



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

February 7, 2011

City of Yelm
Attn Shelley Badger
105 Yelm Avenue
Yelm WA 98597

Re: City of Yelm; THUR -08-01, CG2-21613C

Dear Ms. Badger:

In accordance with RCW 90.80.080 the Department of Ecology has reviewed the Record of Decision (ROD), Report of Examination (ROE) dated May 4, 2009, and all comments, protests, objections and other relevant information submitted by the Thurston County Water Conservancy Board for the above referenced application for change of water right G2-21613. On July 20, 2009, Ecology reversed the Board's decision. Ecology's decision was appealed by the City; Charlotte Zinski, Elbert McMonigle, Edith Perry, and the Estate of Alice E. McMonigle ("Sellers") have joined the appeal. The parties have now come to a settlement agreement, filed with the Pollution Control Hearings Board on December 8th, 2010, as Stipulation and Joint Motion for Stay and Dismissal ("Stipulation"). The full terms of the Stipulation are contained therein and are incorporated herein by reference.

Ecology now **modifies** the decision of the Board and the proposed change/transfer of water right is **approved** under the following conditions:

This modification replaces numerous sections of the Board's decision:

The Board's decision (page 3) is replaced.

DEVELOPMENT SCHEDULE

Complete Construction:	January 1, 2017
Put water to full beneficial use:	January 1, 2019

The Board's "Investigation" section of its ROE (starting on page 4, and continuing through pages 5, 6) is replaced except for the subsection on pages 6 and 7 titled, "Historical Use of McMonigle Wells." The Subsection describing water use after 1992 on Page 7 is also deleted.

The City has requested the location of the points of withdrawal of the remaining water right to go to the City's wells 1A and 2, located in the SW1/4, SW1/4, Section 19,

Township 17 N., Range 2 E.W.M. Public notice of this amendment to the application was published on October 15 and 22, 2010. There were no protests submitted as a result of the notice.

This transfer of water right Certificate G2-21613 is complicated by the non-additive nature of the annual quantities of this water right and water right Certificate G2-00792C for irrigation use. As a condition of this settlement and transfer, the Sellers have agreed to voluntarily relinquish portions of each right such that none of the uses and water duties overlaps the other right. In doing so, the two rights each become primary water rights, separate from the other, allowing a change to Certificate G2-21613C without the need to process a change to Certificate G2-00792C. The Sellers have also agreed to voluntarily relinquish water right S2-CV1P267 and to decommission Well #1 (10" diameter).

**The Quantification of Water Use is replaced (pages 8, 9, 10, and 11).
The Subsection titled "Proposed Transfer" (page 12) is replaced.**

The use of the City's wells to pump the water authorized under this change will have impacts to the shallow aquifer surrounding the City of Yelm as described in the report prepared for the City by Golder and Associates. The report concludes there will be no negative impacts to the surface water bodies or the shallow aquifer. What is unclear from the Board's decision is that this finding is contingent upon the City discharging reclaimed water at Cochrane Park. A provision of this authorization will be the continued discharge of reclaimed water to groundwater at Cochran Park.

Pages 13, 14, 15, and 16 are replaced.

Ecology reviewed the power records for the irrigation well and has determined from the records that due to periods of low water use, all that remains of the irrigation portion of the rights associated with the property is 67 acre feet of water.

As part of this transfer, the Sellers will voluntarily relinquish 250.8 acre feet per year, and 610 gallons per minute instantaneous rate of water right G2-21613C. The City shall receive all of the remaining water right, 67 acre-feet per year, and 50 gpm instantaneous rate to be transferred to the City's existing wells.

PROVISIONS

Subject to instream flows

This change authorizes year-round use of a water right that was previously used for seasonal irrigation. While unlikely, it is possible that exercising the right year round could impair Nisqually River instream flows as adopted in WAC 173-511-030(2) during the non-irrigation season. This authorization is therefore subject to the instream flows specified for the Lower Reach in the Nisqually River identified in WAC 173-511-030(2) from October 1 to May 1.

Reclaimed water

Metering and monitoring/reporting

The City shall install and maintain an approved measuring device for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.

<http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>

Water use data shall be recorded daily. The maximum rate of withdrawal and the annual total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.

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

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times to the City's 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.

Summary of change authorized:

Priority date	November 12, 1973
Instantaneous quantity	50 gpm
Annual quantity	67 acre-feet/year
Point of Withdrawals	City's wells 1A and 2, located in the SW1/4, SW1/4, Sec.19, Twp.17N, Rge.2 E. W.M.
Place of use	Service area of the City of Yelm
Season of use	Continuous, year round
Provisions	See above

You have a right to appeal this decision. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the **"date of receipt"** of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the **"date of receipt"** of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your *Notice of Appeal*.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
1111 Israel Road SW Suite 301
Tumwater WA 98501

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey WA 98503

3. And send a copy of your appeal to:

Thomas Loranger
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia WA 98504-7775

*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>.*

Sincerely,



Thomas Loranger, Section Manager
SWRO, Water Resources

TL:PC:th

BY CERTIFIED MAIL: 7010 0780 0002 3400 1106