STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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April 2, 1999

City of Union Gap
102 W Ahtanum Road
Union Gap WA 98903-1895

RE: Ground Water Applications No. G4-32214 and No. G4-32215 - TEMPORARY PERMIT

On September 27, 1994, the City of Union Gap filed two Ground Water Applications, each for 1500 gallons per minute (gpm) for continuous municipal water supply. The applications were accepted and assigned numbers G4-32214 and G4-32215. The source for Ground Water Application No. G4-32214 is a well to be located within the SE¼SE¼NW¼ of Section 32, T. 13 N., R. 19 E.W.M. and, for Ground Water Application No. G4-32215, a well to be located within the NE¼NE¼SW¼ of Section 1, T. 12 N., R. 18 E.W.M. Public Notice appeared in the Yakima-Herald Republic on June 10 and June 17, 1997. No protests were filed.

The City of Union Gap is in a relatively unique situation as a result of the February 1995 South Broadway annexation of a large area in which 2,029 persons live. Primarily for health and safety reasons, the City is now the municipal water purveyor for the annexed area. These additional demands are now taxing the existing City water supply system. The South Broadway Area was served by numerous single and group domestic water systems, however, not all of the previously existing sources of water that previously served the South Broadway annexation lands have been identified. There are approximately 700 water right claims documenting group domestic uses within the annexed area. Many of the existing source wells within the Union Gap service area (even those with filed water right claims) appear to have been developed under the domestic exemption of the Ground Water Code. Chapter 90.44.050 RCW provides that any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is exempt from the requirement to obtain a permit, but to the extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit issued under the provisions of this chapter.

There are relatively few well construction reports available in Ecology's files. Those available generally describe wells less than 100 feet deep and indicate very shallow static water levels.

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Many of the existing wells are expected to be shallow sand points that are in the same shallow zones containing septic systems. A small portion of the annexed area and a fairly large portion of the previously existing service area has underlying contamination by a toxic chemical plume. Substantial federal, state, and local money has been spent on the cleanup of the top portions of the upper aquifer. The area has been identified as the Yakima Railroad Cleanup area. The Railroad area within the City of Union Gap service area can be generally described as being bordered by Ahtanum Road on the south, Rudkin Road on the east, Third Avenue on the west between Ahtanum Road and West Washington Avenue, following Washington Avenue westerly to 8th Avenue where it extends to the north. There are additional contaminated sites (Superfund cleanup sites) in the Union Gap service area, but outside the Railroad Area.

The water demand for the annexed population block was estimated using City of Union Gap 1994 data. Data for 1994 were selected because it was the only year in which both water use and census information were simultaneously available. In 1994, 2,029 persons living within the annexed area used 797.6 acre-feet per year of water

Assessment of the City water rights at the time of the comprehensive water plan review in 1995 revealed that the City water right documents total 2,664 acre-feet per year. The reported 1994 usage was 1265.7 acre-feet. According to their comprehensive water plan, the City does not have adequate source supply or storage capacity to meet the existing maximum day demand and required fire flows.

Ground Water Application G4-32214 and Ground Water Application G4-32215 are being evaluated in accordance with the public health and safety emergency provisions of WAC 173-152-050.

In 1997, the legislature enacted RCW 90.44.105 which authorizes amendments to water right permits or water right certificates by consolidation of rights associated with exempt wells. The consolidation of rights associated with the exempt wells, which have been replaced by municipal water in the annexed land or other parts of the service area are also being evaluated under this consideration.

It is believed that through RCW 90.44.100 and RCW 90.44.105 enough existing water rights can be identified and transferred to the proposed new wells to serve the existing services. It is also believed that the aquifer can be better protected by the proper decommissioning of the numerous wells that will be identified through this effort.

For health and welfare reasons and scope of project definition, the City of Union Gap has an immediate need to:

- develop wells for replacement public water supply,
- develop a water source supply (and associated storage) to meet the existing maximum day demand and required fire flows,
- evaluate an aquifer capable of supplying water for the proposed project including community growth,
- characterize the hydro-geologic setting in the area of the proposed point(s) of withdrawal,
- characterize any effects the proposed water withdrawal may have on existing water rights, including pending applications,
- identify the sources of water and water rights that previously served the area that would be eligible for consideration under applications for change or consolidation to these wells.

Recommendation:

In light of the foregoing, this represents a temporary permit and will be subject to the following conditions and provisions:

1. The priority date of this Temporary Permit under Ground Water Applications G4-32214 and G4-32215 is September 27, 1994.

2. The source for Ground Water Application No. G4-32214 is a well to be located within the SE¼SE¼NW¼ of Section 32, T. 13 N., R. 19 E.W.M. and for Ground Water Application No. G4-32215 is a well to be located within the NE¼NE¼SW¼ of Section 1, T. 12 N., R. 18 E.W.M.

3. The City of Union Gap is authorized to withdraw up to 1,500 gallons per minute (gpm) for continuous municipal water supply from each of the wells under by Ground Water Applications G4-32214 and G4-32215 within the limitations set forth in this authorization. The maximum ***interim*** annual quantity authorized for withdrawal from both wells is 797.6 acre-feet per year. This figure is based on meeting the estimated need of the 2,029 persons living within the annexed area.

4. The place of use of the Temporary authorization will be the existing service area of the City of Union Gap as shown on Figure 1-2 in the City of Union Gap Water System Plan Update dated April 1996.

5. This authorization will expire on April 1, 2002. While this Temporary Permit is in effect, significant effort will be required by the City to identify the sources of water and water rights that previously served lands within the current service area of the City of Union Gap.

6. All domestic exempt rights proposed for consolidation with water rights held by the City of Union Gap are to be identified and evaluated based on the criteria described in RCW 90.44.105, governing consolidation of domestic exempt rights. A report shall be filed with the Central Regional Office, Department of Ecology Water Resources Program that provides parcel number, aquifer, priority date, type of right (exempt or Certificate/Claim), quantity of right with supporting rationale. The complete report is due April 1, 2001. Consistent with RCW 90.44.105, any consolidation amendments shall be issued only after publication of a notice of the application, a comment period, and a determination is made by the Department that:

   a) The exempt well taps the same body of public ground water as the well(s) to which the water right of the exempt well is to be consolidated;
   b) use of the exempt well shall be discontinued upon approval of the consolidation amendment to the permit or certificate;
   c) legally enforceable agreements have been entered to prohibit the construction of another exempt well to serve the area previously served by the exempt well to be discontinued, and such agreements are binding upon subsequent owners of the land through appropriate binding limitations on the title to the land;
   d) the exempt well or wells no longer to be used will be properly decommissioned in accordance with Chapter 18.104 RCW and Chapter 173-160; and
   e) other existing rights, including ground and surface water rights and minimum stream flows adopted by rule, shall not be impaired.

7. It will be essential that the project engineer, once identified, work closely with the Department of Ecology water resources technical staff throughout the life of the Temporary Permit. The engineer should make phone contact very shortly after taking charge of the project.

   Well construction and aquifer testing must be approved by Ecology's Water Resources Technical staff prior to initiating any work under this authorization.

8. All water wells constructed within the state shall meet the minimum standards for construction and maintenance as provided under RCW 18.104 (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Water Wells).

9. Flowing wells shall be so constructed and equipped with valves to ensure that the flow of water can be completely stopped when not being used. Likewise, the well shall be so maintained as to prevent the waste of water through leaky casings, pipes, fittings, valves, or pumps -- either above or below land surface.

10. Installation and maintenance of an access port as described in Ground Water Bulletin No. 1 is required. An air line and gage may be installed in addition to the access port.

11. A suitable measuring device approved by the Department of Ecology shall be installed and maintained in accordance with WAC 508-64-020 through WAC 508-64-040. (Installation, operation and maintenance requirements attached hereto.)

12. The wells must remain accessible to the Department of Ecology for periodic reading by field staff.

13. The water sources and/or water transmission facilities may not be located entirely upon the land owned by the applicant. Therefore, the applicant is advised that issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess.

14. All expenses, risks, and liabilities incurred during testing of this well shall be borne by the applicant. If senior water right holders or instream values are adversely affected during any portion of the aquifer test, the test shall be terminated.

15. This authorization shall not excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology and those administered by local and state health departments for public water supplies (2 or more service units).

16. Granting this TEMPORARY PERMIT shall not be construed, by inference or otherwise, that the subject applications will ultimately be approved. Proving physical availability of water, in itself, will not guarantee that Ecology can grant the subject applications.

    If it is determined that permits can be approved under Ground Water Applications G4-32214 and G4-32215, or water rights can be transferred or consolidated under the procedures described in numbers 5 and 6 above, the quantities used to estimate water requirement for

purposes of this temporary authorization may change significantly as a result of the data gathered under this TEMPORARY PERMIT.

17. At the time this authorization ends **unless otherwise authorized**, the wells drilled under authority of the Temporary Permit shall be capped or abandoned according to WAC 173-160 to prohibit water use. If capped, the access ports must remain functional for measurement.

18. This Order may be appealed. Your appeal must be filed with the Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903 within thirty (30) days from the date this Order was mailed by the Department of Ecology. At the same time a copy of your appeal must be sent to the Department of Ecology, c/o Water Resources Program, Appeal Coordinator, PO Box 47600, Olympia, WA 98504-7600. Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Chapter 43.21B RCW.

Sincerely,

Robert F. Barwin, Section Manager
Water Resources Program

RFB:DJM:ska
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Enclosures: Ground Water Bulletin No. 1
Flow Meter Requirements

cc: Carroll Palmer, Yakama Indian Nation
Rachael Paschal, CELP
AAG