



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

**DRAFT REPORT OF EXAMINATION**  
*To Appropriate Public Waters of the State of Washington*

PRIORITY DATE	APPLICATION NO.	PERMIT NO.	CERTIFICATE NO.
April 21, 2009	S1-28617		

NAME		
Spring Point Homeowners Association		
ADDRESS/STREET	CITY/STATE	ZIP CODE
P.O. Box 56	Deer Harbor, WA	98243

**PUBLIC WATERS TO BE APPROPRIATED**

SOURCE		
Pond		
TRIBUTARY OF (IF SURFACE WATERS)		
Unnamed stream to North Pass		
MAXIMUM CUBIC FEET PER SECOND (cfs)	MAXIMUM GALLONS PER MINUTE (gpm)	MAXIMUM ACRE FEET PER YEAR (ac-ft/yr)
0.134*		96**

TYPE OF USE, PERIOD OF USE, QUANTITIES  
Multiple domestic supply, year-round

\* 0.134 cfs is alternate non-additive. Total diversion rate of S1-28617 and S1-00593C shall not exceed 0.134 cfs.

\*\*96 acre-feet per year is alternate non-additive. Total annual quantity of S1-28617 and S1-00593C shall not exceed 96 acre-feet per year (afy).

(See DISCUSSION section on page 8 for explanation of alternate non-additive terms)

**LOCATION OF WITHDRAWAL**

APPROXIMATE LOCATION OF DIVERSION--WITHDRAWAL

The pond is located 172ft South and 2,364ft West of the NE corner of Section 13  
Within Township 36 North, Range 3 West, W. M. in San Juan County, Washington.

SOURCE NAME	PARCEL #	LATITUDE	LONGITUDE	QTR/QTR	SECTION	TOWNSHIP	RANGE
Clyde's Pond	361243002000	N 48.61599	123.01998 W	NW1/4 NE1/4	13	36N	3W

**LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED**

All of Spring Point Division No. 1 and No. 2; plus Chartwell Short Plat; parcels numbers 361321002000 and 361321001000; plus Decourcey short plat lot 4A and 4B, All situated in San Juan County, Washington.

Attachment 1 shows the location of the authorized place of use and points of diversion

**DESCRIPTION OF PROPOSED WORKS**

The Spring Point Homeowners Association Water System consists of two ponds, two storage tanks (80,000 and 20,000 gallon), and approximately 8,000 feet of 4-inch PVC mainline. It is authorized by existing water rights to serve 96 homes. The current application is to add a point of diversion from a second pond which is not authorized by the existing water right.

**DEVELOPMENT SCHEDULE**

BEGIN PROJECT BY THIS DATE	COMPLETE PROJECT BY THIS DATE	WATER PUT TO FULL USE BY THIS DATE
Completed	Completed	December 31, 2030

---

**PROVISIONS**

---

- An approved measuring device shall be installed and maintained in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.
  - Water use data shall be recorded weekly and maintained by the water right holder for a minimum of five years. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.
  - 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 Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".
  - Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.
- A certificate of water right will issue for only that quantity of water that has been diverted and applied to actual beneficial use. Such quantity applied to actual beneficial use shall not exceed the quantity specified in this report of exam and will be calculated based on the best information available to Ecology, including metering data and/or water duty analysis.
- **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.
- A certificate of water right will not be issued until a final investigation is made

---

**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 concur with the investigator that water is available from the source in question, the purpose of use is beneficial, there will be no impairment of existing rights, and there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S1-28617, subject to existing rights and the provisions listed above.

You have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this document. 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 this document:

- File your appeal and a copy of this document 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 document on Ecology in paper form - by mail or in person. (See

addresses below.) Email 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 4224 – 6th Avenue SE Rowe Six, Building 2 Lacey, WA 98503	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

Please also send a copy of your appeal to:

Jacqueline Klug  
Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue 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://www.l.leg.wa.gov/CodeReviser> .*

Signed at Bellevue, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Jacqueline Klug  
Section Manager  
Northwest Regional Office  
Water Resources Program

---

## INVESTIGATOR'S REPORT

---

### BACKGROUND

#### **Description and Purpose of the Project**

Spring Point Homeowners Association (SPHA) currently holds water right certificate S1-00593C which authorizes an instantaneous quantity of 0.134 cfs and 96 acre-feet per year (afy) from Pond #1 (Jay's Pond) for multiple domestic supply. Jay's Pond is located along the west side of Spring Point Road approximately 3,600 feet due west of the Deer Harbor marina as the crow flies, or about 1.7 miles by road from the marina. This is a Class A water system approved by Washington State Department of Health (DOH) for 94 connections, DOH System ID 833356. There are currently 69 connections with a build out projection of 89.

The subject application, S1-28617, was received April 21, 2009, for appropriation of waters to add a point of diversion from Pond #2 (Clyde's Pond). Clyde's Pond is located approximately 1,000 feet to the southwest of Jay's Pond. The two ponds are located on different tributaries of the same stream which flows into North Pass. In 1998 SPHA submitted an application of change to certificate S1-00593C (Jay's Pond) to add the Clyde's Pond diversion. Ecology could not approve the change because the pond is located on a different tributary of the stream. Therefore the subject application was submitted instead and the change application will be withdrawn when the subject application is approved.

SPHA also holds water right permit S1-24642P for diversion from a pond on a different stream located approximately 2,000 feet to the southeast of Jay's Pond. However this water right permit has never been utilized because the pond was never constructed. It was issued in 1986 for 0.033 cfs additive and 96 afy non-additive to certificate S1-00593C. If the pond is not constructed by June 16, 2013, the permit is scheduled to be cancelled due to lack of due diligence.

#### **Legal Requirements for Application Processing**

Chapter 90.03 RCW authorizes the appropriation of public water for beneficial use and describes the process for obtaining water rights. Laws governing the water right permitting process are contained in RCW 90.03.250 through 90.03.340.

The following legal requirements must be met prior to processing a water right application:

- **Public Notice**  
Public notice of the application was published in *The Islands' Sounder* on June 2 and June 9, 2010. There were no written protests during the statutory 30-day protest period.
- **State Environmental Policy Act (SEPA)**  
The subject water right application is categorically exempt under SEPA WAC 197-11-305 and WAC 197-11-800(4) because the instantaneous quantity is less than the one cubic foot per second threshold.

### INVESTIGATION

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

- Brandon, M. T., Cowan, D.S., and Vance, J.A. 1988, The Late Cretaceous San Juan Thrust System, San Juan Islands, Washington, The Geological Society of America Special Paper 221, 81 page
- Orr, L.A., Bauer, H.H. and Wayenberg, J.A. 2002, Estimates of Ground-Water Recharge from Precipitation to Glacial-Deposit and Bedrock Aquifers on Lopez, San Juan, Orcas, and Shaw Islands, San Juan County, Washington, U.S. Geological Survey Water-Resources Investigations Report 02-4114, 114 pages.
- Russell, R.H. ed., 1975, Geology and Water Resources of the San Juan Islands, San Juan County, Washington, Washington Department of Ecology Water Supply Bulletin No 46, 171 pages.
- Whiteman, K.J., Molenaar, D., Bortleson, G.C., and Jacoby, J.M., 1983, Occurrence, Quality, and Use of Ground Water in Orcas, San Juan, Lopez, and Shaw Islands, San Juan County, Washington, U.S. Geological Survey Water-Resources Investigations Report 83-4019, 12 sheets.
- USGS Friday Harbor, Wash. 7.5 minute topographic map
- Water well reports for Orcas Island
- Notes and GPS data from my site visit on July 14, 2010
- Records of existing water rights in the vicinity

## **Geographic Setting of the Place of Use and Point of Withdrawal**

The Spring Point Homeowners Association property is located in the southwestern quadrant of the western half of Orcas Island. The ponds are located southwest of Deer Harbor near the southwestern end of the island and most of the residences wrap around the shoreline at the southwest end of the island (Attachment 1). The area is heavily forested and has been strongly glaciated forming rounded hills. Elevations range from sea level to more than 400 feet above sea level. Poorly drained swamps and/or peat-bogs may be found in the depressions carved out of the solid rock by the glaciers.

## **Geological Background of the San Juan Islands**

The San Juan Islands expose a thick and regionally extensive sequence of Late Cretaceous thrust faults and nappes, referred to as the San Juan thrust system. A nappe is a fold in which the axial plane is horizontal or sub-horizontal. Nappes of the thrust system contain a diverse group of rocks ranging from early Paleozoic to middle Cretaceous in age. Based on stratigraphy, metamorphism, and geochemistry, five terranes have been identified within and peripheral to the thrust system. A terrane is a fault-bounded package composed of one or more related rock units and characterized by a distinctive geologic history. These terranes were widely separated from each other until Late Jurassic. (1) the Haro terrane, an Upper Triassic arc-volcanic sequence; (2) the Turtleback terrane, a Paleozoic arc-plutonic and volcanic unit; (3) the Deadman Bay terrane, a Permian to Lower Jurassic oceanic-island sequence containing Tethyan-fusulinid limestones; (4) the Garrison terrane, a Permo-Triassic, high-pressure metamorphic unit; and (5) the Decatur terrane, a Middle to Upper Jurassic ophiolite and superimposed arc-volcanic sequence. Thick Jura-Cretaceous clastic units are linked to these older San Juan terranes and to Wrangellia, either as directly overlapping units or by the presence of clastic material derived from the terranes. The voluminous amount of clastic material in the overlying Jura-Cretaceous units suggests a large, sub aerially exposed source region, presumably part of continental America.

Wrangellia is a large allochthonous terrane that underlies most of Vancouver Island and parts of Alaska. On Vancouver Island it is characterized as a coherent Paleozoic to Lower Jurassic stratigraphic sequence, dominantly volcanic. The thrust system straddles the southeastern edge of the Wrangellia terrane of Vancouver Island, contains important information on the accretionary history of Wrangellia and other, related, far-traveled terranes.

The former topography of the San Juan Islands has been greatly modified by glaciation, but the erosion beneath the glaciers was no doubt guided to a considerable extent by valleys and by the fracture zones and fault zones that were already in existence. It is probable that a fault of considerable magnitude occupies each of the major channels.

## **Orcas Island Geohydrology**

Orcas Island has an aerial extent of about 57 square miles and consists of three distinct areas. A fault of small horizontal displacement follows East Sound and divides Orcas Island into two almost equal parts. From evidence occurring on the north shore of Orcas Island the fault is post-Cretaceous in age, and the eastern side moved southward and upward with respect to the western side. This has created the mountainous east and west portions of the island. The northern narrow area connecting the east and west portions north of East Sound and south of President Channel forms the third area. The northern area consists predominantly of unconsolidated Quaternary deposits. The east and west portions of the island are predominantly composed of bedrock with areas covered by Quaternary gravels of limited thickness. The Quaternary sediments are thin and discontinuous and bedrock commonly sticks up through them on the east and west portions and are not very conducive to providing ground water. Exceptions are Quaternary deposits in the West Beach area and some areas near West Sound. The other area of Quaternary deposits is along the shoreline on the southeast tip of the island.

Water wells in the consolidated bedrock obtain water from the fractured zones and jointing in the rock. Bedrock wells are low producers and yields in excess of 3 to 5 gallons per minute should not be expected. Water wells completed in unconsolidated Quaternary glacial sediments are relatively productive with yields commonly in the 10 to 40 gallons per minute range.

The geology in the vicinity of Spring Point consists of the Turtleback terrane, a Paleozoic arc-plutonic and volcanic unit. Water Supply Bulletin No. 46 mapped the Turtleback Complex consisting of gabbro, diorite, and quartz diorite with minor pyroxenite and serpentine.

Mean annual precipitation in the area is from 28 to less than 30 inches per year. Recharge to the ground water system on Orcas Island occurs from percolation of precipitation. Recharge in the watershed area around Spring Point is less than 0.5 inch per year (USGS, 2002). Once infiltrated, ground water on the island generally flows radially from the center of the island towards the coastline.

## Site Visit

On July 14, 2010, Erika Lindsey of DOH, and John Rose and I, both of Washington State Department of Ecology, met with John Ryberg, who gave us a tour of the system. We observed the ponds, plumbing, booster pumps, water treatment system, water storage tanks, and homes on the system. We also looked at the sea water reverse osmosis plant which is used on occasion during high demand periods in the summer.

## Water System Details

Pond #1 (Jay's Pond) holds approximately 24 acre-feet and Pond #2 (Clyde's Pond) holds approximately 4 acre-feet of water. Since Jay's Pond is over 10 acre-feet a reservoir permit should have been obtained. The applicants' representative, John Ryberg, has agreed to submit a reservoir application. The dam on Jay's Pond is in compliance with our Dam Safety Program.

Clyde's Pond is located approximately 1,000 feet to the southwest of Jay's Pond which is approximately 40 feet lower in elevation. Water flows by gravity from both ponds through 4-inch PVC lines which combine to a common 4-inch line to the filtration and chlorination system down the hill. A Sensus 25 Recordall water meter records the combined diversions prior to filtration. A provision of the permit will require that water diverted from each pond be metered separately. From the filtration plant water is pumped into storage which consists of 80,000 gallon and 20,000 gallon concrete storage tanks. Leaving storage a 3,000 gallon pressure tank sends water to distribution via approximately 8,000 feet of 4-inch PVC mains. This description of the system is an oversimplification which at various stages can be re-circulated.

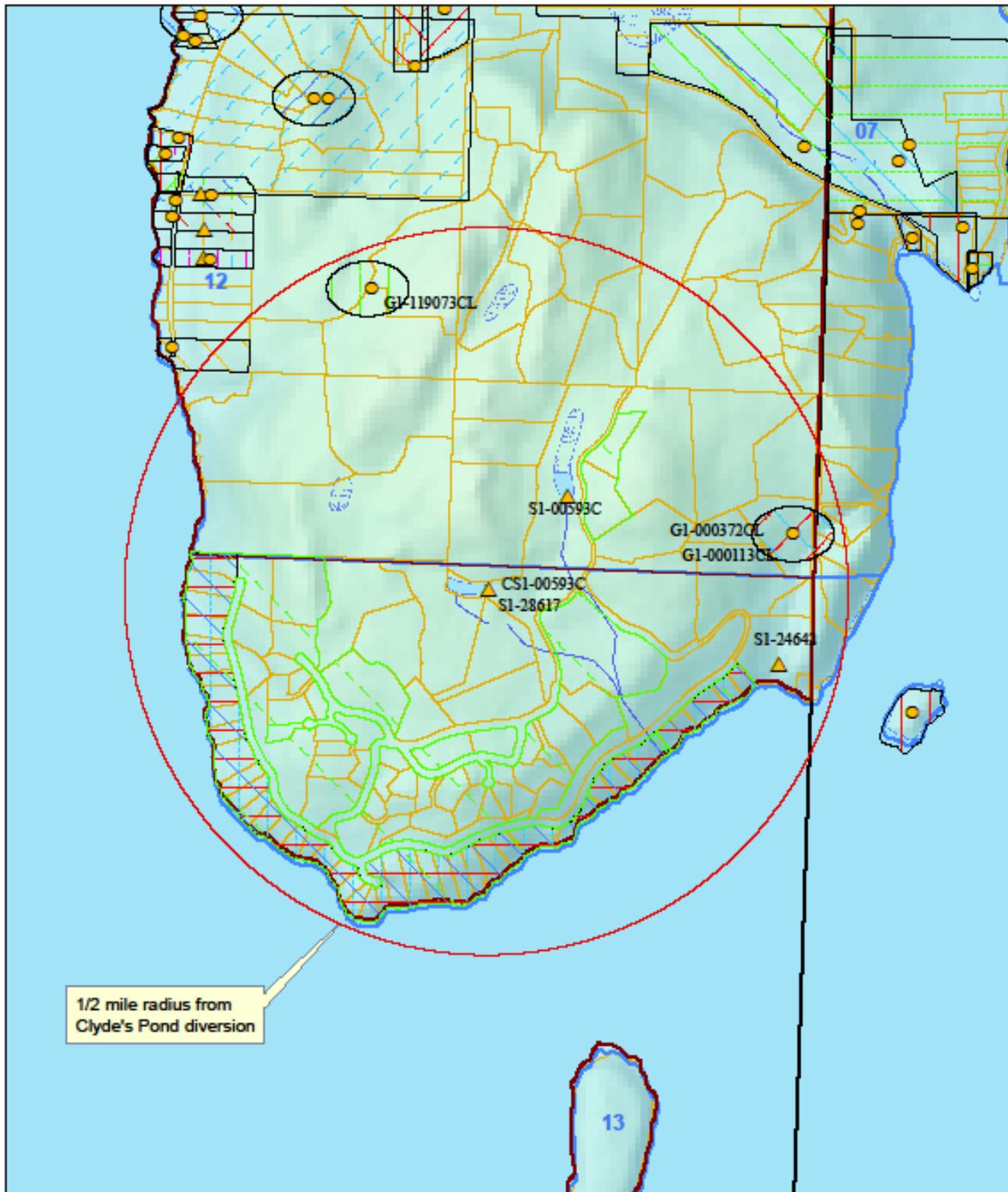
Annual water use data in acre-feet from 1999 through 2009 respectively: 9.5, 10.3, 9.7, 11.2, 7.3, 6.6, 7.2, 7.6, incomplete data, incomplete data, and 8. This demonstrates that usage increased as more homes were constructed, then subsequently decreased as conservation efforts and system efficiencies were implemented.

The system is also supplemented part time by a reverse osmosis desalination plant. Approximately 25% of the residences are part-time, so only during peak summer demand the desalination plant is used. On average the desalination plant has provided about 140,000 gallons per year, or about 8% of total water use for the system.

## Water Rights in the Vicinity of Spring Point Homeowners Association

The Department of Ecology Water Right Tracking System (WRTS) database was queried to determine the number of existing water rights within one-half mile of the point of diversion. An arbitrarily, yet conservatively chosen area of one-half mile is used to define "close proximity". This value is justified experimentally based on current and historical pump test data that show negligible drawdown, and therefore unlikely impairment to wells or surface water diversions, induced by groundwater withdrawal from wells at a distance of 1000 feet in most cases. Since this is a surface water diversion proposal there should be no effect on ground water withdrawals.

Figure 1 shows all water rights, including claims, within the half mile radius of the point of withdrawal for the subject water right application for Clyde's Pond. Claims are designated with a CL at the end of the claim number. There are three ground water claims within the half mile radius. 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. Many claims represent use under the ground water exemption (RCW 90.44.050) for single domestic use.



1/2 mile radius from Clyde's Pond diversion

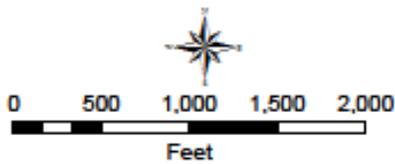


Figure 1  
8/2/2010

**DEPARTMENT OF ECOLOGY**  
State of Washington  
**Existing Water Rights in the Area of Spring Point Water System**  
San Juan County, Washington

The only Permitted and Certificated water rights within the half mile radius are owned by Spring Point Homeowners Association. They include Certificate S1-00593C for 0.134 cfs and 96 acre-feet per year (afy) for Jay's Pond, and Permit S1-24642P for additive 0.033 cfs and non-additive 96 afy for a pond which has not been constructed.

Ecology's well log database shows twenty-two water wells within one-half mile of the point of withdrawal. Some of the wells belong to the claimed water rights mentioned above. The remainder fall under the ground water exemption.

## **FINDINGS**

Under state law the following four criteria must be met for an application 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

### **Water Availability**

Clyde's Pond has shown that it is capable of producing water as requested since it has been in use since 1984. Therefore water is physically available for appropriation from Clyde's Pond.

There are no regulatory closures or restrictions affecting water availability on Orcas Island, therefore I find water is legally available for this appropriation.

### **Impairment Considerations**

One surface water certificate, one surface water permit, three ground water claims, and twenty-two water wells all exist within one-half mile of the point of diversion for the subject application. The diversion is from a stream reach that has no hydraulic connection to any other water rights, claims or wells. There should be no impacts or impairment to surface water rights, claims or wells in the vicinity.

### **Beneficial Use**

Multiple domestic supply is considered a beneficial use under RCW 90.54.020(1).

### **Public Interest Considerations**

No potential for detriment to the public interest could be identified during the investigation of this application.

### **Consideration of Protests and Comments**

No protests were filed against this application.

## **DISCUSSION**

The following definitions of the terms "additive", "non-additive", "alternate", and "standby/reserve" are cited from Water Resources Program Policy 1040:

Additive - A water right for either annual or instantaneous quantities of water that are added to an existing water right.

Non-additive - A water right for either annual or instantaneous quantities of water that does not increase the water available in existing water rights.

Alternate - A water right that can be used either instead of, or simultaneously with, another water right. Alternate rights authorize a substitute point of diversion or withdrawal under a second water right to meet or augment an existing water right. The water user is allowed to determine which right to use. An alternate water right generally does not have an annual quantity that is additive to other water rights, and can have an instantaneous quantity that is either additive or non-additive depending on the needs of the project.

Standby/Reserve - A water right that can only be used when the primary water right goes unfilled or cannot satisfy an authorized use during times of drought or other low flow periods. A primary right must be used to the extent available before a standby/reserve right is used.

While processing this application I reviewed all previously issued water rights for Spring Point Homeowners Association. S1-00593C has a priority date of June 10, 1970 for additive 0.134 cfs and additive 96 afy for community domestic supply. S1-24642P has a priority date of April 18, 1985 for additive 0.033 cfs and non-additive 96 afy for community domestic supply. S1-28617A with a priority date of April 21, 2009 shall issue for alternate non-additive 0.033 cfs and alternate non-additive 96 afy for community domestic supply.

**RECOMMENDATIONS**

Based on the above investigation and findings, I recommend the request for a surface water permit be approved in the quantities and within the limitations listed below and subject to the provisions on page 2.

**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:

- 0.134 cfs (60 gpm) alternate non-additive
- 96 acre-feet per year alternate non-additive for multiple domestic supply

**Point of Diversion**

NW¼ NE¼, Section 13, Township 36 North, Range 3 West, W.M.

**Place of Use**

All of Spring Point Division No. 1 and No. 2; plus Chartwell Short Plat; parcels numbers 361321002000 and 361321001000; plus Decourcey short plat lot 4A and 4B, All situated in San Juan County, Washington.

Based on the above investigation and findings, I recommend the request for a surface water permit be approved in the quantities and within the limitations listed above and subject to the provisions on page 2.

**CONCLUSIONS**

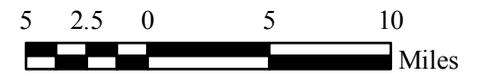
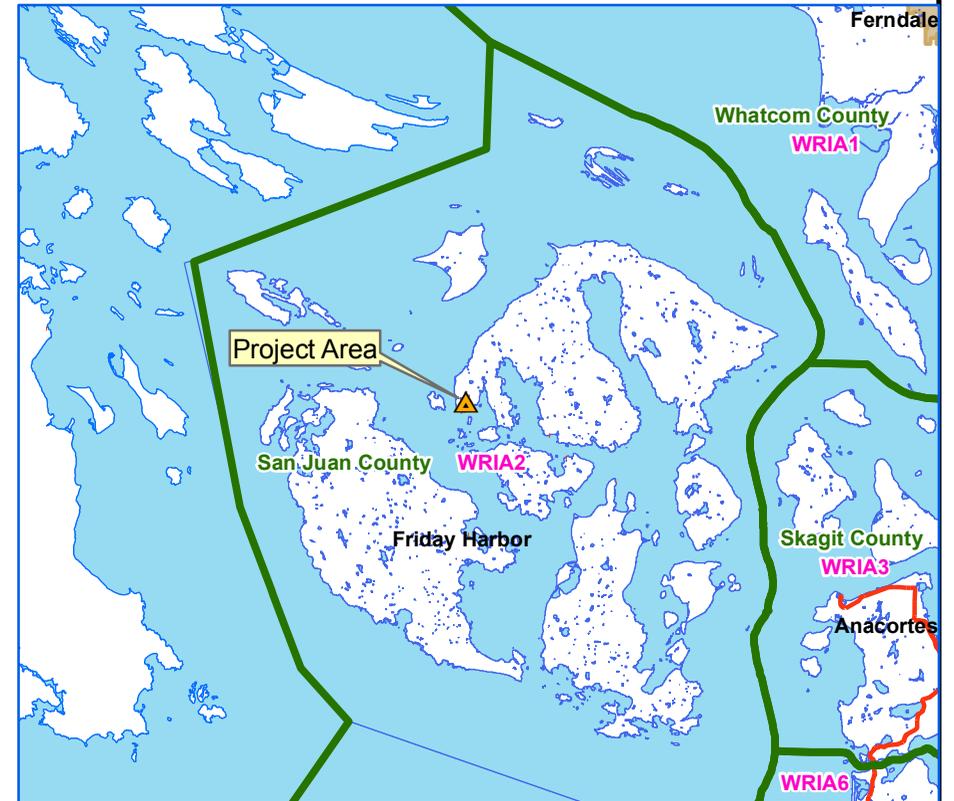
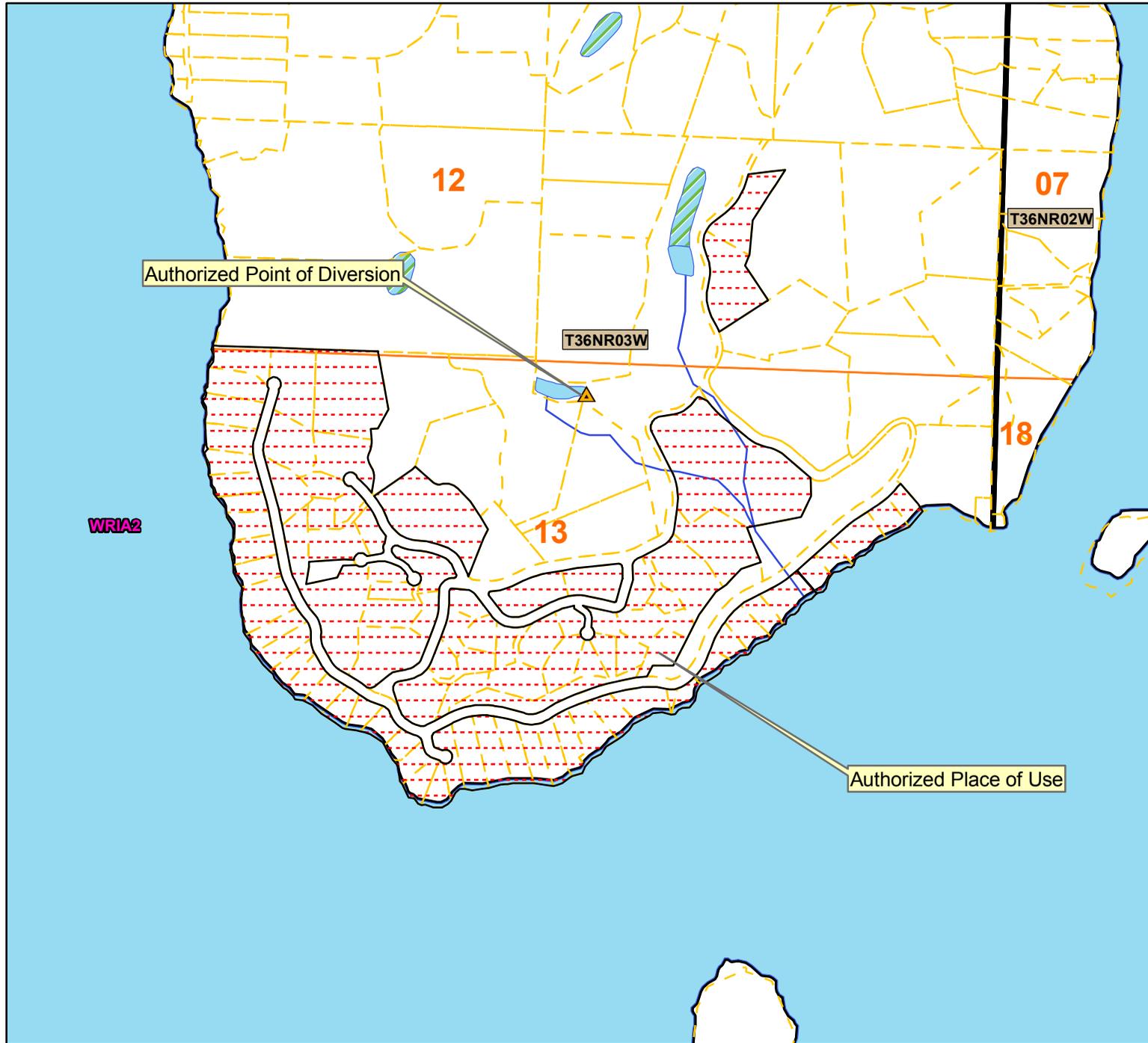
In accordance with chapter 90.03 RCW, I conclude there is water available from the source in question, the purpose of use is beneficial, there will be no impairment of existing rights, and there will be no detriment to the public interest.

Report by: \_\_\_\_\_, 2010  
 Jerry L. Lyszak, LG, LHG Date  
 Water Resources Program

---

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 Diversion
- 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.'