

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

PRIORITY DATE
5/30/2012

WATER RIGHT NUMBER
S3-30666

MAILING ADDRESS
Twin Cedars Homeowners Association
10719 E 8th Avenue
Spokane Valley WA 99206

SITE ADDRESS (IF DIFFERENT)
13020 W. Newman Lake Road
Newman Lake WA 99025

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
1.89	CFS	0

Purpose

PURPOSE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)	PERIOD OF USE (mm/dd)
Fire protection	1.89 CFS	0	1/1 – 12/31

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Spokane	Newman Lake	Thompson Creek	57-Middle Spokane

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
NEWMAN LAKE	56044.0124	26N	45E	04	G-Lot 8 SE¼	47.77475°	-117.11408°

Datum: WGS84

Location of Intake: 580 feet west and 900 feet north of the SE corner of Section 4, T. 26 N., R. 45 E.W.M.

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Area served by Spokane County Fire District 13.

Proposed Works

A dry hydrant configuration with a 6 to 8-inch horizontal pipe at the intake and a 4-inch vertical pipe. A fish screen will be placed at the intake.

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
December 1, 2013	December 1, 2014	December 1, 2015

Provisions

Department of Fish and Wildlife Requirement(s)

The intake(s) 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/>

Water Use Efficiency

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.

For fire protection training and system maintenance purposes associated with this dry hydrant, the use shall be non-consumptive. The diverted water shall be returned to Newman Lake in close proximity in time from when it was taken.

Discharge of polluting matter in waters prohibited

In accordance with RCW 90.48.080, only water taken from Newman Lake for fire protection purposes shall be introduced into Newman Lake.

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. S3-30666, 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501</p>	<p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

Signed at Spokane, Washington, this 15th day of November, 2012.



Keith L. Stoffel, 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 -- Twin Cedars Homeowners Association

Water Right Control Number S3-30666

Jeffrey MacLennan, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30666.

Priority Processing

This application qualified for priority processing ahead of competing applications under WAC 173-152.

Expediting Process

Normally, new water right applications are acted upon in the order in which they are received – by priority date. Certain new water right applications are afforded priority processing if they meet certain conditions. With respect to this application, WAC 173-152-050(2)(c) provides that an application may be processed prior to competing applications if the department determines that:

“The proposed water use is nonconsumptive and if approved would substantially enhance or protect the quality of the natural environment.” (WAC 173-152-050(2)(c))

From Water Resources Program Policy 1020, “Surface water use is nonconsumptive when there is no diversion from the water source or diminishment of the source. Additionally, when water is diverted and returned immediately to the source at the point of diversion following its use in the same quantity as diverted and meets water quality standards for the source, the water use is classified as nonconsumptive.”

From Water Resources Program Policy 2015, “The diversion or withdrawal and use of water for containing, suppressing and extinguishing a fire is essential to the public welfare and does not require a water use authorization from the Department of Ecology. This includes the use of water from hydrants for fire fighting purposes....”

To meet the intent of priority processing, all fire protection activities other than fire fighting purposes such as training and maintenance must return any water diverted from Newman Lake back to Newman Lake.

The proposed dry hydrant for fire protection purposes meets the criteria set forth in WAC 173-152-050 and is afforded priority processing. Priority processing was approved by Keith Stoffel, Water Resources Section Manager, Eastern Region Office on September 17, 2012.

Table 1 Summary of Requested Water Right

Applicant Name:	Twin Cedars Homeowners Association
Date of Application:	5/30/2012
Place of Use	Area served by Spokane County Fire District 13

County	Water body	Tributary To	WRIA
Spokane	Newman Lake	Thompson Creek	57-Middle Spokane

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Fire Protection	1.89	CFS	0	01/01	12/31

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Newman Lake	56044.0124	26N	45E	04	Gov't Lot 8 SE¼	47.77475°	-117.11408°

Datum: 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 Spokane Valley News Herald* on August 10th and 17th, 2012. No protests were received.

Consultation with the Department of Fish and Wildlife

The Department must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. The department has developed an electronic procedure to meet this statutory requirement, called RSS feed (most commonly expanded as Really Simple Syndication) that allows for the Department of Fish and Wildlife, Tribes and other agencies to electronically subscribe to a site and review new water right applications and provide comment. No comments were received.

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.

This application calls for the diversion of 1.89 cfs and is therefore, not exempt from SEPA. A SEPA check list was provided on September 21, 2012. A review of the SEPA check list resulted in a Determination of Non-significance issued by the Department of Ecology on September 26, 2012.

INVESTIGATION

In considering the proposed application, the investigation included, but was not limited to, research and review of appropriate rules and statutes; other water rights and claims in the vicinity; aerial photographs and topographic maps; and discussions with Department of Ecology regional program staff.

A field investigation was conducted by Jeff MacLennan from the Department of Ecology with Mr. Ray Sebert, representative for the Twin Cedars Homeowners Association (HOA) on September 12, 2012. The proposed project is located about seven (7) miles north of Liberty Lake, Washington on West Newman Lake Road. The HOA is proposing to install a dry hydrant for fire protection and fire fighting using Newman Lake as the water source.

Mr. Sebert pointed out the location of the intake pipe and the hydrant. These locations were measured by GPS. Using GIS, these points are about 280 feet apart.

Jeff MacLennan met later that day with Keith Yamane, Spokane County Fire District 13 Fire Chief, to determine if there were any installation requirements that had to be met in order for the fire department to use this hydrant. His concern was that the intake be positioned at least two feet off the bottom and three feet below the surface to ensure a minimum of debris in the pumped water.

Proposed Use and Basis of Water Demand

The application requested authorization to divert water from Newman Lake for fire protection. Fire protection is defined by Water Resources Policy 2015 as the beneficial water use associated with the ongoing use of water to reduce fire risk. It includes irrigating buffer areas, storing water for fire use, and supplying fire hydrants within developments. Fire protection water use also includes the use of water within a fire fighting facility for training fire fighting personnel, and testing and maintaining fire fighting equipment.

For this project, the applicant will install a dry hydrant connected to Newman Lake to provide the local fire district ready access to water. Use of the hydrant should include semi-annual maintenance in the form of back flushing and at least an annual pump test. Any water taken from the lake for maintenance and training must be returned to the lake to maintain a non-consumptive status. According to Jeremy Ryf, Department of Ecology Water Quality, RCW 90.48.080 allows only water taken from Newman Lake to be used for back flushing the system. Water taken from another source is considered a pollutant.

There are several factors to consider when deriving an adequate instantaneous rate. Pipe and hose length and diameter can be used to determine ball park figures for maximum flow. A number of tables with a variety of hose and pipe diameters and lengths are provided by ETT, LLC, on its website at http://www.ettfire.com/sizing_standardization.html. Mr. Sebert described the system as either a 6 or 8 inch horizontal pipe with a 90 degree angle to a 4 inch vertical pipe. From the tables on the ETT website, it can be seen that such a system can produce an instantaneous flow of 1.893 cfs (850 gpm).

Other Rights Appurtenant to the Place of Use

There are two water rights appurtenant to the Twin Cedars development: S3-28393 and G3-28481.

Table 2 Summary of Appurtenant Water Rights

File Number	Name	Priority Date	Qi (gpm/cfs)	Qa (afy)	Purpose
S3-28393	Twin Cedars Condo Assoc	9/28/1987	0.51 cfs	25	DM; FR
G3-28481	Twin Cedars Condo Assoc	3/30/1988	230 gpm	23	DM

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 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 and (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).

Because this is a non-consumptive project diverting from a large lake, it is unlikely there will be impairment.

Water Availability

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

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 Chapter 90.14 RCW;
- Ground water uses established in accordance with Chapter 90.44 RCW, including those that are exempt from the requirement to obtain a permit; and
- 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.

The proposed use is considered non-consumptive because the diverted water will be returned to the lake within a short time from when it was taken.

Legal availability

To determine whether water is 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.

Beneficial Use

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

Public Interest Considerations

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

In conclusion, water is available for appropriation, and the proposed use would be a beneficial use, would not impair existing water rights, and would not be detrimental to the public welfare. This examiner finds that water is available for appropriation for nonconsumptive fire protection in the amount of 1.893 cubic feet per second.

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:

1.89 cfs

0 acre-feet per year

Fire Protection

Point of Diversion

580 feet west and 900 feet north of the SE corner of Section 4, T. 26 N., R. 45 E.W.M.

Place of Use

Area served by Spokane County Fire District 13



Jeff MacLennan, Report Writer

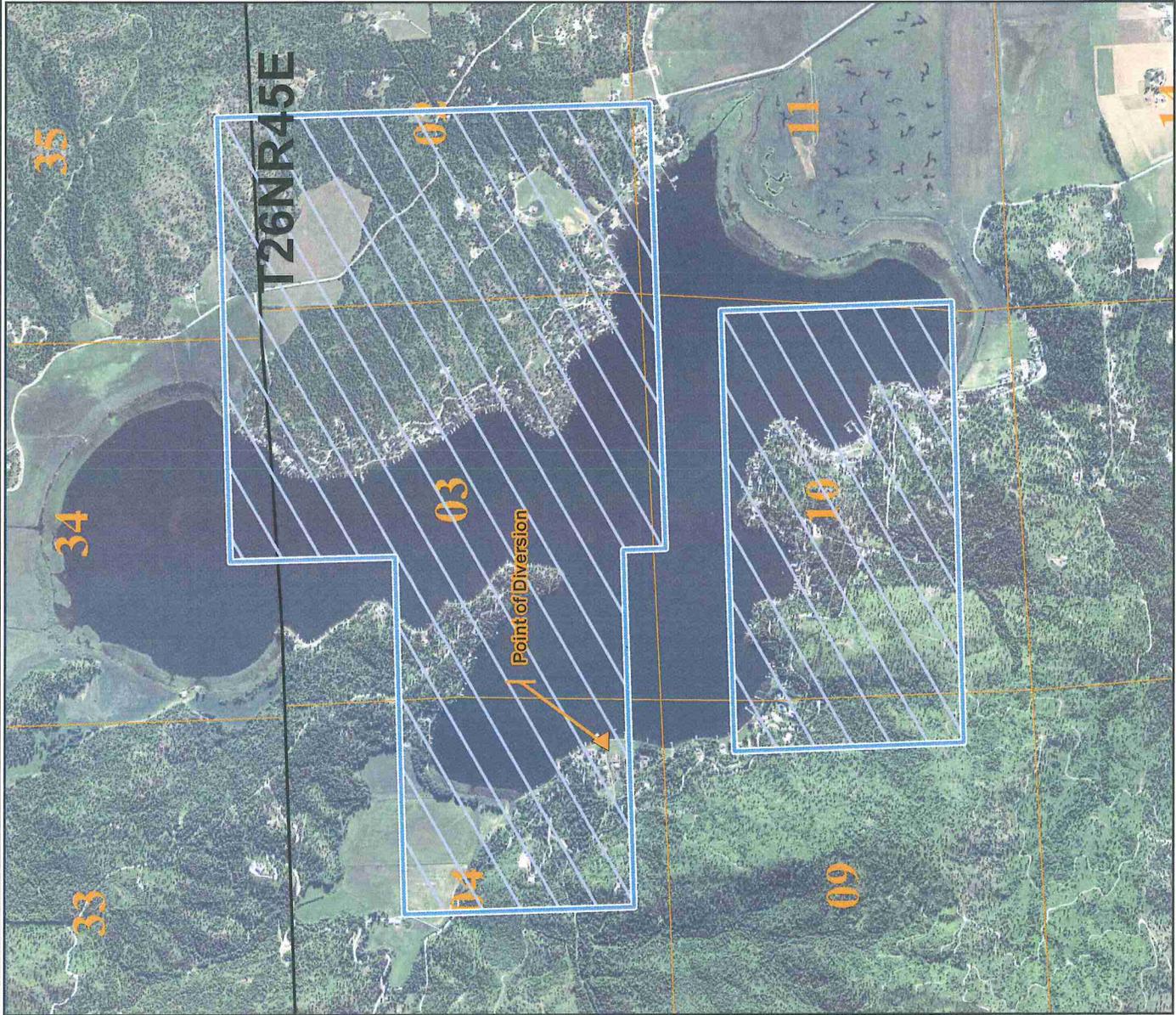
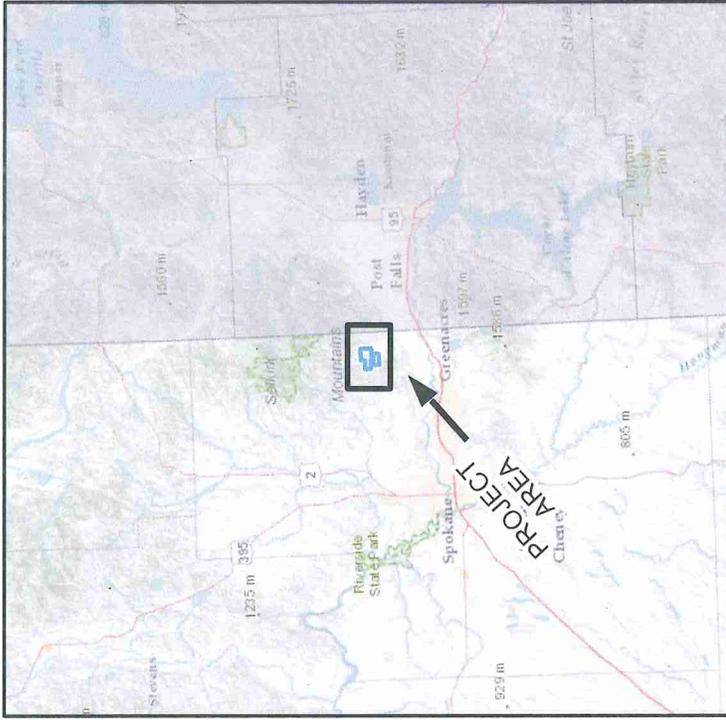
11-15-2012

Date

If you need this publication in an alternate format, please call the 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.

ATTACHMENT 1

Twin Cedars Homeowners Association
 S3-30666
 T26N/R45E



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.