File NR S2-30638
WR Doc ID 6164730

DEPARTMENT OF ECOLOGY
State of Washington

State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE	WATER RIGHT NUMBER
03/11/2014	S2-30638

MAILING ADDRESS	SITE ADDRESS (IF DIFFERENT)
ADAM WAGNER MICHELE MCGILL 1630 SUMMIT LAKE SHORE ROAD NW OLYMPIA WA 98502	

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
THURSTON	SUMMIT LAKE	KENNEDY CREEK	14-KENNEDY-GOLDSBOROUGH

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
SUMMIT LAKE	77120019000	18N	03W	08	NENW	47.064882	-123.088935
						Datum: NAD83/WGS84	

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Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)
77120214500

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE
Lot 145 Summit Lake Division no. 2 Palisades Block as recorded in volume 12 of plats, page 38; in Thurston County, Washington.

Proposed Works

A screened surface-water intake pipe and approximately 1 horsepower pump serving a single residence. Two suction water pipelines approximately 127 feet from the south shore of tax parcel 77120019000 (1629 Summit Lake Shore Road NW) will deliver the water to tax parcel 77120214500 (1630 Summit Lake Shore Road NW).

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	Completed	August 2016

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

Use of water under this authorization is limited to in-house use only.

This water right must be relinquished when a public water supply becomes available to the authorized place of use.

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

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Department of Fish and Wildlife Requirement(s)
Pursuant to Chapter 77.55 Revised Code of Washington (RCW), a Hydraulic Project Approval permit must be obtained from the Washington State Department of Fish and Wildlife prior to beginning construction of the diversion. The intake must be screened in accordance with RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Washington Department of Fish and Wildlife Habitat Program at 600 Capitol Way N, Olympia, WA 98501-1091 or (360) 902-2534.
http://wdfw.wa.gov/licensing/hpa/

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.

Easement
The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a temporary use authorization by this Department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

This Permit Subject to Cancellation
This permit shall be subject to cancellation if the permit holder fails to comply with the above development schedule and/or to give notice to the Department of Ecology on forms provided by the Department documenting such compliance.

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. S2-30638, 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).

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

Signed at Olympia, Washington, this _____ day of _____ 2014.

_____

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.

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INVESTIGATOR'S REPORT
Application for Water Right – WAGNER/MCGILL
Water Right Control Number S2-30638
Susan Clark, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S2-30638.

Table 1 Summary of Requested Water Right

Applicant Name:	Adam Wagner & Michele McGill
Date of Application:	03/11/2014
Place of Use	Lot 145 Summit Lake Division no. 2 Palisades Block as recorded in volume 12 of plats, page 38; in Thurston County, Washington. Thurston County Parcel Number: 77120214500 Address: 1630 Summit Lake Shore Rd NW, Olympia, WA

Source	Tributary To	WRIA	County
Summit Lake	Kennedy Creek	14-Kennedy-Goldsborough	Thurston

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

Source Name	Parcel	Township	Range	Section	QQ Q	Latitude	Longitude
Summit Lake	77120019000	18N	03W	08	NENW	47.064882	-123.088935

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 Olympian* of Thurston County on April 3 and April 7, 2014. No protests or letters of concern were received in response to this notice.

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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 Steve Boessow with WDFW regarding diversions from Summit Lake on March 14, 2014. Such comments are addressed in the Public Interest Considerations section of this Report of Examination.

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

Location and Project Area Description

This application was filed for an existing single-family residence on the east side of Summit Lake Shore Road NW on the east end of Summit Lake (see Attachment 1) at 1630 Summit Lake Shore Road NW. The lot is currently developed as a single family residence.

Summit Lake is located approximately nine miles west of the city of Olympia in Thurston County, within the Kennedy-Goldsborough Water Resource Inventory Area (WRIA 14). The lake shore is generally densely developed with single-family residences and vacation cabins. Most of the western shoreline belongs to a Boy Scout camp and is relatively undeveloped. The level of development decreases rapidly away from the lakeshore such that the hills surrounding the lake are mostly forested.

Summit Lake is situated in a steep, forested valley formed by erosion into Tertiary basalt (Noble and Wallace, 1966). The lake was created by natural damming of the valley by fluvial and glaciofluvial terrace deposits. These terrace deposits occur at the western end of the lake (Bortelson and others).

The outlet stream from Summit Lake is one of several main tributaries of Kennedy Creek. Below the lake, approximately 2.5 miles upstream of the mouth, Kennedy Creek drops through a narrow canyon where a series of falls, cascades and log jams form a barrier to the migration of anadromous fish. Kennedy Creek empties into Oyster Bay on Totten Inlet.

There is a small dam owned and maintained by WDFW at the outlet of Summit Lake. This earthfill dam was constructed in 1955. It has a crest length of 90 feet and is three feet high. The dam structure includes a series of flashboards that can be removed or added to control the outflow and lake level. The lake level is set by Superior Court decree under the provisions of Chapter 90.24 RCW. Although lake levels are regulated, WDFW does not otherwise control the outflow to Kennedy Creek.

Proposed Use and Basis of Water Demand

This application requests 0.02 cfs to supply an existing single-family residence to replace an existing on-site exempt well. 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.

In March 2014 an authorization for temporary use of surface water was issued in conjunction with this application due to a failed on-site exempt well. Construction of the new surface water system began in June 2014 with the existing on-site well remaining incorporated into the water system's storage system (Michele McGill, personal communication, August 11, 2014).

Water Rights Appurtenant to the Place of Use

My review of water right records indicates that there are no ground or surface water rights appurtenant to the place of use of this application.

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.

Summit Lake has a volume of approximately 28,090 acre-feet and receives an annual average precipitation of approximately 74 inches. The Summit Lake basin is estimated to receive approximately 11,130 acre-feet per year through precipitation (Golder, 2003).

Existing Rights in the Kennedy Creek Basin

The Department of Ecology's Water Rights Tracking System (WRTS) database as of March 14, 2014 shows the following records of surface water use from the Summit Lake sub-basin:

- 290 water right certificates and 48 permits authorizing a total diversion of approximately 5.75 cfs and 123.12 acre-feet per year from Summit Lake. All but seven of these water rights are for single domestic use.

- Five downstream certificates have been issued on Kennedy Creek, authorizing a total diversion of 0.32 cfs and an estimated total amount of 54.5 acre-feet per year.

- Two downstream certificates have been issued on unnamed streams that may be influenced by surface and/or subsurface flow from Summit Lake. These authorize a total of 0.03 cfs and 2.0 acre-feet per year.

- 87 surface water right claims listing Summit Lake as the source are recorded. Some are also represented by a water right.

In addition to recorded water rights and claims, there are un-quantified rights held by the Squaxin Island Tribe that are senior to all other rights. These include rights to in-stream flows sufficient to support treaty fishing rights.

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.

Under Chapter 173-514 Washington Administrative Code (WAC), minimum flows have been established for Kennedy Creek, to which Summit Lake is tributary. This rule is considered a water right pre-dating this application. Kennedy Creek in-stream flows are thus subject to protection from impairment.

There are no active stream flow gaging stations on Kennedy Creek. However, historical stream flow records are available from USGS Gaging Station No. 12078400 from February 1960 to September 1971. These records indicate that mean monthly flows may range from as low as 3 cfs in September to a high of approximately 200 cfs in January.

Under Chapter 173-514 WAC, Kennedy Creek is closed to all consumptive appropriations from May 1 through November 15 and is subject to minimum flows throughout the rest of the year. Minimum in-stream flow requirements range from 7 cfs (from August 1 to October 14) to 60 cfs (from November 15 to April 14).

Single domestic use is exempt from the minimum flow provisions established in Chapter 173-514 WAC. However, WAC 173-514-060 specifies that if the cumulative impacts of numerous single domestic diversions would significantly affect the quantity of water available for in-stream uses, then only single domestic in-house use shall be exempt, if no alternative source is available.

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Public Interest Considerations

The WRIA 14 Watershed Planning Unit voted on a draft watershed plan in 2006. However, they did not reach consensus and planning was subsequently terminated. There is currently no water management plan for the Kennedy Creek basin.

Fisheries and In-stream flow Considerations
Washington Department of Fish and Wildlife (WDFW) provided the following comments regarding diversions from Summit Lake:

- Summit Lake contributes a significant part of Kennedy Creek flow necessary for chum and coho salmon, steelhead and cutthroat.
- Summit Lake supports a variety of resident fish including trout and kokanee.
- Kennedy Creek's summer and fall low flows limit fish production.
- The cumulative impact of additional diversions in the Kennedy Creek basin would further reduce stream flows and be detrimental to fish production.

Steve Boessow of WDFW indicates that the department does not support additional diversions from the Kennedy Creek basin. However, WDFW acknowledges the exemption for single domestic use under Chapter 173-514 WAC and does not currently object to the issuance of water rights on Summit Lake for in-house purposes only.

Investigation of alternatives
The Washington state Department of Health indicates that the only Group A public water system in the Summit Lake area is the Transient Non-Community Boy Scouts of America's Thunderbird water system. There are three existing Group B public water systems in the area: 1) the 12-connection Turkey Road water system on the south shoreline; 2) the Summit Lake Community Church water system southwest of the lake; 4) the Summit Lake Fire Station 93 southwest of the lake; and 4) the Summit Lake Community Club system also southwest of the lake. Hookups to these systems are not available to the proposed place of use and there are currently no plans to develop a public water supply to serve the Summit Lake area.

This application reflects the replacement of an existing deep on-site exempt well which has run dry for short periods during the summer months and has been tested by three different companies as extremely hard, high in chlorides and with high levels of TDS and tannins. The applicant, therefore, has no other alternative source of domestic water.

Under RCW 90.03.247, whenever an application for a water right permit is approved relating to a stream or other water body for which minimum flows or levels have been adopted, the permit shall be conditioned to protect the levels or flows. As a condition of approving this water right, I recommend that water use be limited to in-house purposes. I also recommend that this water right be relinquished if a public water supply becomes available to the place of use.

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CONCLUSIONS

- Water is available from Summit 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, in-house use only
- Point of Diversion: NE¼, NW¼, Section 8, Township 18 North, Range 3 W.W.M.
- Place of Use: As described on page 2 of this Report of Examination

Susan Clark *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

Bortleson, Gilbert Carl; Dion, N.P.; McConnell, James B. 1974. *USGS Water-Resources Investigations Report: 74-37*.

Golder Associates. March, 2003. *Kennedy-Goldsborough Watershed (WRIA 14) Phase II Level 1 Assessment*. Prepared for the WRIA 14 Planning Unit.

Noble, J.B.; Wallace, E.F. 1966. *Geology and Ground-water Resources of Thurston County, Washington. Volume 2: Washington Division of Water Resources Water-Supply Bulletin 10, v. 2. 141. P. 5 plates*.

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Plateau Technical Communication Services. May 2006. *WRIA 14 Watershed Management Plan Kennedy-Goldsborough Watershed.* Prepared for the WRIA 14 Planning Unit.

Washington State Department of Ecology. December, 1983. *Kennedy-Goldsborough Instream Resources Protection Program Including Proposed Administrative Rules WAC 173-514 (Water Resource Inventory Area 14).*

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ATTACHMENT 1

Basemaps - bing Maps, ESRI US topo maps

DEPARTMENT OF ECOLOGY State of Washington

0 150 300 600 900 Feet

Water Right Application Number
S2-30638
Sec. 8 T. 18 N, R. 3 W W.M.
WRIA 14 - Thurston County

Basemap - ESRI Terrain

Legend

- POINT OF WITHDRAWAL (POW)
- PLACE OF USE (POU)
- SECTION LINES
- THURSTON CO. PARCELS

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 3/20/2014

ATTACHMENT 1