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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

January 25, 2005

CERTIFIED MAIL

Adam Gravley
2025 First Avenue, Suite 500
Seattle, WA 98121-3140

Re: Water Right Claim No. 000775

Dear Mr. Gravley:

This is in response to the Amended Claim for Water Right Claim form you submitted on behalf of the City of Washougal in October 2004. The Amended Claim request asked that the point of diversion for a City well be changed, based on RCW 90.14.065(2), which states that an amendment is allowed if there has a "change in circumstances not foreseeable at the time the original claim was filed, if such a change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water."

Although it can be anticipated that a well will eventually outlive its design life, the City also indicated that there had been unforeseen well interference at the City's upper wellfield. This, and the fact that the change in circumstances relate to the diversion of water, and not to its use or quantity, mean that this request meets the criteria of RCW 90.14.065(2). Thus, this amendment is accepted and will be noted in the Water Right Claims Registry.

I am enclosing Order No. 1920, which further explains the above decision. If you wish to appeal the enclosed order, you may do so within thirty days of your receipt of the order. The appeal procedure is described in the order. If you have any questions, please contact Thom Lufkin at (360) 407-6631, or by email at tlhw461@ecy.wa.gov.

Sincerely,

Joe Stohr, Program Manager
Water Resources Program

JS:ThL

Enclosure

cc: Sheri Carroll, SWRO
Marian Bruner, WRHQ



DEPARTMENT OF ECOLOGY

IN THE MATTER OF FILING IN THE)
WATER RIGHTS CLAIM REGISTRY AN)
AMENDMENT BY THE CITY OF WASHOUGAL)
FOR WATER RIGHT CLAIM NO. 000775)

ORDER
No. 1920

The Department of Ecology is responsible for the Water Rights Claims Registry (RCW 90.14.111) and for evaluating proposed amendments to the Registry. RCW 90.14.065 states that any person or entity, or their successor, having a statement of claim on file with the Water Rights Claims Registry on April 20, 1987, may submit an amendment to the statement of claim, if the submitted amendment is based on:

1. An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such a right in the original claim;
2. A change in circumstances not foreseeable at the time the original claim was filed, if such a change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or
3. The amendment is ministerial in nature.

The Department of Ecology shall accept any such submission and file the same in the registry unless the Department by written determination concludes that the requirements of any of subsections (1), (2), or (3) of RCW 90.14.065 have not been satisfied.

Mr. Adam Gravley (Buck & Gordon, LLP) submitted a request on behalf of the City of Washougal, to amend Water Right Claim No. 000775. The request is dated October 14, 2004. The City of Washougal seeks an amendment to the location of the point of diversion for the City's Well No. 3.

Requested Amendment to Location of the Point(s) of Diversion/Withdrawal: The point of diversion in the original claim was given as: "1937.24 feet North and 2593.59 feet West from the Southeast corner of Section 8 being within SE ¼ of Section 8 T. 1 N., R. 4 E.W.M." The City of Washougal requests that this be changed to: "1152 feet West and 2188 feet North from the SE corner of Section 7 being within the SE ¼ of Section 7, T. 1 N., R. 4 E.W.M." The person who completed the form for the City stated that the reason for the amended claim is: "The well constructed in 1939 outlived its design life and is inoperable and beyond repair. Well interference at the City's upper wellfield was also unforeseen at the time."

Response: This amendment request satisfies the requirements of RCW 90.14.065(2), which states that an amendment to a claim can be accepted if there has been a "...change in circumstances not foreseeable at the time the original claim was filed, if such a change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water." It appears clear that this request meets the tests of 90.14.065(2), based particularly on the unforeseen well interference, and the fact that this change relates solely to the diversion of water. Therefore, the amendment request is accepted and will be entered into the Water Rights Claims Registry.

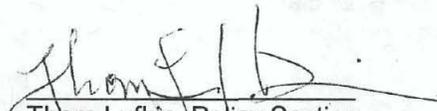
PLEASE NOTE that the decision to approve filing of amendments to Water Right Claim No. 000775 does not constitute an adjudication of any claim to use water. The final determination of the validity, extent, and other details associated with a claim registered in accordance with Chapter 90.14 RCW ultimately lies with the Superior Court through the adjudication process provided for by RCW 90.03.110 through 90.03.240.

This Order may be appealed pursuant to Chapter 43.21B RCW. If the person to whom this Order is issued wishes to file an appeal, the appeal must be filed with the Pollution Control Hearings Board **within thirty (30) days of receipt of this Order**. Send the appeal to: Pollution Control Hearings Board, P.O. Box 40903, Olympia, Washington, 98504-0903. At the same time, a copy of the appeal **must** be sent to: Department of Ecology, Water Resources Appeals Coordinator, P.O. Box 47600, Olympia, Washington, 98504-7600.

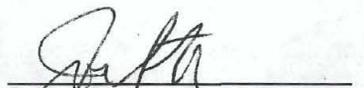
All others receiving notice of this Order who wish to file an appeal must file the appeal with the Pollution Control Hearings Board within **thirty (30) days of the date the Order was received**. The appeal must be filed with both the Pollution Control Hearings Board and the Department of Ecology, at the addresses given above.

An 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 the provisions of Chapter 43.21B RCW.

SIGNED and DATED at Lacey, Washington, on the 25th day of January 2005.


Thom Lufkin, Policy Section
Water Resources Program

I hereby concur with this determination. This constitutes a final Order and Decision in this matter.


Joe Stohr, Program Manager,
Water Resources Program