



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

DRAFT REPORT OF EXAMINATION
PUBLIC HEALTH & SAFETY EMERGENCY APPLICATION
Change approval: Points of Withdrawal
WRTS File #CG1-*09335C
To be split into Records A & B

King County Superior Court Judge Jim Rogers provided an oral ruling on June 11, 2008, in *Lummi Indian Nation, et al. v. State*, the facial challenge to the constitutionality of the 2003 Municipal Water Law (MWL). The Court ruled that three MWL provisions violate separation of powers under the state Constitution: RCW 90.03.015(3) and (4), (definitions) and RCW 90.03.330(3) ("good standing"). Because this decision is under appeal, there is uncertainty as to the ultimate status of these statutory provisions.

In light of this decision, and given that a portion of Ground Water Certificate (GWC) 7530 is inchoate (unperfected) at this time, and that Goss Lakeridge Acres Association has demonstrated diligence in fully developing this right, the inchoate portion shall be rescinded and reinstated as superseding Ground Water Permit (GWP) 8811 (Record B). The perfected portion shall be recorded as superseding GWC 7530 (Record A). Upon final perfection of the right, Record A and Record B will be combined into one certificate. The priority date of this right will not be affected by this action.

PRIORITY DATE	PERMIT NO.	CERTIFICATE NO.
March 25, 1968	GWP 8811 (Record B)	GWC 7530 (Record A)

NAME		
Goss Lakeridge Acres Association		
MAILING ADDRESS	CITY/STATE	ZIP CODE
P.O. Box 1284	Freeland, WA	98249

PUBLIC WATERS TO BE APPROPRIATED

SOURCE	
2 Wells	
MAXIMUM GALLONS PER MINUTE (gpm)	MAXIMUM ACRE FEET PER YEAR (ac-ft/yr)
50	25

TYPE OF USE, PERIOD OF USE, & QUANTITY ALLOCATIONS

Community domestic supply, year-round 25 acre-feet per year, year-round as needed
 6.5 acre-feet per year in certificate stage (Record A)
 18.5 acre-feet per year in permit stage (Record B)
 The total annual volume allocated under Records A & B shall be 25 acre-feet per year (additive)
 The total instantaneous rate under Records A & B shall not exceed 50 gallons per minute (non-additive)

LOCATIONS OF NEW POINTS OF WITHDRAWAL

APPROXIMATE LOCATIONS OF POINTS OF WITHDRAWAL

Well 1: 1376 feet north and 28.3 feet west of the southeast corner of Section 2
 Well 2: 1370 feet north and 51.5 feet west of the southeast corner of Section 2

SOURCE NAME	PARCEL #	LATITUDE	LONGITUDE	QTR/QTR	SECTION	TOWNSHIP	RANGE
Well 1	R22902-136-5260	48.025915	-122.507064	NE1/4 SE1/4	2	29N	2E
Well 2	R22902-136-5260	48.025930	-122.506965	NE1/4 SE1/4	2	29N	2E

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED
[Attachment 1 shows location of the authorized place of use and points of withdrawal]

Those portions of Section 1, Township 29 North, Range 2 East, W. M., in Island County, Washington, described as follows: Plat of Goss Lakeridge Acres, Division No. 1

DESCRIPTION OF WATER WORKS

The current water system consists of two 6-inch diameter wells. Well #1 is 236 feet deep and well #2 is 210 feet deep. Both wells are equipped with 5.0 h.p. submersible pumps, access ports, and meters. Water system storage consists of five 119-gallon pressure tanks. It is an approved Washington Department of Health (DOH) Group A Community System. Its system ID number is 22070.

Upon approval of this report of examination, Goss Lakeridge Acres will be served by two existing wells owned and operated by CAL Waterworks. CAL Waterworks is also an approved Washington Department of Health (DOH) Group A Community System. Its system ID number is 31040.

RECORD B DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
Begun	December 31, 2019	December 31, 2029

PROVISIONS

1. Meter Installation

An approved measuring device shall be installed and maintained for each source authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. See <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>

2. Metering Rule Description And Petition Info

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. Installation, operation and maintenance requirements are enclosed as a document titled "Water Measurement Device Installation and Operation Requirements".

See <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>

3. Record Water Use Weekly, Report Annually

Water use data shall be recorded weekly. The maximum monthly rate of withdrawal and the monthly total volume shall be submitted to the Department of Ecology by January 31st of each calendar year. Water use data shall be submitted via the Internet. To set up an Internet reporting account, access:

<https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/>.

4. Authority To Access Project

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, points of withdrawal, measuring devices, and associated distribution systems for compliance with water law.

5. No Impairment of Existing Rights

This authorization to make use of public waters of the state is subject to existing rights, including any existing rights held by the United States for the benefit of Tribes under treaty or settlement. If impairment does occur, the Association will be required to diminish or cease pumping, or mitigate for this impairment.

6. Decommission Goss Lakeridge Wells

The Goss Lakeridge wells shall be decommissioned within six months after construction of the connection to CAL Waterworks is complete.

7. Proof of Appropriation

The operator shall file the notice of Proof of Appropriation of water for Record B 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 final certificate will reflect the extent of the project perfected within the limitations of this report. Elements of a proof inspection may include, as appropriate, the sources, system instantaneous capacity, beneficial use, annual quantity, place of use, and satisfaction of provisions.

8. Health Approval Required

Prior to any new construction or alterations of a public water supply system, the State Board of Health rules require public water supply operators to obtain written approval from the Office of Drinking Water of the Washington State Department of Health. Please contact the Office of Drinking Water at Northwest Drinking Water Operations, 20435 72nd Avenue S, Suite 200, K17-12, Kent, WA 98032-2358, (253) 396-6750, prior to beginning (or modifying) your project.

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. Furthermore, I find the change of water right as recommended will not be detrimental to existing rights, the replacement wells tap the same body of public groundwater as the original wells, and the total withdrawal from the replacement wells will not enlarge the right conveyed by the original water right.

Therefore, I ORDER approval of the recommended change under Change Application No. CG1-*09335, subject to existing rights and the provisions listed above. And, I ORDER approval of the administrative action to divide the water right into split records. Upon completion of the 30 day appeal period, or if necessary, upon final resolution of any and all appeals: Record A shall issue as a superseding certificate and Record B shall issue as a superseding permit.

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:

The Department of Ecology
Appeals and Application for Relief
Coordinator
PO Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals and Application for Relief
Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Jacqueline Klug
Department of Ecology
3190 160th 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 _____ day of _____, 2010.

Jacqueline Klug
Acting Section Manager
Water Resources Program
Northwest Regional Office

INVESTIGATOR'S REPORT
by Jerry Lyszak, LG, LHG
Water Right Control No. CG1-*09335C

BACKGROUND

Description and purpose of the proposed change

The purpose of this report is to address an application for change filed by Goss Lakeridge Acres Association on October 30, 2009. Goss Lakeridge Acres is located about two miles northeast of Freeland on Whidbey Island. Their wells currently supply water to 16 services. The system is currently approved for 19 services by DOH and their water right was issued for a total of 25 services.

Unfortunately, recent water quality testing has shown that Goss Lakeridge wells have arsenic levels that exceed the primary maximum contaminant level (MCL) of 0.01 mg/L. Goss Lakeridge has obtained an agreement for an alternate source of supply from CAL Waterworks. The CAL Waterworks sources of supply have arsenic at levels below the MCL. Therefore Goss Lakeridge is hereby applying to move their points of withdrawal to CAL Waterworks wells. CAL Waterworks wells are located approximately 2/3 mile to the southwest of the Goss Lakeridge wells.

Table 1. Attributes of the existing water right and proposed change

<i>Attributes</i>	<i>Existing</i>	<i>Proposed</i>
Name	Charles D. Dunham, Charles Farmer, et al	Updated name - Goss Lakeridge Acres Association
Priority Date	March 25, 1968	Same
Instantaneous Rate	50 gallons per minute	50 gallons per minute (Record A)
Annual Volume	25 acre-feet per year	6.5 acre-feet per year (Record A) 18.5 acre-feet per year (Record B) for a total of 25 acre-feet per year
Source(s)	Goss Lakeridge Wells 1&2	CAL Waterworks Wells 1&2
Point(s) of Withdrawal	SW ¹ / ₄ NE ¹ / ₄ of Section 1, Township 29N, Range 2E	NE ¹ / ₄ SE ¹ / ₄ of Section 2, Township 29N, Range 2E
Purpose of Use	Community domestic supply	Same
Period of Use	Year-round	Same
Place of Use	Plat of Goss Lakeridge Acres, Division No. 1, within Section 1, Township 29 North, Range 2 East, W. M.	Same

Priority processing

On October 28, 2009, this office received a letter from Robert E. James, Manager, Washington State Department of Health, Northwest Drinking Water Operations. Mr. James requested priority processing of the Association's change application as per WAC 173-152-050(1)(c) due to the elevated arsenic concentrations in Goss Lakeridge Wells 1 & 2. This request was approved by Andrew B. Dunn, Section Manager (at that time), Water Resources Program, Northwest Regional Office.

Public notice of the application (RCW 90.03.280)

The Association's public notice was published in the *Whidbey News-Times/South Whidbey Record* on December 2 and 9, 2009. There were no protests received during the statutory 30 day protest period.

State Environmental Policy Act (RCW 43.21C & WAC 197-11)

In accordance with RCW 43.21C, WAC 197-11-305, and WAC 197-11-800(4), it was determined the subject water right change application is exempt from the State Environmental Policy Act (SEPA) because the instantaneous withdrawal rate is less than 2250 gallons per minute.

Legal determinations

RCW 90.44.100 gives Ecology the statutory authority to change a ground water right to allow the right holder to add additional wells, or construct replacement wells, at a new location outside of the location of the original well. This authority requires Ecology to conduct an investigation and make positive determinations on the following three criteria in order for the application for change to be approved:

- The additional or replacement well(s) must tap the same body of public groundwater as the original well(s).
- The combined total withdrawal from the replacement wells must not enlarge the right conveyed by the original water right.
- The user discontinues use and properly decommissions the original well(s), for replacement well(s).
- Other existing rights must not be impaired.

In addition, all protests must be evaluated and addressed.

INVESTIGATION

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

- Information supplied with the application
- Information from my site visit on December 17, 2009, with Andy Campbell, Goss Lakeridge, Erika Lindsey, Department of Health, and George Bratton, consultant
- *Island County Ground Water Management Plan, Part A, Technical Memorandum*, (GWMP) (Economic and Engineering Services, 1989)
- USGS Freeland and Langley Quadrangle 7.5 minute topographic maps
- A database search of existing water rights in the area
- CAL Waterworks Summary of System Information, December 2009 by George Bratton, PE
- *Pleistocene Stratigraphy of Island County* (Easterbrook, 1968)

Current physical facilities

Goss Lakeridge Acres Association is currently served exclusively from two 6-inch diameter wells located within their service area approximately two miles northeast of Freeland. Well 1 is 236 feet deep and well 2 is 210 feet deep. Both wells are screened within a zone of sand and water ranging between 1 and 29 feet below sea level. After researching nearby well logs and the geologic cross sections found in the GWMP, the subject wells appear to be completed within Aquifer C (sea-level aquifer). Both wells are equipped with 5 h.p. submersible pumps, access ports, and meters. The water system storage consists of five 119-gallon pressure tanks. The distribution system consists of 1,000 feet of 2.5 and 3-inch PVC mains and 2,600 feet of 4-inch PVC mains. Arsenic levels for Goss Lakeridge have been at 0.020 mg/L.

Proposed physical facilities

Goss Lakeridge Acres Association has requested to move their points of withdrawal to CAL Waterworks Wells 1 & 2 in order to receive water with arsenic at levels below the MCL standard of 0.010 mg/L. Arsenic levels for CAL Waterworks have been at 0.0025 mg/L. A 6-inch PVC pipeline will be constructed from a CAL Waterworks system main line, which is located approximately 3,050 feet to the west of a Goss Lakeridge main line. A wholesale water meter will be connected to the line connecting the systems. Two booster pumps and three bladders will be added to the Goss Lakeridge portion of the system. Figure 1 depicts the service areas and well locations of both water systems. The Goss Lakeridge wells will be decommissioned after construction of the connection to CAL Waterworks is complete.

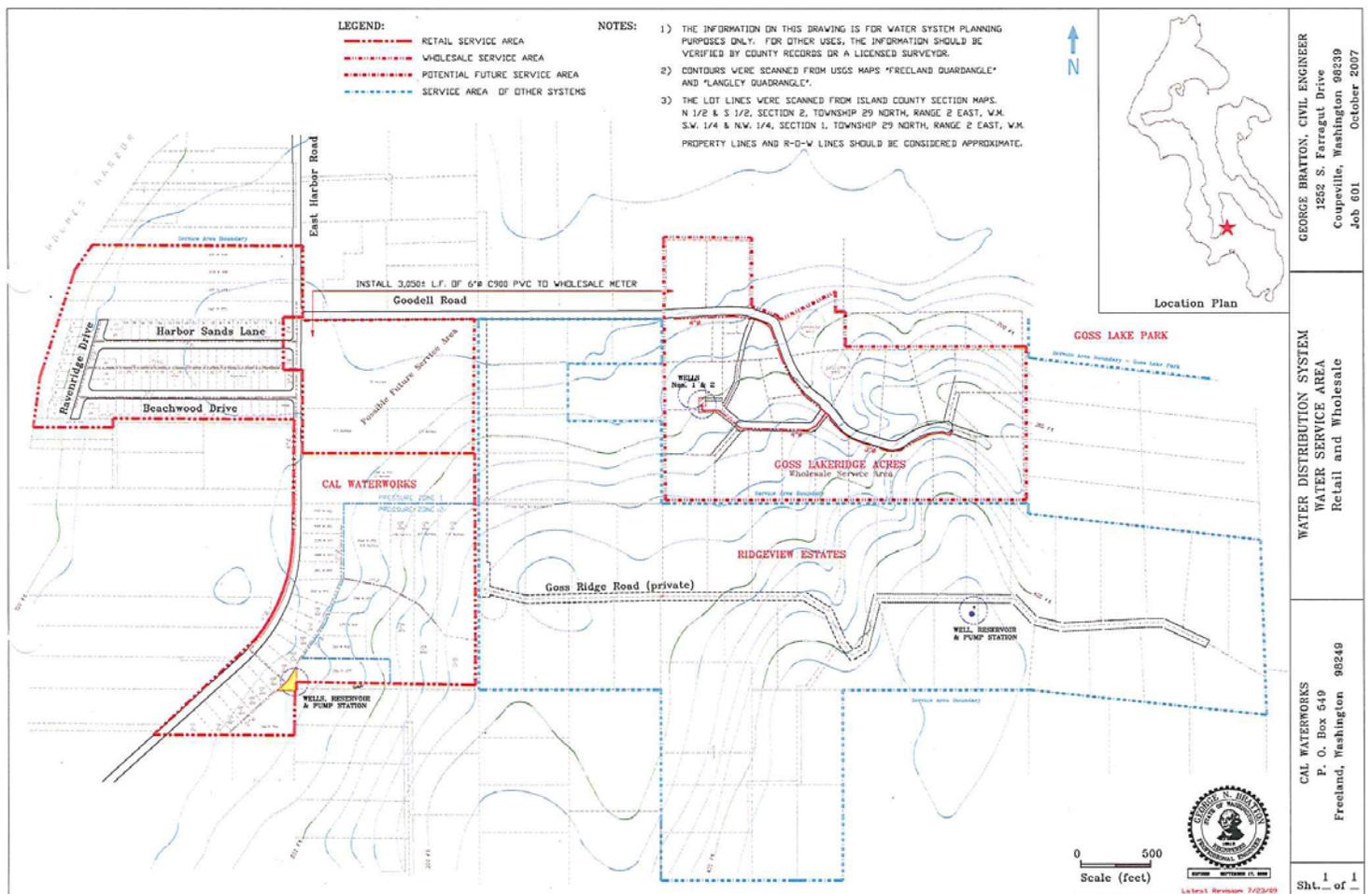


Figure 1 CAL Waterworks and Goss Lakeridge service areas, well locations, and proposed connection line

CAL Waterworks system consists of two 6-inch diameter wells located 2/3 mile to the southwest of the Goss Lakeridge wells. Well 1 (ID AGA928) is 178 feet deep and well 2 (ID AGA927) is 179 feet deep. The points of withdrawal appear to terminate in Aquifer C, which is the same source as the Goss Lakeridge wells. Both wells are equipped with 3 h.p. submersible pumps, access ports, and a water meter totaling both wells. Storage structures include three 315-gallon pressure tanks, one 30-gallon pressure tank, and a 40,000-gallon concrete reservoir tank. CAL Waterworks has two water rights for a total of 90 gpm and 54 acre-feet per year (afy) for their system (G1-27478P at 35 gpm and 26.5 afy, and G1-00032C at 55 gpm and 27.5 afy). They currently serve 94 single-family homes; their water rights allow for 162 homes at full build-out.

General geography of the area

Both Goss Lakeridge Acres and CAL Waterworks are located on South Whidbey Island on the east side of Holmes Harbor 1½ to 2 miles northeast of Freeland within sub-basin 18. Sub-basins in Island County were designated by the Island County Water Resource Advisory Committee Early Action Plan and are used as a guideline for determining the same source. The topography varies from Goss Hill to the east at elevation 450 feet above sea level, to Holmes Harbor to the west at sea level. An intermittent stream from Goss Lake runs from east to west into Holmes Harbor. This area can be categorized as rural residential and is mostly forested.

Geology/hydrogeology of the area

As noted by Easterbrook (1968), Whidbey Island is generally composed of unconsolidated Pleistocene glacial and interglacial deposits that overlie Tertiary and older bedrock. The *Island County Ground Water Management Plan, Part A, Technical Memorandum*, (GWMP) describes the ground water flow system on Whidbey Island as a series of discontinuous water-bearing zones (sand and gravel aquifers) surrounded by zones of lower-permeable glacial sediments (silt, clay and till aquitards). All recharge to the system originates as rain falling on the surface of the island. Ground water generally flows downward in the central portions of the island then outward through the aquifers toward the coast and offshore. In these discharge areas, ground water generally flows from deeper to shallower aquifer zones and then discharges to the sea where the aquifers intersect a cliff, beach face or ocean bottom.

The series of aquifers on Whidbey Island is complex, resulting from the deposition and erosion patterns created by at least three glaciation and three inter-glaciation periods. Although the USGS has designated five aquifer zones, termed A (oldest) through E (youngest), these zones are laterally discontinuous, vary in depth and thickness, and may be interconnected at various locations. The degree of connection with marine waters is also likely variable. As a result, the effect of withdrawing ground water from any particular depth and location could have widely variable impacts on nearby wells and on the potential for seawater intrusion.

The CAL Waterworks wells are located one-half mile east of Holmes Harbor. Well 2 is located approximately 30 feet east of Well 1. Specific characteristics of each well are listed in Table 2 below:

Table 2. CAL Waterworks Well Characteristics

Source	Date Drilled	Diameter (in)	Depth (ft)	Ground Elevation ¹ (ft MSL)	TOC Elevation (ft MSL)	Screened Interval Elevation (ft MSL)	Depth to Water ² (ft)	Static Water Level Elevation (ft MSL)
Well #1	8/-/1963	6	178	156.5	158.18	-15 to -20	149.16	9.02
Well #2	3/15/1985	6	179	157.5	159.78	-14 to -19	149.25	10.53

¹ Ground elevation is based on survey by Thatcher and Morrison

² Depth to water level measured on January 6, 2010 from the top of the casing (TOC)

The geology near the CAL Waterworks wells consists of alternating zones of sand and clay, which is representative of historical glacial activity in the region. Both wells are screened within a zone of sand 10 feet above to -20 feet below sea level. The well log for the original well drilled in 1963 is non-descriptive. The well driller states that sand, gravel, and hardpan were found 0 to 130 feet below ground surface, followed by 48 feet of water-bearing sand and gravel. The well log for CAL Waterworks well 2 lists the stratigraphy as 18 feet of gray sand and clay, followed by 47 feet of medium gray sand, 85 feet of fine sand, and finally 30 feet of gray sand and water. Five feet of hardpan was found below the water-bearing material, which indicates that well 2 completely penetrates the aquifer.

After researching nearby well logs and the geologic cross sections found in the GWMP, the wells for both CAL Waterworks and Goss Lakeridge appear to be completed within Aquifer C (sea-level aquifer). Aquifer C is the water-bearing unit most associated with the Whidbey Formation. Easterbrook describes the Whidbey Formation as consisting of sand, silt and clay inter-bedded with peat lenses. Although Aquifer C appears to be more spatially extensive than the shallower aquifers on the island, the entire unit is not described as one single water-bearing zone; but rather a zone containing many small, separate aquifers.

The static water levels of the wells occur below the interface of a confining layer, indicating that the aquifer exhibits locally unconfined conditions. The static water levels of nearby wells indicate the presence of both unconfined and confined conditions in Aquifer C. The direction of groundwater flow is westerly towards Holmes Harbor. The CAL Waterworks two wells are located approximately ½ mile east of Holmes Harbor. Chloride concentrations in their wells have varied between 10 mg/L and 31 mg/L over the last 26 years, while conductivity levels have increased slightly.

Goss Lakeridge water rights

Goss Lakeridge has two water rights for a total of 67 gpm and 25 acre-feet per year (afy). Both of these water rights will be changed through two applications of change to the same points of withdrawal at CAL Waterworks. Ground Water Certificate 7530 for 50 gpm and 25 afy is the subject of this change report. Ground Water Permit G1-27783P for 17 gpm and 0 afy will be changed subsequently.

Other rights in the vicinity

A search of Ecology's Water Rights Tracking System (WRATS) database was queried to determine the number of existing water rights within a ½ mile radius of the points of withdrawal. One was identified. The water right certificate is summarized below:

Table 3. Existing Water Right Certificates in the Vicinity

Water Right	Name	Priority Date	Purpose ¹	Qi (gpm)	Qa (afy)	Twp	Rng	Sec	Qtr Qtr
G1-24323C	Matthew, Nichols (Ridgeview Estates)	5/23/1983	DM	40	25	29N	02E	1	NE¼ SW¼

¹DM = Domestic Multiple

The Ridgeview Estates supply wells are located approximately 1500 feet northeast of the subject wells. The most recent well drilled by Ridgeview Estates is completed 257 feet below sea level. This completion depth is significantly deeper than the aquifer zone that the CAL Waterworks two wells are completed in. The deep Ridgeview well will not be impacted by subject application. The older supply well for the Ridgeview Estates is completed 34 feet below sea level in the same aquifer zone as the subject wells. Static water levels indicate that the Ridgeview well is located hydrogeologically up-gradient from CAL Waterworks, which reduces its vulnerability to impairment. It is highly unlikely that the Ridgeview well, which is located 1500 feet up-gradient, will be impacted by the operation of the subject wells. In fact the Goss Lakeridge wells that will be decommissioned as a result of this change are closer and up-gradient to the Ridgeview well, therefore Ridgeview may benefit from this change.

In addition to certificated water rights, there are also 14 claims to vested water rights within the approximate ½ mile radius of the points of withdrawal. A water right claim is a *statement* of the beneficial use of water that occurred prior to the adoption of the water right codes and is not authorized by a state-issued permit or certificate. The Department of Ecology cannot verify the validity of these claims, as water right claims can only be confirmed in an adjudication by the Washington State Superior Court. The 14 water right claims are summarized below:

Table 4. Existing Water Right Claims within a ½ Mile Radius¹

Water Right	Name	Priority Date ²	Purpose ³	Qi (gpm) ⁴	Qa (afy) ⁴	Twp	Rng	Sec	Qtr Qtr
G1-035518CL	ANDERSEN, E.T.	-	DG	-	-	29N	2E	1	NW¼ NW¼
G1-070994CL	BELL, JAMES L.	-	DG	-	-	29N	2E	1	NW¼ SW¼
G1-101428CL	CORBLEY, ROBERT M.	1965	DG, ST	-	5	29N	2E	1	NW¼ SE¼
G1-008188CL	INGWERSEN, HENRY	1959	DG, IR	10	1	29N	2E	2	NE¼ NE¼
S1-022743CL	HARPHAM, DORIS N.	1963	IR	90	4	29N	2E	2	SW¼ SE¼
G1-022742CL	HARPHAM, DORIS N.	1955	DG	10	2	29N	2E	2	SW¼ SE¼
G1-038996CL	ENDELMAN,	-	DG	-	-	29N	2E	2	NE¼ NE¼
G1-092890CL	COLE, JOHN R.	-	DG	-	-	29N	2E	2	NE¼ NE¼
G1-096356CL	DITTRICH, KARL	1958	DG, IR	40	2	29N	2E	2	SE¼ NE¼
G1-095918CL	HANSON, BROR E.	-	DG, IR	-	-	29N	2E	2	NE¼ NE¼
G1-118992CL	NEWLIN, CLARENCE J.	1939	DG, IR	60	11	29N	2E	2	NE¼ SE¼
G1-012288CL	EATON, ETHEL V.	1967	DG, IR	40	4	29N	2E	11	NW¼ NE¼
G1-105649CL	GOODELL, CLIFFORD	-	DG, IR	-	-	29N	2E	11	NE¼ NE¼
S1-130848CL	LOTZ, CLIFFORD W.	-	DG	-	-	29N	2E	11	NW¼ NE¼

¹Ecology cannot guarantee the validity of water right claims or the quantities included therein.

²Claims with an unknown priority date are listed with a dash (-).

³DG = Domestic General; ST = Stock Watering; IR = Irrigation

The Department of Ecology's well log database was queried for well logs associated with the 14 water right claims; however, only five were identified. Four of the five well logs indicate that the wells associated with the claims are completed within the same aquifer zone as the CAL Waterworks supply wells. Limited information is available to adequately assess the potential pumping impacts on the remaining claims.

The Island County Hydrogeologic database was searched to determine the number of exempt groundwater wells within an approximate ½ mile radius of the points of withdrawal. There were 16 exempt wells found within this vicinity. Exempt withdrawal of public ground waters is defined in RCW 90.44.050. The 16 exempt wells found within an approximate ½ mile radius are summarized below:

Table 5. Existing Exempt Wells within a ½ Mile Radius¹

Name	Distance from subject well ² (ft)	Elevation of Well Completion MSL (ft)	Twp	Rng	Sec	Qtr Qtr
BELL	500	?	29N	2E	1	NW¼ SW¼
NEWLIN	1200	-57	29N	2E	2	NE¼ SE¼
NORTHWEST COLONIAL	1250	-15	29N	2E	2	SE¼ SE¼
HOLM	1475	-24	29N	2E	2	SW¼ SE¼
MALMGREM	1660	-61	29N	2E	2	SE¼ NE¼
MARINOV	1830	-70	29N	2E	1	SW¼ NW¼

LAWRENCE	1950	-138	29N	2E	2	SE¼ NE¼
SHIH	1950	-60	29N	2E	2	SW¼ SE¼
SHIH	2000	-50	29N	2E	2	SW¼ SE¼
STEMWELL	2000	-28	29N	2E	11	NE¼ NE¼
EATON	2250	-61	29N	2E	2	SW¼ SE¼
EATON	2250	+53	29N	2E	2	SW¼ SE¼
ANDERSEN	3010	-13	29N	2E	1	NW¼ NW¼
CARTER	3080	-37	29N	2E	1	NW¼ NW¼
INGWERSEN	3100	+114	29N	2E	2	NE¼ NE¼
COLE	3100	-5	29N	2E	2	NE¼ NE¼

¹Exempt wells may have water right claims associated with them.

²Distances are approximated.

Twelve of the 16 exempt wells appear to be completed within Aquifer C. Along with the four wells associated with water right claims, these exempt wells are all located over 1200 feet from the CAL Waterworks wells. Impacts to the aquifer system by the operation of the CAL Waterworks wells will be localized and likely immeasurable in nearby wells. Impairment to the water right claims and exempt wells completed within Aquifer C is not expected.

The only well that may potentially be impacted by the CAL withdraw is the exempt well and water right claim held by James L. Bell. Potential impact may occur because of its close proximity to the CAL Waterworks wells (500 feet). Unfortunately, a well log for the Bell well could not be found. Assuming Mr. Bell pumps from the same aquifer zone, impact would be extremely minimal and would not result in impairment. Washington water law does not consider drawdown to be an impairment of existing water rights, unless the affected wells fully penetrate the aquifer and can no longer produce their allocations.

Extent and validity

The subject right, Goss Lakeridge, has been in continuous use without any breaks in service since it was approved. To date, the highest annual water use occurred in 2005 when 2,115,100 gallons (approximately 6.5 acre-feet) was pumped from wells 1 and 2. As such, 6.5 acre-feet per year has been perfected through beneficial use. The instantaneous rate of 50 gallons per minute has already been fully perfected.

DETERMINATIONS

Same body of public groundwater

The geography and geology in the vicinity indicates:

- The wells for both CAL Waterworks and Goss Lakeridge are located within the same drainage basin.
- Wells from both systems are completed within the same aquifer (Aquifer C).
- Aquifer recharge is from infiltration of water from precipitation and surface water bodies within the drainage basin.
- Water captured by wells from both water systems would likely discharge to Holmes Harbor.

Based on the above, I have determined that CAL Waterworks wells and Goss Lakeridge wells tap the same body of public groundwater.

The right conveyed by the original water right will not be enlarged

The original water right certificate allows for the withdrawal of up to 50 gallons per minute and 25 acre-feet per year. The Proof of Appropriation (PA) for this right only required that the well be drilled and put to use before the certificate was issued. As such, the PA form was submitted prematurely and the subject water right certificate was issued before the entire annual quantity of water had been put to beneficial use. (The instantaneous rate had been perfected.) Prior to the 1990s it was common practice for the state to issue these “pumps & pipes” certificates. Subsequently, the extent and validity of these types of rights came into question during several court cases during the 1990s. In 2003, the state legislature passed the Municipal Water Law (MWL) to rectify this situation.

Prior to a June 11, 2008, King County Superior Court decision, water right certificates issued before September 9, 2003, for municipal water supply purposes based on system capacity (so-called “pumps and pipes” certificates) were in “good standing” under the MWL. Subsequent to the Superior Court decision, the “good standing” status of water rights held by both public municipal water suppliers and private water suppliers is in question and is currently pending before the state Supreme Court.

The Superior Court ruled as unconstitutional the “in good standing” provision found in RCW 90.03.330(3) and the definitions for “municipal water supplier” and “municipal water supply purposes” (RCW 90.03.015 (3) and (4)). Under RCW 90.03.330(2) Ecology is prevented from revoking or diminishing water rights for municipal water

supply purposes, as defined in RCW 90.03.015, except for when it processes water right change or transfer applications and in the context of general water rights adjudications, or if the certificate was issued with ministerial errors or obtained through misrepresentation.

Although RCW 90.03.330(2) was not declared unconstitutional, its functionality is questionable and its viability currently suspect because it refers back to the definitions that were deemed unconstitutional. Until the appeal is resolved by the Supreme Court, Ecology will take no action relating to the status of inchoate quantities associated with "pumps and pipes" certificates unless pursuant to processing a water right change or transfer application (as described below), a general adjudication, correction of misrepresentation or ministerial errors.

In accordance with Ecology Guidance 2030, when a change to an existing municipal supply, multiple domestic, community domestic (as is this case), or group domestic water right that is not completely put to beneficial use (documented by a so-called "pumps and pipes" certificate), is requested by either a public or private entity, Ecology will provide the following options:

1. The applicant can withdraw the application and then reapply if they so choose when the law is finally clarified.
or
2. The entity can request that its certificate be rescinded. The certificate would be replaced with a superseding permit provided the entity has been perfecting the water right with reasonable diligence consistent with the original intent. The superseding permit would include a new development schedule.
or
3. The entity can request that Ecology divide the certificate. The portion of water that has been put to beneficial use would be certificated, and a superseding permit would be issued for the inchoate portion. A new permit development schedule would be included.
or
4. The applicant could request that Ecology skip the application. The applicant would step aside for a period of time or in a specific circumstance (or other specified condition) and let "juniors" pass them in the processing line. Although, the date of application would be preserved. This could enable the applicant to wait to see if RCW 90.03.330(3) is restored before their application is processed, while retaining their existing application.

The applicant has opted for option 3. This will allow for continued development only within the confines of the annual volume (25 acre-feet per year) of the original water right.

Based on the above, I have determined the right conveyed by the original water right will not be enlarged.

Impairment considerations

As referenced in the Investigation section of this report, the James L. Bell well is the closest well located about 500 feet from the CAL Waterworks wells. Since there is no well log for the Bell well it is not known if it is completed in the same aquifer zone. However CAL Waterworks has been pumping their wells at a pumping rate of 90 gpm for over ten years without impairment to the Bell well, or the other wells mentioned in the Impairment section. Nevertheless, this change authorization shall be provisioned as being subject to existing rights.

CONCLUSIONS

In accordance with chapter 90.44 RCW, I conclude the subject water right is eligible for change. The change in points of withdrawal to two existing wells owned and operated by CAL Waterworks are within the same body of public groundwater as the original points of withdrawal. The original right will not be enlarged, and there will be no impairment of existing rights.

RECOMMENDATIONS

Based on the above investigation, determinations, and conclusions, I recommend the request for change be approved in the amounts and within the limitations listed below and subject to the provisions on page 2.

Authorized quantities and purpose of use

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:

- 50 gallons per minute total under Records A & B
- 25 acre-feet per year (6.5 under Record A and 18.5 under Record B)
- Community domestic supply - continuously

Points of Withdrawal

NE¼ SE¼, Section 2, Township 29 North, Range 2 East, W.M.

Place of Use

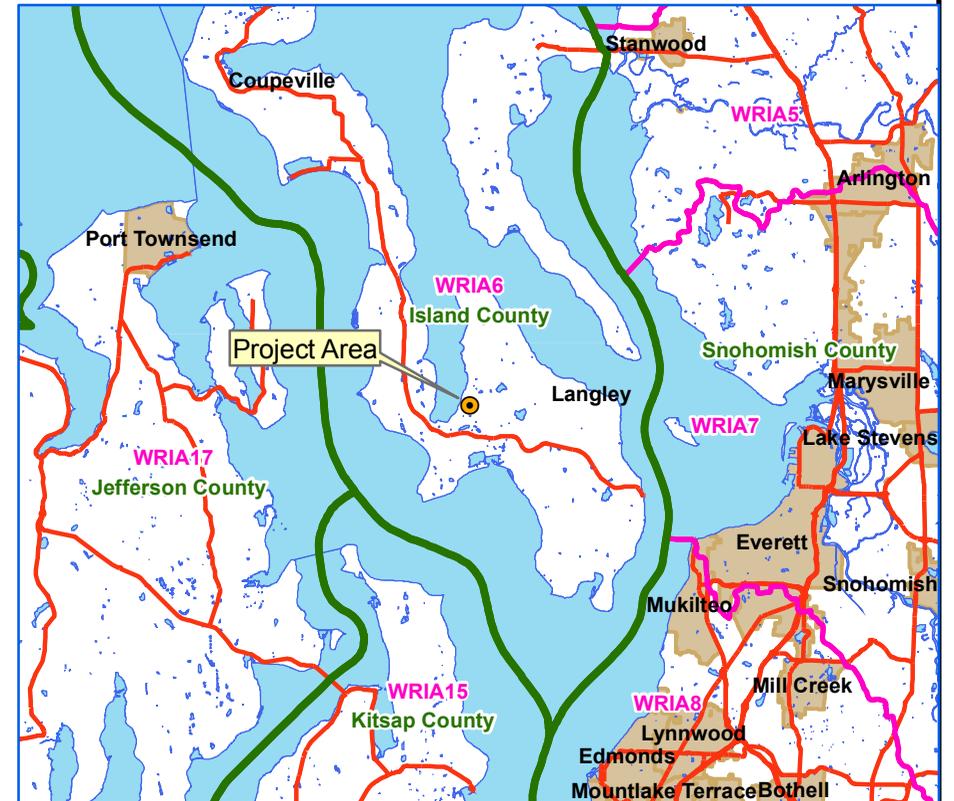
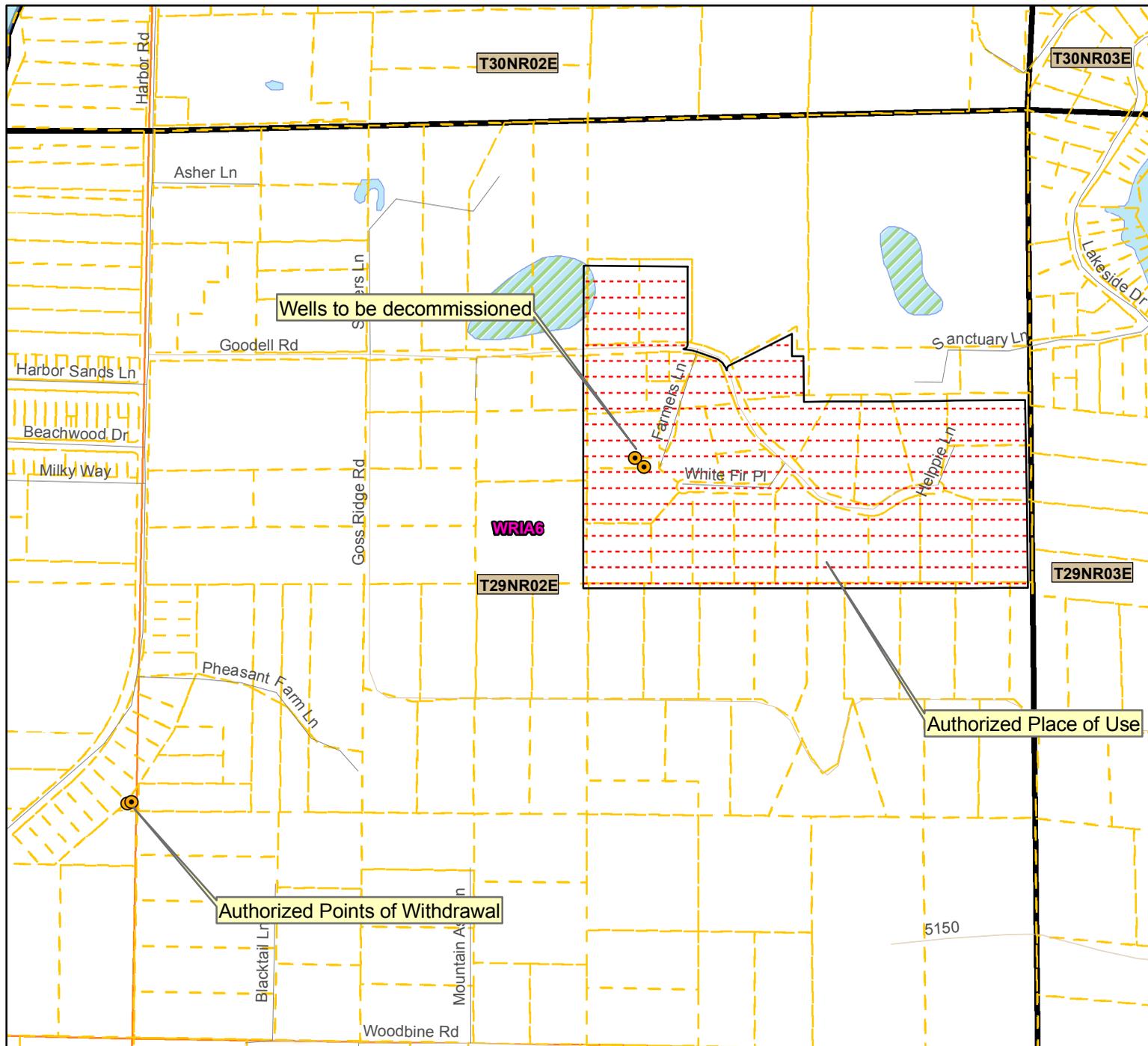
Land served by Goss Lakeridge Acres Association in the following areas: Plat of Goss Lakeridge Acres, Division No. 1, in Section 1, Township 29 North, Range 2 East, W. M., in Island County, Washington.

Report by: _____
Jerry L. Liszak, LG, LHG

Date

Licensed Geologist/Hydrogeologist No. 834

If you need this publication in an alternate format, please call the Water Resources Program at 425- 649-7000. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.



Legend

- County
- WRIA
- Highways
- Townships
- cities
- Sections
- Authorized Point of Withdrawal
- 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.'