

File NR: G4-35802  
WR Doc ID: 6771596

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

**PRIORITY DATE**  
November 12, 2015

**WATER RIGHT NUMBER**  
G4-35802

**MAILING ADDRESS**  
JOHN & WENDY SCHUFREIDER  
17117 S.E. 136TH  
RENTON, WA 98059-7005

**SITE ADDRESS (IF DIFFERENT)**  
961 OLD CEDARS RD  
CLE ELUM, WA 98922

**Quantity Authorized for Withdrawal**

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
4.48	GPM	0.414

**Purpose**

PURPOSE	WITHDRAWAL RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Domestic Single	4.48		GPM	0.392		01/01 - 12/31
Irrigation Lawn/Garden		4.48	GPM	0.022		06/01 - 09/30

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
0.011	0	AB764E	7

**Source Location**

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
KITTITAS	GROUNDWATER		39-UPPER YAKIMA

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
1 existing well	953672	AKW-634	20N	14E	19	NWNE	47.21705	-121.14232

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

PARCELS (NOT LISTED FOR SERVICE AREAS)

953672

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lot 8A of OLD CEDARS SHORT PLAT No. 07-24, recorded under Kittitas County recording number 200711130061, records of Kittitas County, Washington.

**Proposed Works**

The proposed works include an existing well drilled in 2005 with a diameter of 6-inches and to a depth of 70 feet, which supplies water to 7 residences of the Toby Johnson Water System and is approved by the Department of Health (DOH) as a Group B system.

When the water delivery system is complete, the source will use a 1-horsepower pump and 1-inch mainlines to deliver water to each residence. The source shall be metered.

Domestic wastewater will be discharged to an individual or group on-site septic system, pursuant to the Declaration of Covenant, signed November 30, 2015, by the subject applicant.

Development Schedule		
BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
December 31, 2016	December 31, 2020	December 31, 2022

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

**Provisions**

**A. Wells, Well Logs, and Well Construction Standards**

1. The existing well and the right to use water from it are restricted to and authorized for groundwater withdrawal from the Alluvium aquifer within the Easton subbasin.
2. All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction." Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.
3. All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.
4. Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.
5. In accordance with WAC 173-160, wells shall not be located within certain minimum distances of potential sources of contamination. These minimum distances shall comply with local health regulations as appropriate. In general, wells shall be located at least 100 feet from sources of contamination. Wells shall not be located within 1,000 feet of the boundary of a solid waste landfill.

**B. Measurements, Monitoring, Metering, and Reporting**

1. 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.
2. Water use shall be recorded **monthly** and maintained by the property owner for a minimum of five years. The maximum rate of withdrawal and the annual individual total volume for this residence shall be submitted to Ecology by January 31st of each calendar year.

3. Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.
4. 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.

#### **C. Water Level Measurements**

1. In order to maintain a sustainable supply of water and ensure that your water source is not impaired by future withdrawals, static water levels **should** be measured and recorded monthly using a consistent methodology. Static water level is defined as the water level in a well when no pumping is occurring and the water level has fully recovered from previous pumping. Static water level data **should** include the following elements:
  - Unique Well ID Number.
  - Measurement date and time.
  - Measurement method (airline, electric tape, pressure transducer, etc.).
  - Measurement accuracy (to nearest foot, tenth of foot, etc.).
  - Description of the measuring point (top of casing, sounding tube, etc.).
  - Measuring point elevation above or below land surface to the nearest 0.1 foot.
  - Land surface elevation at the well head to the nearest foot.
  - Static water level below measuring point to the nearest 0.1 foot.

#### **D. Department of Health Requirements**

Prior to any new construction or alterations of a public water supply system, the State Board of Health rules require public water supply owners to obtain written approval from the Office of Drinking Water of the Washington State Department of Health. Please contact the Office of Drinking Water prior to beginning (or modifying) your project at:

DOH/Division of Environmental Health  
16201 E. Indiana Avenue, Suite 1500  
Spokane Valley, WA 99216  
(509) 329-2100

#### **E. Water Use Efficiency**

1. The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

#### **F. Proof of Appropriation**

1. 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.

## G. Schedule and Inspections

1. 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.

## H. General Conditions

1. This authorization shall in no way excuse the permittee from compliance with any federal, state, or local statutes, ordinances, permits, or regulations, including those required and administered by other programs of the Department of Ecology (Ecology).
2. You (applicant) will pay the sum of **\$52.27**, which represents a proportionate amount of the payment due and owing to the United States Bureau of Reclamation for storage and delivery of water under Paragraph 15(a) of Water Storage and Exchange Contract No. 09XX101700 (Storage Contract), between the United States Bureau of Reclamation and the State of Washington Department of Ecology, Yakima Project, Washington, dated January 29, 2009.<sup>1</sup> The consumptive use of 0.072 acre-feet from September 1 through March 31 is subject to the terms and conditions of the Storage Contract.
3. You (applicant) will record with the Kittitas County Auditor a property covenant as required under WAC 173-539A-050 that restricts or prohibits trees or shrubs over a septic drain field on Parcel No. 953672.
4. You (applicant) will record with the Kittitas County Auditor an appropriate conveyance instrument under which the applicant obtains an interest in Trust Water Right No. CS4-02255(A)CTCL@2 to offset consumptive uses.
5. The quantity of mitigated water may not exceed the amount of water available under Trust Water Right No. CS4-02255(A)CTCL@2 nor exceed the availability of unused storage capacity to retain the Trust Water Right for later release.
6. Any valid priority calls against the source Trust Water Right No. CS4-02255(A)CTCL@2, based on local limitations in water availability, will result in temporary curtailment of the use of water under the permit until the priority call for water ends.

## 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. G4-35802 subject to existing rights and the provisions specified above.

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<sup>1</sup> "Long-Term Water Storage and Exchange between the United States Department of Reclamation and the state of Washington, Department of Ecology" (Contract No. 09XX101700), [http://www.ecy.wa.gov/programs/wr/cro/images/pdfs/exchangecontract\\_012909.pdf](http://www.ecy.wa.gov/programs/wr/cro/images/pdfs/exchangecontract_012909.pdf), accessed on January 6, 2016.

**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 RCW 43.21B and WAC 371-08. "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 RCW 43.21B RCW and WAC 371-08.

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

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.leg.wa.gov/CodeReviser>

Signed at Union Gap, Washington, this 14<sup>th</sup> day of April, 2016.

  
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 Trevor Hutton, Section Manager  
 Water Resources Program  
 Central Regional Office

To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. Persons with impaired hearing may call Washington Relay Service at 711. Persons with speech disability may call TTY at 877-833-6341.

## BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number G4-35802.

### *Priority Processing*

This application is being priority processed because it qualified under the criteria under which an application may be processed prior to competing applications (WAC 173-152), where the proposed water use is water budget neutral as defined in WAC 173-152-020(18).

**Table 1:** Summary of "Requested" Water Right

<b>Applicant Name:</b>	John & Wendy Schufreider
<b>Date of Application:</b>	November 12, 2015
<b>Place of Use:</b>	Lot 8A of OLD CEDARS SHORT PLAT No. 07-24, recorded under Kittitas County recording number 200711130061, record of Kittitas County, Washington.

County	Waterbody	Tributary To	WRIA
Kittitas	Groundwater		39-Upper Yakima

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Domestic Single	<25	GPM	0.392	01/01	12/31
Irrigation	<25	GPM	0.022	Unspecified	Unspecified

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
1 Existing Well	953672	AGB-060	20N	14E	19	Unspecified	Unspecified	Unspecified

GPM= Gallons per minute; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M.

On March 8, 2016, the applicant's representative amended the application to reflect a different well tag and Group B water system associated with the proposed source. The amendment is as follows:

**Table 2:** Amendment to the Application

<b>Date of amendment:</b>	March 8, 2016
<b>Amended POW:</b>	AKW-634: 6" diameter and 70' deep
<b>Amended Group B system:</b>	Toby Johnson Water System

### Legal Requirements for Approval of Appropriation of Water

The place of use (POU) for the subject permit application, G4-35802, is located wholly within the area subject to the Upper Kittitas County Groundwater Rule, WAC 173-539A and the permit application is subject to the provisions of this rule, which provides that all new groundwater withdrawals in the area must be water budget neutral. A water budget neutral project is defined in this rule as "... an appropriation or project where withdrawals of groundwater of the state are proposed in exchange for discharge of water from other water rights that are placed into the Trust Water Right Program (TWRP) where such discharge is at least equivalent to the amount of consumptive use."

RCWs 90.03 and 90.44 authorize the appropriation of public water for beneficial use and describe the process for obtaining water rights. Laws governing the water right permitting process are contained in

RCW 90.03.250 through RCW 90.44.060. In accordance with RCW 90.03.290, determination must be made on the following four criteria in order for an application for water rights to be approved:

- Water must be both physically and legally available.
- There must be no impairment of existing water 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 Northern Kittitas County Tribune, of Cle Elum, Washington on December 24 and December 31, 2015. No protests to the application were received by Ecology during the 30-day comment period.

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

Ecology must give notice to the Department of Fish and Wildlife of applications to divert, withdraw, or store water. Ecology presented the proposal to the Water Transfer Working Group (WTWG) participants on March 7, 2016, seeking discussion, comments, and concerns from the group. The group gave a positive recommendation.

#### *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 (cfs), unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cfs, 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 (gpm).
- (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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#### *Site Visit*

A site visit was performed by Ecology employees Candis Graff, Chris Perra, and Jacquelyn Metcalfe on February 23, 2016. Global Positioning Satellite (GPS) coordinates were taken at the location of the existing well head. During this time it was discovered that the applicant's proposed Well Tag number

was inconsistent with the well head found on the property. An amendment to the application was later made to correct this error. Photographs were taken of the source location and of the proposed place of use (POU). Surrounding geology was noted.

## Proposed Use and Basis of Water Demand

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### *Domestic and Irrigation Water Use*

The December 2009, Water System Design Manual<sup>2</sup> (WSDM), published by the Washington State Department of Health (DOH), contains guidance for establishing water demands. The suggested methods, in order of preference, include:

1. Metered water production and use records.
2. Comparable metered water production and use data from analogous water systems. See WAC 246-290-221(3)(a) and Section 5.2.3.
3. The criteria presented in Chapter 5.

According to the WSDM, new systems or existing water systems that have no source meter records, information can be obtained from analogous water systems or from information presented in Appendix D in order to estimate the Average Daily Demand (ADD) and Maximum Daily Demand (MDD) for residential connections (WAC 246-290-221(3)(a)).<sup>3</sup> Analogous water systems are defined in Section 5.2.3 of the WSDM as systems with similar characteristics, such as, but not limited to: demographics, housing size, lot sizes, climate, conservation practices, use restrictions, soils and landscaping, and maintenance practices. Since there is no water use to review for the proposed residence and records for qualifying analogous systems are not available, a reasonable level for a MDD for indoor use can be established at 350 gallons per day (GPD)/Equivalent Residential Unit (ERU), which is consistent with the WSDM.

Under WAC 173-539A, 30% domestic in-house use on a septic system is assumed to be consumptively used and 90% of outdoor use is assumed to be consumptive. Monthly and annual use at full build-out of the project were calculated based on the proposed 1 ERU and the MDD of 350 GPD. Factors specified in WAC 173-539A were considered in the calculated consumptive use and total calculations and are summarized in **Table 3** below. (For greater detail, refer to Ecology’s consumptive use calculator in the file.)

**Table 3: Total and Consumptive Use Calculations\***

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Total Use (af)	.033	.030	.033	.032	.033	.036	.041	.039	.036	.033	.032	.033	<b>0.414</b>
Total Consumptive (af)	.010	.009	.010	.010	.010	.013	.017	.015	.013	.010	.010	.010	<b>0.137</b>

\*Calculations are rounded.

<sup>2</sup> Department of Health, “Water System Design Manual,” Olympia, WA, 2009, pp. 27-32, <http://www.doh.wa.gov/Portals/1/Documents/Pubs/331-123.pdf>, accessed on February 8, 2016.

<sup>3</sup> Ibid., p. 28.

### **Proposed Mitigation**

This proposal is within the Easton subbasin, which is located within the upper Kittitas County and new groundwater appropriations in the Easton subbasin are subject to the provisions of WAC 173-539A. WAC 173-539A-050 provides that a new use of groundwater can be approved if the consumptive use associated with a new groundwater use is offset by an equal or greater amount of a pre-1905 water right held by Ecology in the Trust Water Right Program (TWRP).

Through Groundwater Application No. G4-35802, John and Wendy Schufreider are seeking authorization to withdraw new groundwater. The applicant intends to mitigate for consumptive use under the requested appropriation through the purchase of Upper Kittitas mitigation credits through the Swiftwater Ranch Water Exchange. The Swiftwater Water Exchange was established by transferring a portion of Court Claim No. 02255 into the TWRP. Consumptive loss resulting from the applicant's proposed use will be offset with Trust Water Right No. CS4-02255(A)CTCL@2.

### **Water Duty**

In planning a development, source capacity must be considered and recognized. The total daily source capacity, in conjunction with storage designed to accommodate peak-use periods must be able to reliably provide sufficient water to meet the Maximum Daily Demand (MDD) for a water system. Reliability and sustainability must also be considered when planning for a water system. Lacking metered water-use records, Ecology relied on the Yakima River Basin Water Rights Adjudication: Report of Referee, Subbasin No. 2 for the purpose of domestic supply with a small lawn and garden (under ½-acre each residence) to set the water duty at 0.01 cubic feet per second (cfs) or 4.48 gallons per minute (gpm).

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

A review of Ecology records was conducted for existing water right documents, permits, and claims. **Table 4** below identifies existing water rights appurtenant to the proposed POU.

**Table 4: Other Rights Appurtenant to POU**

Control No.	Doc. Type	Purpose	Qa	Source
S4-84638-J	CFO	SR	166,846	Yakima River
S4-84639-J	CFO	SR	250,261	Kachees River
S4-84640-J	CFO	SR	446,610	Yakima River
S4-84641-J	CFO	SR	38,768	Bumping River
S4-84642-J	CFO	SR	216,850	Tieton River
S4-84643-J	CFO	SR	5,300	Tieton River
S4-84644-J	CFO	SR	472	Yakima River
S4-84645-J	CFO	SR	2	Tieton River
S4-84646-J	CFO	SR	56	Yakima River
S4-84647-J	CFO	SR	60	Yakima River
S4-84648-J	CFO	SR	408	Yakima River
S4-84649-J	CFO	SR	1,265	Tieton River
S4-84650-J	CFO	SR	5,120	Yakima River

Control No.	Doc. Type	Purpose	Qa	Source
G4-034936CL <sup>4</sup>	Short Claim	DG	Unspecified	Unspecified
G4-35799	New App	DM	149.6	Up to 467 new wells

DG=Domestic General, DM=Domestic Multiple, SR=Storage.

Surface Water Right Nos. S4-84638-J through S4-84650-J, owned by the United States Bureau of Reclamation, authorize water to be stored for flood-control purposes.

G4-034936CL is a short-form claim filed in 1973 and specifies neither water quantity nor narrow place of use for the 1 residence claiming to receive water. This claim will not be used on the proposed POU for this authorization.

Submitted in 2015, G4-35799, owned by Kittitas County, requests multiple domestic mitigated water use for potential land owners needing a new domestic appropriation. The proposal sets the stage for a generally large place of use to accommodate potential owners and buyers of land within the boundaries proposed. The application has not been processed.

### Impairment Considerations

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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 to an adequately constructed groundwater withdrawal facility of an existing right. An adequately constructed groundwater withdrawal facility is one that:
  - (a) Is constructed in compliance with well construction requirements.
  - (b) Fully penetrates the saturated zone of an aquifer or withdraws water from a reasonable and feasible pumping lift.
- 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 instream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the instream flow more frequently or for a longer duration than was previously the case.
- Interrupt or interfere with the flow of water allocated by rule, water rights, or court decree to instream flows.
- Degrade the water quality of the source to the point that the water is unsuitable for beneficial use by existing users (e.g., via sea water intrusion).

### Water Availability

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For water to be available for appropriation, it must be both physically and legally available.

<sup>4</sup> The above referenced claim was filed under Claims Registration Act, RCW 90.14. The intent of this act was to document those uses of surface water in existence prior to the adoption of the State Surface Water Code, RCW 90.03, which was adopted in 1917, and those uses of ground water in existence prior to the adoption of the State Ground Water Code, RCW 90.44, which was adopted in 1945. Since each code adoption, the only means of acquiring a water right within the state is by filling for, and receiving, a permit from Ecology or one of its predecessors or by establishing a right under the "exemption" under the Ground Water Code RCW 90.44.050. Ecology recognizes that the final determination of the validity and extent associated with a claim registered in accordance with RCW 90.14 ultimately lies with the Superior Court through the general adjudication process provided for by RCWs 90.03.110 through 90.03.240. Ecology does, however, recognize that water use may be occurring under these claims.

### *Physical Availability*

For water to be physically available for appropriation there must be ground or surface water present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. In addition, the following factors are considered:

- Volume of water represented by senior water rights, including federal or tribal reserved rights or claims.
- Water right claims registered under RCW 90.14.
- Ground water uses established in accordance with RCW 90.44, including those that are exempt from the requirement to obtain a permit.
- Potential riparian water rights, including non-diversionary stock water.
- Lack of data indicating water usage can also be a consideration in determining water availability, if the department cannot ascertain the extent to which existing rights are consistently utilized and cannot affirmatively find that water is available for further appropriation.

### *Hydrologic/Hydrogeologic Analysis*

The Ecology report entitled, Memorandum to the File, dated February 4, 2016, and authored by Chris Perra, analyzes the study area in detail. Based upon the hydrogeologic setting, observations and interpretation of data from existing wells drilled into the Alluvium aquifer within the Easton subbasin and elsewhere, groundwater is physically available for this mitigated proposal. Further, water is available without injury to the Total Water Supply Available (TWSA) by way of mitigation offered through use of Trust Water Right No. CS4-02255(A)CTCL@2 in accordance with WAC 173-539A-060.

### *Legal Availability*

To determine whether water to be legally available for appropriation, the following factors are considered:

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.
- Fisheries and other instream uses (e.g., recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where further reducing the flow level of surface water would be detrimental to existing fishery resources.
- The Department may deny an application for a new appropriation in a drainage where adjudicated rights exceed the average low flow supply, even if the prior rights are not presently being exercised. Water would not become available for appropriation until existing rights are relinquished for non-use by state proceedings.

When evaluating legal availability regarding applications for new groundwater permits in Upper Kittitas County, Ecology must statutorily limit appropriations of groundwater to:

1. Uses for a structure for which a building permit is granted and the building permit application vested prior to July 16, 2009.
2. Uses determined to be water budget neutral pursuant to WAC 173-539A-050.

The subject of this proposal requires 0.137 acre-feet of trust water. Given that the applicant has acquired a portion of trust water under Trust Water Right No. CS4-02255(A)CTCL@2 in the amount of 0.137 acre-feet, this requirement will be met. This Trust Water Right is dedicated to instream flow for water-banking-mitigation purposes for as long as the right remains in the TWRP.

**Based upon the planned mitigation described above, water is considered legally available for permitting purposes.**

### Beneficial Use

The proposed uses of water for single domestic and incidental lawn and garden irrigation are defined in statute as beneficial uses (RCW 90.54.020(1)).

### Public Interest Considerations

When investigating a proposal in a water right application, Ecology is required to consider whether the proposal is detrimental to the public interest. Ecology must consider how the proposal will affect an array of factors, such as wildlife habitat, recreation, water quality, and human health, among others. The environmental resources and other natural values associated with the area were taken into account during the consideration of this proposal.

#### *Consideration of Protests and Comments*

No protests were filed against this application.

### Conclusions

In conclusion,

- Water is physically and legally available for this appropriation.
- The proposed use is a beneficial use of water.
- The proposed use is not contrary to the public interest.
- The proposed use will not cause detriment or injury to existing rights.

## **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 above.

### 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:

- 4.48 gallons per minute (gpm).
- 0.414 acre-feet per year (ac-ft/yr).
- For continuous year-round indoor supply and seasonal irrigation of up to 0.011-acre of incidental lawn/garden.

**Point of Withdrawal**

1 existing well within the NW¼NE¼, in Section 19, T. 20 N., R. 14 E.W.M., Parcel No. 953672, Kittitas County, Washington.

**Place of Use**

Lot 8A of OLD CEDARS SHORT PLAT No. 07-24, recorded under Kittitas County recording number 200711130061, records of Kittitas County, Washington.

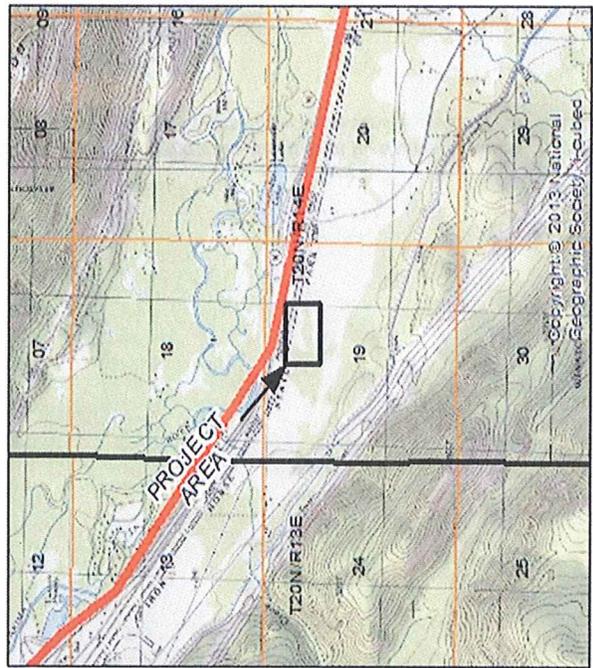
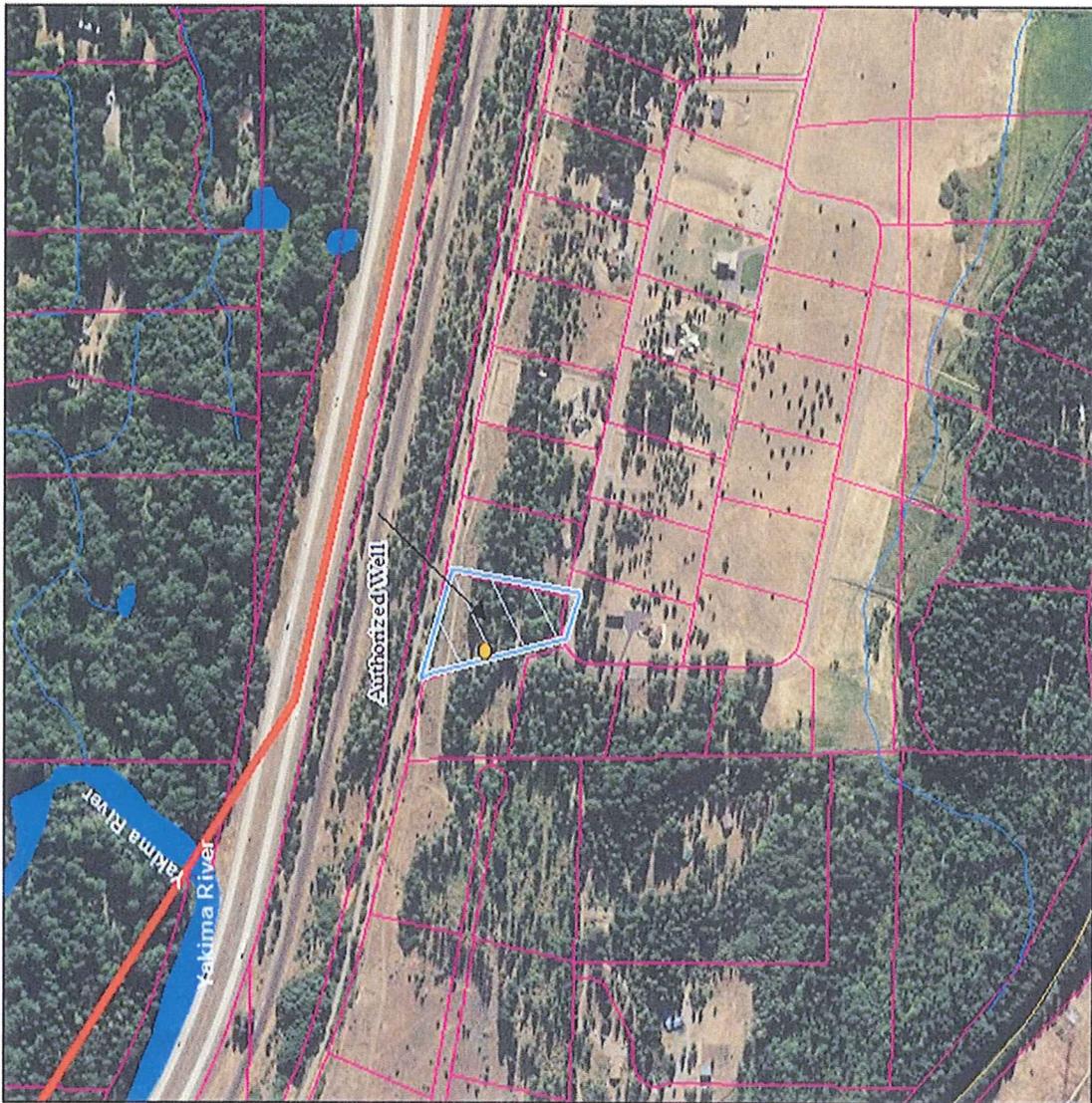
  
Candis L. Graff, Report Writer

4-14-16  
Date

*To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. Persons with impaired hearing may call Washington Relay Service at 711. Persons with speech disability may call TTY at 877-833-6341.*

ATTACHMENT 1

JOHN & WENDY SCHUFREIDER  
 G4-35802  
 Section 19, T20N/R14E  
 WR1A 39 - Kittitas County



- Legend**
- Authorized Place of Use
  - Authorized Point of Withdrawal
  - Water Bodies
  - Townships
  - Sections
  - Parcels
  - Highway

**Comment:**  
 Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.