



# Birch Bay Water and Sewer District

Serving the Greater Birch Bay Area Since 1968

7096 POINT WHITEHORN ROAD  
BIRCH BAY, WASHINGTON 98230-9675  
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PHONE: (360) 371-7100 (24 hrs)  
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## COMMISSIONERS

Carl Reichhardt  
Don Montfort  
Patrick Alesse

## GENERAL MANAGER

Roger M. Brown

October 26, 2009

Trillium Corporation  
Attn: Chris Benner  
1329 N. State Street  
Bellingham, WA 98225

**RE: Water and Sewer availability for Parcels listed on the attached page. Totaling 1269 Residential Units.**

**THIS LETTER IS NOT TO BE USED TO OBTAIN A BUILDING PERMIT.**

To whom it may concern,

The above referenced parcel is within the District's legal boundaries and therefore, under current District Policy, "**Limited Availability of Water and/or Sewer Service**" ( effective September 24, 2009), water and sewer service are presently available for the above parcels.

Statements contained in this letter regarding water availability will be valid for **one year** from the date of issuance. Time extensions may be granted, at the discretion of the District, upon the developer's demonstration of reasonable diligence in securing all necessary County, State, and Federal approvals needed for land development associated with the inquiry about water and/or sewer service. In addition, the validity of a water availability letter shall be automatically extended for an additional two years upon execution of a Developer Extension contract pertaining to the same property.

Water and/or Sewer service is not assured for any lot or parcel until said lot or parcel has connected to the system. The District deems properties to be connected to the system when all applicable connection fees and monthly charges have been paid. Connection will only be allowed when the water and sewer system abuts the property to be connected. In addition, connection will not be allowed until Final Acceptance of system extensions. For building permits, connection is required at the time the District issues a water **availability notification form**.

***The preceding is for information only and is not to be used to obtain a building permit. Any dollar figures quoted are subject to change without prior notice.***

A copy of the District Policy "Limited Availability of Water and/or Sewer Service" is enclosed. If you require any further information please call.

BIRCH BAY WATER AND SEWER DISTRICT

A handwritten signature in black ink, appearing to read "Larry C. Freeman", is written over a horizontal line.

Larry C. Freeman, Field Engineer

Cc FILE

POTABLE WATER & WASTEWATER SECONDARY TREATMENT SERVICES

MAIN OFFICE 8 MILES WEST OF I-5, EXIT 266, SOUTH EDGE OF BIRCH BAY STATE PARK



# Semiahmoo West

10/20/2009

## Assessor's Parcel Numbers on Property

405115 135135	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 180010	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 233353	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 296234	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 300122	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 360152	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 361053	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 362186	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 362249	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 363118	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 364085	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 364220	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 365020	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 385005	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 398150	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 400380	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 432148	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 432183	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 432237	Shirly Pattyson 1/2 & David R Syre 1/2	P O BOX 1146	Lumby BC Canada V0E 2G0
405115 440090	Trillium Corporation	1329 N State St #201	Bellingham WA 98225-4754
405115 500050	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405115 520160	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405122 370360	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405122 414332	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405122 460485	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405122 495336	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405122 498434	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405123 033386	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754
405123 067497	Semiahmoo Company	1329 N State St #201	Bellingham WA 98225-4754



## BIRCH BAY WATER & SEWER DISTRICT

### COMMISSION POLICY

#### **SUBJECT: Limited Availability of Water and/or Sewer Service**

This Policy supersedes all prior water and/or sewer service limitation policies

As an extension of its Emergency Water Plan, the Birch Bay Water and Sewer District (hereafter "the District") has previously limited the availability of water service and issued qualified assurances of water availability under certain conditions. Upon review of the District's existing water service availability policy, it appears that said policy should be revised to reflect changed circumstances and conditions. In addition, in light of increasing area population and upgrade requirements for the District's Wastewater Treatment Plant ("WW TP"), a policy regarding limitations on sewer availability appears needed. The Commissioners hereby find as follows:

#### **WATER**

The District has purchased property and applied for a 500 gpm water right for a new production well ("District Well # 2") to be constructed at this site. The District has drilled a test well and is performing additional hydrogeological analyses to support the water right application.

On April 2, 2002, the District and the City of Blaine (jointly known as the "Parties") entered into a water supply contract ("Water Supply Contract"). This contract provides for delivery to the District of water in quantities of up to 2.11 million gallons per day and 1,280 acre feet per year. The contract term is 30 years and may be extended by mutual agreement three separate times in ten year increments, for a potential total term of 60 years.

On February 14, 2006 and July 25, 2006, the Parties entered into interlocal agreements providing for joint funding and direction of professional hydrogeologic consultants, with the goal of enhancing development of the City's water rights and delivery capacity to the District, and to promote development of additional water right applications, permits and certificates.

On February 28, 2008, the Parties entered into an interlocal agreement continuing the preceding joint hydrogeologic efforts and also providing for the cost effective delivery of water conservation and other water-related services.

On May 27, 2008, the Parties entered into the First Amendment to the Water Supply Contract ("First Amendment"). The First Amendment provides, in part, for joint development of new sources of water supply and specifies cost-sharing between the Parties with respect to such new sources.

Under RCW 43.21A.690 and RCW 90.03.265, the Department of Ecology (“DOE”) may enter into voluntary agreements with applicants for water rights where applicants’ reimburse DOE for the cost of processing their applications. This procedure is known as the Cost Reimbursement Program (“CRP”).

On January 27, 2009 and May 28, 2009, the City entered into contracts with DOE seeking approval of applications providing for 2250 gallons per minute in groundwater rights. The CRP applications include the application for District Well #2.

The requested water rights are being developed under the terms of the above-cited interlocal agreements and First Amendment, which provide that any water rights secured through the CRP will be shared equally between the Parties. It is unknown whether and to what extent the Parties will be successful in obtaining additional water rights under the CRP.

The District is supporting and actively participating in the WRIA # 1 Watershed Planning effort to develop regional solutions to competing demands for water resources.

The District has implemented a conservation program consistent with all state requirements to ensure efficient use of water.

Suppliers contractually obligated to supply water to the District may be unable to perform their contractual obligations due to acts of God, inability to secure and/or retain water rights, inability to surmount regulatory hurdles or other performance problems beyond the control of the District.

Washington Department of Ecology (“DOE”) regulations and policies require processing of applications for new water rights on a first come first serve basis, and the DOE is many years behind in processing new applications. In addition, many nearby basins, including the California Creek and Dakota Creek basins, are closed to the issuance of new water rights.

The listing of the Chinook salmon as a “Threatened” species under the Endangered Species Act (“ESA”) may significantly complicate the District’s efforts to secure water rights for new or additional sources of water supply. This may be particularly true for obtaining surface water sources, but may also be true for other potential sources, including groundwater.

State water rights law requires the appropriator to apply water to beneficial use with reasonable diligence. It is prudent, therefore, to restrict commitments of limited water supplies to *bona fide* developments that are being pursued with reasonable diligence and to provide assurances of water availability upon actual connection to the system.

## **SEWER**

The District has hired a consultant to perform a "capacity study" of the District's sewer collection system. It is in process of hiring a consultant to perform an engineering report of the capacity of the WWTP. The current status of these reports indicates that the District is nearing capacity of the WWTP and the collection system.

The District has scheduled improvements to both the WWTP and the collection system to upgrade the current capacity to accommodate growth within the District. The District has an ongoing inflow and infiltration evaluation and removal program to minimize extraneous flows in the collection system.

The District will vigorously pursue these wastewater capacity upgrades to meet the demands of residents and property owners within the District. Nevertheless, the District's ability to complete these projects to meet the demand is uncertain and may remain so into the foreseeable future.

These projects require approval from regulatory agencies outside the control of the District. These regulatory agencies may include, but are not limited to, Whatcom County, SEPA, NEPA, Army Corps of Engineers, Department of Ecology and State and Tribal Archeological Offices.

### **Now, therefore,**

1. **Water and/or Sewer Availability Letters.** All letters in response to inquiries about water and/or sewer service shall enclose this Policy on Limited Availability of Water and/or Sewer Service and shall include said policy by reference. The water and/or sewer availability letter shall indicate that statements regarding water and/or sewer availability shall be valid for one year from the date of issuance. Extensions may be granted at the discretion of the District upon the developer's demonstration of reasonable diligence in securing all necessary County, State and Federal approvals needed for land development associated with the inquiry about water and/or sewer service. The validity of a water and/or sewer availability letter shall be automatically extended for an additional two years upon execution of a Developer's Extension contract pertaining to the same property.

Water and/or sewer service is not assured for any lot or parcel until said lot or parcel has connected to the system as per Paragraph 2 herein. At the discretion of the District, in order to facilitate accurate monitoring of the rate of growth in connections to the system, the Developer may be required to provide an annual projection of the number of connections associated with the proposed development.

2. Connection to the system. The District deems properties to be connected to the system when all applicable connection fees and monthly charges have been paid. Connection to the respective system will only be allowed when the water and/or sewer system serves the property to be connected in accordance with the Design Standards in the current edition of the District's Developer Project Manual and/or the District's comprehensive plans. In some cases, the District may require amendment of the District's comprehensive plans in order to authorize connection and/or determine the conditions of connection. In addition, connection will not be allowed until Final Acceptance of system extensions. For building permits, connection is required at the time the District issues a water and/or sewer availability letter. Requirements of this section notwithstanding, the District will continue to deem connected those properties that have been connected under prior District policies, provided such properties have paid all applicable connection fees and monthly charges.

3. Determination of Adequacy of Water Supply. It is the policy of the District to provide water supplies adequate to serve development at the time the development is available for occupancy and use. Recent forecasts indicate that connections to the District's water system are projected to grow at a rate of 2.9% per annum. The District's current and planned water supply is hereby determined to be adequate and available to meet said demand for new connections to the water system, subject to the above-cited uncertainties inherent in the planning, development and delivery of water supplies.

The District intends to monitor, on at least an annual basis, actual and forecasted growth in connections to the water system and progress in developing additional water supplies to provide for future connections at the time they are needed. If satisfactory progress is not being made in the timely development of new water supplies, and/or growth in connections has been occurring or is projected to occur at rates higher than previously projected, or if for any other reason it appears to be in the best interests of its customers, the District may impose a moratorium on water service availability.

4. Determination of Adequacy of Sewer System. It is the policy of the District to provide wastewater collection and treatment capacity adequate to serve development at the time the development is available for occupancy and use. Recent forecasts indicate that connections to the District's sewer system are projected to grow at a rate of 3.3% per annum. The District's current and planned wastewater capacity is hereby determined to be adequate and available to meet said demand for new connections to the wastewater system, subject to the above-cited uncertainties inherent in the planning, development, infiltration and inflow evaluation and removal program, and delivery of wastewater collection and treatment.

The District intends to monitor, on at least an annual basis, actual and forecasted growth in connections to the wastewater system and the District's progress implementing capacity improvements to provide for future connections at the time they are needed. If satisfactory progress is not being made in the timely development of

additional capacity, and/or growth in connections has been occurring or is projected to occur at rates higher than previously projected, or if for any other reason it appears to be in the best interests of its customers, the District may impose a moratorium on wastewater service availability.

Policy Approval Date: September 24, 2009.