



STATE OF WASHINGTON
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION
DENIAL

WR Doc ID: 2224091

PRIORITY DATE	WATER RIGHT APPLICATION NUMBER
July 28, 1998	G1-27988

NAME AND MAILING ADDRESS	SITE ADDRESS (IF DIFFERENT)
Michele Greenside PO Box 419 Hobart, WA 98025	27643 SE 231 st Street Maple Valley, WA 98038

Total Rate and Quantity Authorized for Withdrawal

WITHDRAWAL RATE (gpm)	ANNUAL QUANTITY (ac-ft/yr)
0	0

gpm = Gallons per Minute; ac-ft/yr = Acre-feet per Year

Purpose(s)

PURPOSE	WITHDRAWAL RATE (gpm)	ANNUAL QUANTITY (ac-ft/yr)	PERIOD OF USE
N/A	0	0	N/A

IRRIGATED ACRES	PUBLIC WATER SYSTEM INFORMATION	
N/A	WATER SYSTEM NAME and ID	CONNECTIONS
	West Land (ID #522497)	6

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
King	Groundwater		WRIA 8 - Cedar/Sammamish

SOURCE NAME	PARCEL	WELL TAG	TOWNSHIP	RANGE	SECTION	QQ Q	LATITUDE	LONGITUDE
N/A								

QQ Q = Quarter Quarter

Datum: NAD83/WGS84

Place of Use

PARCEL(S)
N/A

LEGAL DESCRIPTION OF THE AUTHORIZED PLACE OF USE

N/A

Proposed Works

The applicant in their 1998 application sought to provide community domestic supply to 10 homes using a well pumping at 40 gallons per minute. The application states an existing 6-inch diameter well drilled to a depth of 160 feet will be used.

Provisions

Please note that the existing well is legally capable of serving one or more homes within the place of use proposed herein. A water right (a legal permit-exempt groundwater withdrawal) exists to the extent of the water that has been put to beneficial use, so long as such use conforms to the uses and quantities referenced in RCW 90.44.050.

This denial of a water right permit for application G1-27988 will in no way lessen or extinguish the water right represented by permit-exempt groundwater withdrawals.

Please be advised that King County or the Washington State Department of Health may have restrictions on the number of homes that may be served by a permit exempt use as authorized under RCW 90.44.050.

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.

Therefore, I ORDER **DENIAL** of Application No. G1-27988.

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 to 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	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

For the most current information regarding filing with the PCHB, visit:
<https://eluh.wa.gov/content/11>. To find laws and agency rules, visit Ecology's Laws, Rules, and Rulemaking Website: <https://www.ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking#ws>.

Authorizing Signature

Signed at Shoreline, Washington, this _____ day of _____, 2023.

Kasey Cykler, Section Manager
Water Resources Program/Northwest Region Office
Department of Ecology

INVESTIGATOR'S REPORT

Water Right Application No.: G1-27988 (Michele Greenside)

Investigator: Douglas H. Wood, M.Sc., P.Geo., LHG

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number G1-27988.

Michele Greenside submitted application G1-27988 on July 28, 1998. The intent at the time of filing the application was to provide domestic water for 4 additional homes in an existing Group B water system.

Table 1. Summary of Requested Water Right

Applicant Name	Michele Greenside
Priority Date	July 28, 1998
County	King
WRIA	Cedar/Sammamish – WRIA 8
Water Source	Groundwater
Place of Use	West Land Water System (DOH ID #522497)

Purpose	Instantaneous Rate (gpm)	Annual Quantity (ac-ft/yr)	Begin Season	End Season
Multiple Domestic Supply for 10 homes	40	9.0	January 1	December 31

Source Name	Parcel	Well Tag	Township	Range	Section	QQ Q	Latitude	Longitude
Well		--	22N	07E	18	SE NW	--	--

WRIA = Water Resource Inventory Area; gpm = Gallons per Minute; ac-ft/yr = Acre-feet per Year; QQ Q = Quarter Quarter

Datum: NAD83/WGS84

INVESTIGATION

This investigation was conducted in June and July 2022 based on a review of the proposed project location, documents within Ecology records, and a review of publicly available technical reports on the hydrogeology of the project area.

The investigator is familiar with the site area. A field examination was not made for this investigation.

Proposed Use and Basis of Water Demand

Site Description

The requested appropriation is proposed from an existing well constructed in 1979 that is located in rural southeast King County, south of the City of Issaquah and east of the City of Maple Valley, Washington.

Water System Description

The West Land Water System consists of a 6-inch diameter, steel cased well, completed at a depth of 160 feet. The Washington Department of Health (DOH) reports that the system is approved for 6 connections but is estimated to be currently serving 7 connections.

History of Water Use

Water use is presumed to have begun shortly after the well was completed in 1979. It is likely that use has grown as new homes have been constructed and added to the system.

Proposed Use

This application proposes a state-appropriated water right for Multiple Domestic Supply to serve 10 connections.

Other Rights Associated with Project or Place of Use

The West Land Water System is currently served by a water right established through the groundwater permit exemption as defined under RCW 90.44.050. Most homes in this rural area of King County obtain water individually or as small systems using wells under this permit exemption.

Hydrogeologic Evaluation

The well currently in use appears to be completed in compacted, poorly sorted sand and gravel of the Vashon Advance outwash (Qva). The Qva was deposited at the advancing edge of the Puget lobe of the Cordilleran Icesheet between 18 and 16 thousand years before present.

The Qva is capped in the project area by Vashon till (Qvt) and Vashon Recessional outwash (Qvr). The Qvt till consists of highly compacted, matrix-supported, poorly sorted sand and gravel within a clay and silt rich matrix that was produced at the base of the Vashon Icesheet. The Qvt till typically acts as an aquitard. The Qvr outwash consists of uncompacted sands and gravels deposited by streams flowing from the glacial front as the Vashon Icesheet retreated at the end of the last glaciation, after approximately 14 thousand years before the present. The Qvr often hosts a perched aquifer when it is underlain by Qvt till.

The Qva (tapped by the subject well) acts as an aquifer and is typically confined except where the overlying till has been eroded. Some exposures of Qva can be found above the banks of the Cedar River west of the project site, but otherwise most of the project area is covered by Qvr sediments or Qvt till.

Groundwater flow within the Qva in the project area is generally toward the west where it contributes to surface water flows in the Cedar River, located approximately 2,900 feet east of the well.

Groundwater flow in the shallow Qvr aquifer either moves laterally and contributes directly to the nearby Cedar River or percolates down to the Qva aquifer.

Pumping from the proposed well may divert a small percentage of its production from groundwater hydraulically connected to the Issaquah Creek sub-basin. Carey Creek, which is a tributary of Issaquah Creek is located approximately 2 miles north of the well site (Figure 1). Based on proximity, the majority of water withdrawn from the proposed well would likely impact the Cedar River. Accepted hydrogeologic principles suggest that all water removed from the subject well would ultimately have discharged to the Cedar River and/or Lake Sammamish/Lake Washington, both of which have regulatory protections.

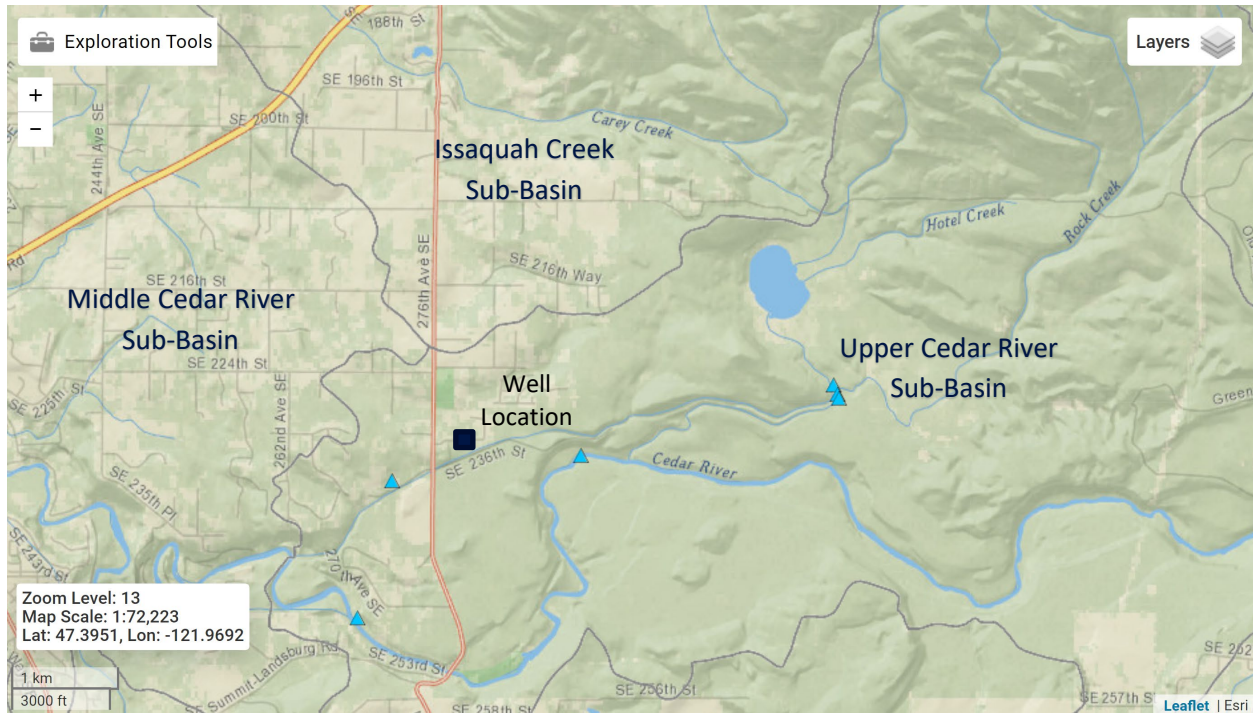


Figure 1: Location of proposed well source in relation to Issaquah Creek and Cedar River Watersheds.

ANALYSIS

Under Washington State law (RCW 90.03.290), each of the following four criteria must be satisfied in order for an application for a new water right permit to be approved:

- Water must be available for appropriation.
- Water withdrawal and use must not cause impairment of existing water rights.
- The proposed water use must be beneficial.
- Water use must not be detrimental to the public interest (public welfare).

Water Availability

For any new appropriation, water must be both physically and legally available.

Physical Availability

For water to be physically available for appropriation, water must be present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. An analysis of physical availability is required for both surface water and groundwater applications.

Water has been used for domestic purposes from the current well for over 40 years. This use demonstrates that water is physically available from the source aquifer. There is no evidence that current local use, including the applicant's existing water supply is not sustainable.

Legal Availability

To meet the legal availability test, the proposed appropriation must not withdraw and use water that is already "spoken for", such as water from sources that are protected by administrative rule or court order.

The proposed new water right allocation depends on groundwater that contributes flows to both the Cedar River and Issaquah Creek. Issaquah Creek is closed to appropriation under WAC 173-508-040.

Water is therefore not legally available for appropriation.

Impairment

In analyzing impairment, Ecology must make a determination as to whether existing water rights, including adopted instream flows, may be impaired by the withdrawal and proposed use.

There are 5 state-issued water rights and 24 claims to vested rights found within a 1/2-mile radius of the well source proposed in this application. All but two of the claims are for groundwater and all five state-issued rights are represented by groundwater certificates. A 1/2-mile radius was chosen recognizing that physical impairment of nearby wells is extremely unlikely beyond this distance.

Well logs for this area indicate that most wells are completed in either the shallow Qvr aquifer or the Qva aquifer. With the well having been pumped as needed for the past 40 years without claims of impairment, it is unlikely the proposed well source will have meaningful impacts on any neighboring wells.

The Qva aquifer tapped by the proposed well source (as well as the shallower Qvr aquifer) is closely connected in this area to the Cedar River, which is located approximately 3,000 feet southeast of the project well at its closest point. The Cedar River is also located to the south and southwest of the project well, suggesting much of groundwater withdrawn from the project well would have discharged to the Cedar River.

Minimum flows of the Cedar River are protected under chapter 173-508 WAC, the Cedar/Sammamish watershed instream flow rule. In 2015 the Washington State Supreme Court in the case of *Foster v. The Department of Ecology* (Case No. 90386-7), frequently referred to as the “Foster decision,” reaffirmed and reinforced that instream flows adopted by rule must be protected from impairment.

Ecology therefore may not approve a new appropriation that would lessen the flows of the Cedar River during periods when minimum instream flows are not met, unless the applicant can provide mitigation (100% offset) for the reduced flow. The applicant was informed that approval of this application would require an Ecology-approved mitigation plan but chose not to provide one. The decision not to provide mitigation was expressed through the return of a Statement of Intent form signed by the applicant and received by Ecology on January 21, 2022.

The proposed new appropriation would impair the minimum flows of the Cedar River as established through chapter 173-508 WAC.

Beneficial Use

The proposed appropriation must be for a beneficial use of water.

The Water Code under RCW 90.54.020(1) declares that domestic use is beneficial.

Public Interest

The withdrawal and associated use must not prove detrimental to the public interest.

In the present application, supplying water to the existing homes served by West Land Water System under the groundwater permit exemption is clearly serving the public interest. However, issuance of a water right permit is contrary to the stated aims of chapter 173-508 WAC, therefore approval of this application would not serve the public interest as expressed in the rule.

Conclusions

I find that:

- Water is physically available but may not be legally available due to the regulatory closure of Issaquah Creek, which is hydraulically connected to the groundwater source proposed for this application.
- The appropriation will impair Cedar River instream flow rights.
- The proposed domestic supply purpose is a beneficial use.
- Approval of this application would prove detrimental to the public interest.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend this request for a water right be **DENIED**.

Douglas H. Wood, M.Sc., P.Geo., LHG

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.

References

- Kenrick, Michael, 2003 - Rock Creek Catchment Groundwater Flow Model; Appendix D of Kent Habitat Conservation Plan
- Schulster, J.E., Cabibbo, A.A., Schilter, J.H., and Hubert, I.J., 2015 - Geologic map of the Tacoma 1:100,000-scale quadrangle, Washington, Washington Division of Geology and Earth Resources Map Series 2015-03
- Tabor, Booth et al. 2000 - Geologic map of the Tacoma 1:100,000-scale quadrangle
- Department of Ecology, 2022 - Water Rights Tracking System (WRTS), 2022, Electronic database of Ecology water rights documents.

