173-508 WAC only in cases where groundwater withdrawals will not deprive all or part of their quantities from the closed surface water bodies (with any partial quantities derived from surface water fully appropriated). This is not the case here, as it is likely that all or nearly all of the withdrawals from the aquifers underlying the area of Woodinville Water District contribute to Lake Washington water levels and flows to the Chittenden Locks, the lower point at which the drainage is closed.

The timing of pumping induced hydrological impacts within Lake Washington, while possibly important to the issues of impairment or the public interest, is not relevant to the analysis of availability.

The proposal calls for an allocation of 500 gpm and 84 afy, a quantity capable of supplying Woodinville Water District's existing and projected (20 year) emergency water needs (5 gpd per resident) for a period of 90 days. It should be noted that this quantity may be exceeded if an emergency were to cause a supply disruption lasting longer than 90 days.

Due to the unavailability of water within the Sammamish River sub-basin, the application can only be approved through a finding that "it is clear that overriding considerations of the public interest will be served". RCW 90.54.020(3)(a).

### Impairment of Minimum Flows/Stream Closures

Chapter 173-508 (Cedar –Sammamish Basin) states that the purpose of the rule is retain perennial rivers, streams, and lakes in the Lake Washington drainages with instream flows and levels necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, navigational values, and to preserve water quality.

The rule closes Lake Sammamish and related tributaries to further consumptive appropriations. The rule also establishes both closures and specific instream flows in the Cedar River basin. Woodinville Water District has proposed to appropriate water for a standby, municipal purpose emergency groundwater water right. The proposed withdrawal is predicted to cause small depletions of flows in the Sammamish River during closure periods. Such depletions would result from small reductions of discharge to springs

and seeps along the Sammamish River valley wall. The depletions would generally be short of duration given the limited use period (90 days) requested for the emergency groundwater source.

Stream "closures" are determinations by Ecology under RCW 90.54.020 that water is not available for further appropriations. See *Postema v. PCHB*, 142 Wn.2d 68, 95 P.2d 726 (2000). However, a stream closure may, in some instances, be overridden under an exception that authorizes a new appropriation from a closed stream or lake "in those situations where it is clear that overriding considerations of the public interest will be served." RCW 90.54.020(3)(a).

The "overriding considerations of public interest" statutory exception is to be construed by Ecology as a "very narrow" exception to the impairment of minimum flows set by rule, and "requires extraordinary circumstances before minimum flow water rights may be impaired." See *Swinomish Indian Tribal Community v. Ecology*, 178 Wn.2d 571, 311 P.3d 6 (2013). Such "extraordinary circumstances" are similarly required for Ecology to make a finding that "overriding considerations of the public interest" exist that would allow the impairment of surface water closures prescribed by rule. Chapter 173-508 WAC.

### Public Interest Considerations

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The closure of the Sammamish River and Lake Washington drainage is an expression of the public's interest in preserving the aesthetic, environmental, recreational, and navigational values of the water resources in WRIA 8. Because approval of the application would require water to be appropriated from the basin, and such approval could impair such values, it may not proceed absent a finding of "overriding considerations of public interest are served" as provided in RCW 90.54.020(3). RCW 90.54.020(3) states in part that "Lakes and ponds shall be retained in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served." This exception to the Sammamish River sub-basin closure is adopted for this application on the basis that the proposed use of the emergency source wells during a seismic or other catastrophic event that disrupts the applicant's water supply would constitute an "extraordinary circumstance" serving the public interest. Pursuant to state law, Group A Public Water systems are required to plan for emergency conditions and circumstances that may interrupt or compromise the provision of a safe and reliable potable supply to residents within their respective service areas. Woodinville Water District is currently dependent on Seattle Public Utilities for the entirety of its existing (wholesale) water supply. It has no existing independent or alternative sources of supply, except for emergency interties with adjacent water systems including Northshore Utility District, City of Bothell, City of Redmond, and Cross Valley Water District.

As a consequence of its responsibility to plan for water supply emergencies, Woodinville Water District seeks to develop an emergency groundwater source in the event a seismic emergency or other catastrophic event disrupts water supply from SPU, as well as from those systems with which it has water interties. In addition to such action being consistent with its water system planning responsibilities, development of the proposed emergency groundwater source is compliant with the City of Woodinville's Emergency Response Plan which directs Woodinville Water District to "maintain wells for back-up use should the water system fail."

The risk that a catastrophic seismic event involving the Seattle fault (or another of the many active faults in Puget Sound region) could disrupt SPU's water system, including the transmission and storage facilities that serve the east side of its wholesale service area, has been documented by both the University of Washington and other published sources within the past 10 years. Woodinville Water District's application seeks to avoid the potential disruption and risk to public health and safety through the development of emergency groundwater source.

The applicant's specific proposal is to redevelop two existing test wells located adjacent to its headquarters offices in the City of Woodinville. One or both wells would only be used in the event Woodinville Water District's supply from SPU is disrupted, and alternative supply from its existing emergency interties also becomes unavailable. The wells would operate during an emergency independent of Woodinville Water District's existing storage and distribution system, with water distributed at the well site via trucks and containers brought to the site by transient and non-transient residents of the area.

Periodic testing of the emergency sources can be done in a manner that minimizes consumption by disposing of test waters in the stormwater system, or to a lake or pond near the well location. Restricting testing to the rainy season months (November 1<sup>st</sup> to April 30<sup>th</sup>) will help minimize the loss of cooling groundwater and spring water to the Sammamish River and other local water bodies. Testing waters should not be disposed of in creeks due to the potential for channel scouring.

In an ideal future, the environs of Seattle, including the service area of Woodinville Water District, would never be struck by a powerful earthquake or other catastrophic event, and use of the emergency source wells would not be required. In such a case, the water allocated under the permit would not be perfected through beneficial use. Water Resources Program Policy 1045, adopted in 2006, recognizes that this requires the water right remain in permit status until such time as it becomes necessary, if ever, for it to be used.

In summary, the public interest benefits of the subject emergency groundwater source application, warrants a finding that "overriding consideration of public interest" even though surface waters are closed to new appropriations in Chapter 173-508 WAC. As discussed above, this finding represent an appropriately narrow interpretation of RCW 90.54.020(3) as prescribed in *Swinomish Indian Tribal Community v. Ecology*, 178 Wn.2d 571, 311 P.3d 6 (2013).

### Protests and Public Comments

No protests were received during statutory 30-day protest period following the last day of publication of the public notice on July 28, 2014.

A comment was received however on September 23, 2014 from Carla Carlson, Water Resource Analyst for the Muckleshoot Indian Tribe.

Ms. Carlson stated that the Tribe is concerned that:

1. This and other emergency source applications are not approached in a more coordinated manner, rather than in the piecemeal fashion they currently are processed,
2. That this particular project's periodic testing cannot properly be accomplished as proposed in a "non-consumptive manner",
3. That more restrictions are needed to avoid the loss of cold groundwater or spring flow to the Sammamish River and Little Bear Creek, and
4. That rather than create a new water right Woodinville should transfer an existing water right in the area for this purpose.

The Tribe is correct in its criticism in item 2 and those sections of the draft that were so referenced have been amended to reflect the correct hydrogeological conditions.

Item 3 has been addressed by restricting well testing to between November 1st and April 30<sup>th</sup>, thus avoiding the times of year when streams rely most on cool groundwater and spring flows.

Items 1 and 4 are beyond the scope of Ecology's authority, but do raise a good point regarding decentralization of decision making for such an important resource in the Puget Sound region.

In addition to the above four technical issues, Ms Carlson also reminded Ecology of its duty to inform the Tribe in a timely manner under Ecology's 2012 Policy when utilizing Overriding Consideration of Public Interest (see Chapter 90.54 RCW) to approve a new water right permit in a closed basin.

## **RECOMMENDATIONS**

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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

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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:

500 gpm  
84 acre-feet per year  
Municipal Supply purposes

Points of Withdrawal

SE¼, SE¼, Section 1, Township 26 North, Range 5 E.W.M.

Place of Use

The area immediately surrounding the wells located at the Woodinville Water District Offices in the SE¼, SE¼, Section 1, Township 26 North, Range 5 E.W.M.



DOUGLAS H. WOOD

*Douglas H. Wood*

Report Writer: Douglas H. Wood, LHG

*Oct 8, 2014*

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.*

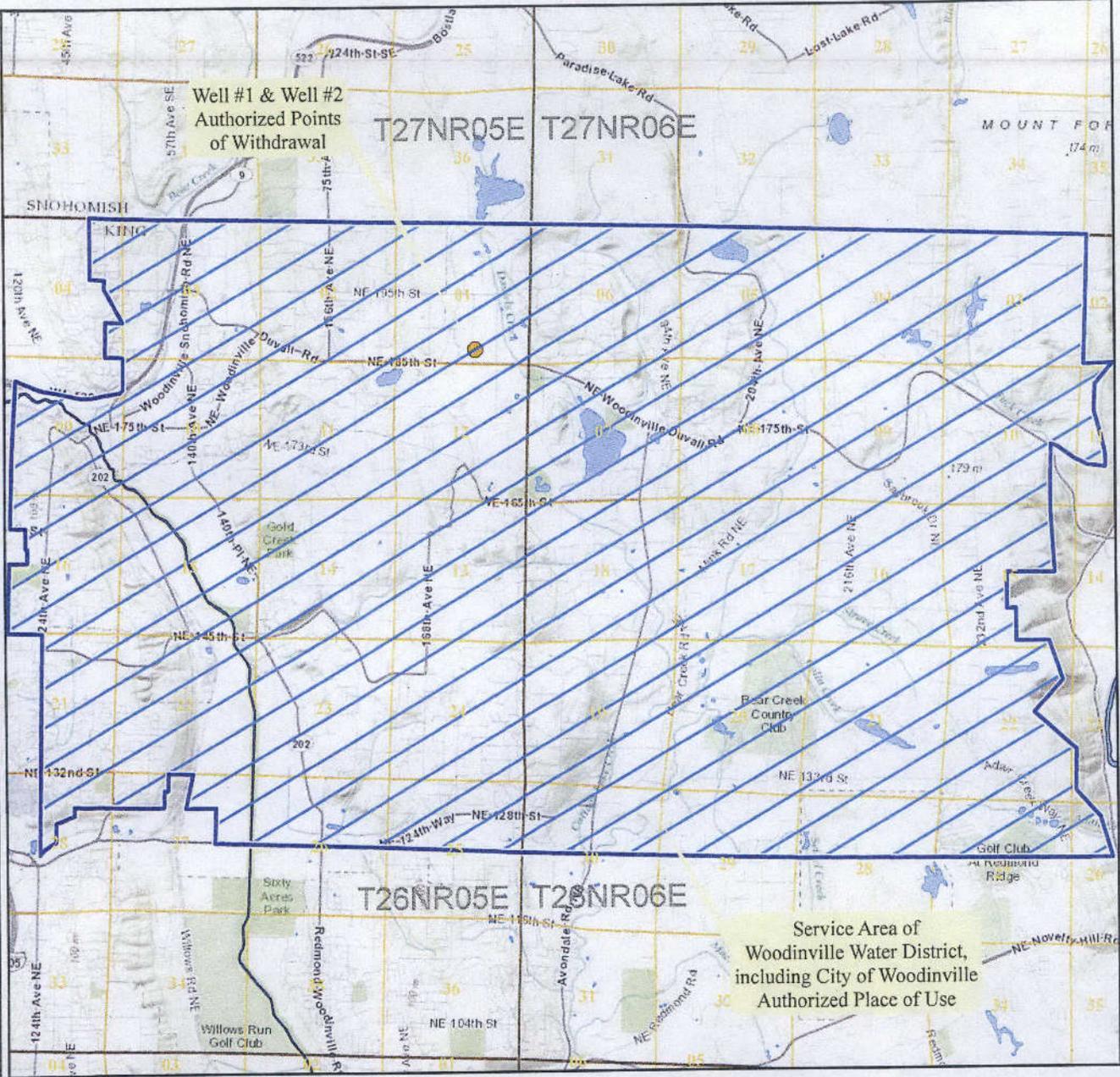
Selected References

Carlson, Carla (September 23, 2014), Comment Letter Re: City of Woodinville Draft ROE for G1-28772, 2 pages.

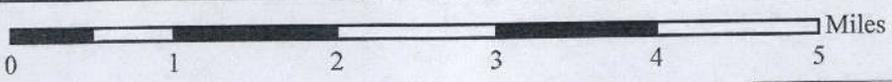
Clothier, Burt G. (June 2014), Woodinville Water District Emergency Supply Application For a Water Right G1-28772 Phase 1 Water Right Assessment, 7 pages.

Clothier, Burt G., (June 11, 2014), Technical Memorandum - Woodinville Water District Well and Aquifer Testing at the Emergency Supply Well Site, 5 pages.

Woodinville Water District  
 Water Right G1-28772  
 Section 1 T 26N R 05E W.M.  
 WRIA 8 King County



- Legend**
-  Authorized Place of Use
  -  Authorized Point of Withdrawal
  -  Water Body
  -  Townships
  -  Sections



Map Date: 6/18/2014



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