

State of Washington  
REPORT OF EXAMINATION  
FOR WATER RIGHT APPLICATION

PRIORITY DATE  
10/6/2003

WATER RIGHT NUMBER  
S2-30155

MAILING ADDRESS  
TIM KEMP  
220 NE TIGER WAY N  
BELFAIR WA 98528

SITE ADDRESS (IF DIFFERENT)

**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

**REMARKS**

In-house use only

**Source Location**

COUNTY	WATERBODY	TRIBUTARY TO			WATER RESOURCE INVENTORY AREA		
MASON	TIGER LAKE	MISSION CREEK			15-KITSAP		
SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
TIGER LAKE	123055000007	23N	01W	03	NESW	47.51044	-122.83694

Datum: NAD83/WGS84

**Place of Use (See Attached Map)**

PARCELS (NOT LISTED FOR SERVICE AREAS)

12305500007

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**

Beginning at a point 59°26' West 850 feet from a point on North line of Lot 6, South 85°34'14" East 1559 feet from West quarter corner; running South 9°26' West 100 feet South 85°34' East 110 feet to line of high water of Tiger Lake; North along high water to point South 85°34' East of Beginning; North 85°34' West 110 feet of Beginning;  
Tiger Lake Tracts TR 7 S 100 feet, Mason County, Washington

**Proposed Works**

A screened surface water intake with a 1 horsepower pump serving a single residence.

**Development Schedule**

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	Completed	In Full Use

**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.

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

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.

**Department of Fish and Wildlife Requirement(s)**

The intake 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/>

#### **Non-Additive to Confirmed Claims**

Surface Water Right Claim No. 098895 and Ground Water Right Claim No. 098896 are appurtenant to the place of use of this water right. The water use authorized under this filing shall be considered non-additive to any water rights confirmed for said claims as a result of a general adjudication through Superior Court, should adjudication be undertaken.

#### **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. S2-30155, 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.

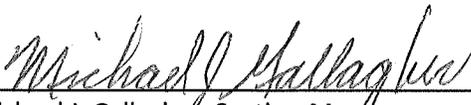
File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

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

Signed at Olympia, Washington, this *12<sup>th</sup>* day of *July* 2012.

  
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 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>.

INVESTIGATOR'S REPORT  
 Application for Water Right -- Kemp  
 Water Right Control Number S2-30155  
 Marie Peter, Department of Ecology

## BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S2-30155.

Table 1 Summary of Requested Water Right

<b>Applicant Name:</b>	Tim Kemp
<b>Date of Application:</b>	10/6/2003
<b>Place of Use</b>	Tiger Lake Tracts TR 7 S 100'

<b>County</b>	<b>Water Body</b>	<b>Tributary To</b>	<b>WRIA</b>
Mason	Tiger Lake	Mission Creek	15-Kitsap

<b>Purpose</b>	<b>Rate</b>	<b>Unit</b>	<b>Ac-ft/yr</b>	<b>Begin Season</b>	<b>End Season</b>
Domestic single	0.02	CFS	0.34	01/01	12/31

<b>Source Name</b>	<b>Parcel</b>	<b>Twp</b>	<b>Rng</b>	<b>Sec</b>	<b>QQ Q</b>	<b>Latitude</b>	<b>Longitude</b>
Tiger Lake	123055000007	23N	01W	03	NESW	47.51044	-122.83694

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; W.W.M. = West of the Willamette Meridian; Datum: NAD83/WGS84.

## Legal Requirements for Approval of Appropriation of Water

### *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 Shelton-Mason County Journal* on March 17 and 24, 2005. No protests or letters of concern were received as a result of this notice.

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

The Department of Fish and Wildlife (WDFW) must be notified of water right applications that may affect surface waters. WDFW commented on this application on May 16, 2005 and recommended conditioning this water right in accordance with the provisions of Chapter 173-515 WAC *Instream Resources Protection Program--Kitsap Water Resource Inventory Area 15*. WDFW also requires a Hydraulic Project Approval for this project.

*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 is 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**

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My investigations of this application included review of following:

- Department of Ecology water right and claim records.
- Chapter 173-515 Washington Administrative Code (WAC).
- Department of Ecology Environmental Assessment Program's Tiger Lake water quality web page ( <http://www.ecy.wa.gov/programs/eap/lakes/wq/docs/lktigki1.html> ).
- WDFW comment letter dated May 16, 2005.
- Information provided by Tim and Patty Kemp.

The point of diversion and place of use for this application are located on Tiger Lake, approximately three miles north of the town of Belfair. Although the northern tip is in Kitsap County, most of the lake is located within Mason County. The lake is approximately 110 acres in size and has no surface inlet streams. It drains to Hood Canal via Mission Creek.

The Tiger Lake area is moderately developed with single-family residences with higher densities along the lake shores. There are over a hundred homes on the lake.

### *Proposed Use*

This application was filed for domestic supply of an existing single-family residence on a waterfront lot on the southwest shore of Tiger Lake. The water system is fully constructed and water is in full beneficial use for domestic supply.

### *History of Water Use*

When Tim and Patty Kemp purchased their home in 1966, there was an existing dug well on the lot. However, the well had to be abandoned in the 1970's due to water quality issues. Since then, surface water from Tiger Lake has been the sole source for domestic supply. A new well cannot be drilled due to the small size of this lot which does not allow an adequate sanitary radius.

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

On May 12, 1974, Tim Kemp filed Surface Water Right Claim No. 098895 for 109,500 gallons per year, or 0.34 acre-feet per year (AFY) for domestic supply and irrigation from Tiger Lake for the place of use under this application. The date of first use is June, 1966. Because the use does not pre-date the surface water code, this claim likely does not represent a valid water right. However, the actual validity and extent of rights under claims may only be determined by a Superior Court.

### Beneficial Use

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

### Water Availability

Tiger Lake receives approximately 62 inches of precipitation a year and holds approximately 1090 acre-feet.

The Department of Ecology's Water Right Tracking System (WRTS) database indicates the following records of water use in the Mission Creek watershed:

- Eight surface-water rights issued for a total of 0.12 cfs from Tiger Lake. The last water right on Tiger Lake was issued in 1974.
- 25 surface water right claims on Tiger Lake.
- Six surface water right claims on Mission Creek.
- Numerous groundwater rights and claims in the Mission Creek watershed.

There are also additional surface water and groundwater uses in the Mission Creek watershed that are not represented by water rights and claims. These include senior permit-exempt groundwater rights.

One senior groundwater application, G2-30077, within the Mission Creek sub-basin is currently being processed for a decision. This application is for group domestic supply for the Kimberly Drive Water System.

### Impairment Considerations

In addition to recorded water rights and exempt groundwater rights, federal and tribal reserved rights must be protected from impairment. The WRIA 15 in-stream flow rule, Chapter 173-515 WAC, also establishes a senior water right for in-stream flows that is subject to protection.

*Fisheries and In-stream flow Considerations*

WDFW indicates that trout and other game and non-game fish are present in Tiger Lake. The lower reaches of Mission Creek support Chinook, coho, chum and steelhead.

There are no stream flow gaging stations on Mission Creek. However, Mission Creek and its tributaries, including Tiger Lake, are closed to consumptive appropriations year-round under Chapter 173-515 Washington Administrative Code (WAC). Diversions from Tiger Lake have the potential to affect miles of downstream habitat.

Under WAC 173-515-070, single domestic use is exempt from the closure if there is no alternative source available. However, only in-house use is allowed if the cumulative impacts of numerous single domestic diversions would seriously affect the quantity of water available for in-stream uses.

The density of development along the shores of Tiger Lake and the surrounding area indicates that actual surface and ground water use is much higher than the totals indicated by water right and claim records. Cumulatively, these uses may diminish stream flows required by fish.

In order to protect in-stream flows, I recommend that a water right be issued for in-house purposes only. A meter must be installed on the diversion and water use recorded annually as a condition of approval.

Water is physically and legally available for appropriation from Tiger Lake for single domestic in-house use. The proposed use will not diminish the source or degrade water quality and will not impair senior water rights or in-stream flows.

**Public Interest Considerations**

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*Status of watershed planning*

A draft watershed plan was completed for WRIA 15 in June, 2005. However, the planning group did not reach consensus and the plan was never finalized.

*Consideration of alternative sources*

The applicant's lot is not located within the service area of a public water system. There is no well or other alternative source of water available.

A maximum diversion of .02 cfs and an average of 300 gallons per day, or 0.34 acre-feet per year, is adequate for in-house domestic supply. The proposed appropriation is consistent with local planning and will not be detrimental to the public welfare.

## Conclusions

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I find that:

- Water is available from Tiger Lake.
- Domestic use is a beneficial use.
- The appropriation, as recommended, will not impair existing rights or in-stream flows.
- Approval of this application will not be detrimental to the public welfare.

## 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:

- 0.02 cfs
- 0.34 acre-feet per year
- Single domestic in-house supply, year-round, as needed\
- Point of Diversion: NE¼, SW¼, Section 5, Township 23 North, Range 1 W.W.M.
- Place of Use: Tiger Lake Tracts TR 7 S 100 feet, Mason County, Washington

  
Report Writer

7-12-2012  
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.

