

## **City of Pasco and the Washington State Department of Ecology**

### **Memorandum of Understanding (MOU): Securing New Water Supplies for the City of Pasco**

**Parties:** The undersigned Parties, the City of Pasco (Pasco) and the Washington State Department of Ecology (Ecology), acting through the Office of Columbia River (OCR), jointly support this Memorandum of Agreement (MOU).

**Purpose:** The undersigned Parties are committed to the following objectives and review/action items.

1. Reach a common understanding of Pasco's water right portfolio.
2. Coordinate on water supply development projects that will assist Pasco in securing water rights to fill the pre-2003 2.5 cfs "hole" identified in Table 4-1 of the 2008 draft Regional Water Forecast and Conservation Plan Update (RWFCP).
3. Review new water resources options for Pasco beyond those needed to address the 2.5 cfs hole to secure adequate water supplies for existing and future social and economic growth, and to maintain the City's existing high quality of life characteristics.

**Recitals:**

- Whereas both Ecology and Pasco desire a common agreement on interpretation of Pasco's water rights;
- Whereas both Ecology and Pasco desire development of 2.5 cfs of supply to cover the previously identified pre-2003 "hole";

- Whereas OCR has a statutory mandate to develop water supplies to meet pending municipal needs in the Columbia River Basin;
- Whereas Pasco has a need to provide new water resources to meet current City and long-term water demands consistent regional growth forecasted under the Quad City's Water Supply and Conservation Plan forecasts; and
- Whereas both OCR and Pasco agree to utilize fully the water supply development options and capabilities in the 2006 Columbia River Basin Water Management Act (RCW 90.90), and the planning and implementation authority granted to OCR.

Now, therefore, the Parties acknowledge and agree to the following:

1. **MOU Relationship to the City's 2010 Water System Plan (Plan):** The Washington State Department of Health (DOH) approved Pasco's latest water system plan on February 16, 2011. Ecology had previously made comments on drafts of the plan via letters dated January 27, 2010 and May 11, 2010. These comments were not incorporated into the plan approved by DOH while Pasco and Ecology were negotiating this MOU. During the pendency of this MOU, Ecology agrees that it will support approval of future City of Pasco water system plans by the Washington State Department of Health (DOH) that are consistent with this MOU, and will not recommend to DOH that a connection limitation be imposed on Pasco under Ecology's 2007 MOA with DOH.

2. **Joint Review and Action Items:** The Parties will immediately engage the following review and action items:

- Reevaluate the existing supply and demand water balance for Pasco, based on existing water rights and city policies. Pasco's stated policy is to maintain water rights G3-20245P, G3-20247P, G3-24546P, and G3-25175P for future industrial/commercial process uses, but will review these water rights along with its other "urban irrigation" water rights for potential options.
- The above groundwater rights have been submitted to the Franklin County Water Conservancy Board for seasonal change/transfer, but will be withheld from active processing during the Pasco and OCR initial review period. These applications will not be reconsidered for active processing until January 1, 2012, or until Pasco and OCR agree on a permitting strategy that address the needs under this MOU. Pasco's legal counsel has reviewed this seasonal transfer, and concluded that there is no legal barrier to either a permanent or a temporary transfer of these rights pursuant to RCW 90.03.380 or 90.03.390 (legal opinion to be provided to OCR). Ecology has not made any determination on the legality of the proposed transfers. The seasonal transfers may be part of a new water supply option if permissible under the water code and if changes are approved by Ecology.
- Pasco will work with OCR on the implementation of a water supply project that allows Pasco to obtain a water service contract from the Bureau of

Reclamation. The Parties intend that capital costs for the project would be the responsibility of OCR if eligible under RCW 90.90 and authorized for appropriation from the Legislature, and Pasco would be responsible for acceptable water service contract fees.

- OCR will review with Pasco a timeline for availability of the WAC 508-14 groundwater, including the potential for temporary permit authorization during new or amended rule making.
  - OCR will review a timeline with Pasco for availability of new Columbia River source water from water supply projects being developed and their potential use to meet Pasco's future water needs. If an OCR water supply project can benefit all of the Quad Cities, it will provide this information to the City's of Richland, West Richland and Kennewick as well.
3. **MOU Review-Implementation Period:** This MOU will become effective upon signing by the Parties. The Parties will review the MOU on an annual basis and make modifications as the parties deem appropriate.
4. **MOU Completion and Separate Party Actions:** If water supplies sufficient to fill the "2.5 cfs hole" are developed and made available to Pasco, Ecology and Pasco agree that the extent of Pasco's existing water rights is as shown in Attachment 1. Pasco agrees that future water system plan updates and updates to the Regional Water Forecast and Conservation Plan will use this common understanding as the foundation of any water right self-assessment, subject to any water right decisions made subsequent to this MOU. No

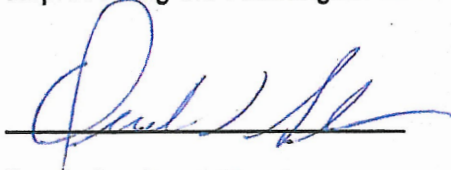
reference will be made to a "2.5 cfs hole" in future planning documents.

If the water supply project in Section 2 above funded by OCR allows Pasco to acquire a water service contract in excess of 2.5 cfs from Reclamation, Pasco agrees to recognize OCR's facilitation of that quantity consistent with Purpose #3 of this MOU (see Page 1).

5. **Termination for Convenience:** If either party determines that the MOU is not providing adequate, or timely, fulfillment of the said objectives, the party may pursue separate actions, and terminate this MOU following 30 days prior notice. This MOU does not limit either party's actions to secure adequate water supplies for the City of Pasco.

**MOU Acceptance By:**

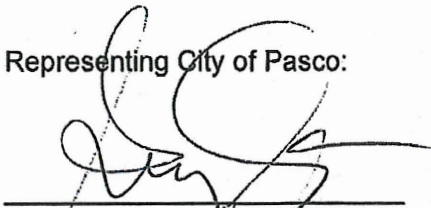
Representing the Washington State Department of Ecology:



Derek Sandison, Director  
Columbia River Office

Date 8/2/11

Representing City of Pasco:



Gary Crutchfield, City Manager  
City of Pasco

Date 8.2.11



Attachment 1

<b>Table 1 -- City of Pasco Water System Plan (Columbia River: Municipal)</b>								
<b>Water Right(s) Status</b>								
Water Right Certificate, permit or Claim #	Name of Rightholder or Claimant	Priority Date	Source Name/ Number	Purpose of Use	Location (Township; Range; and section)		Water Right Quantity	
					Point of diversion	Place of use	Qi (gpm)	Qa (AF/yr)
(SW)11660	City of Pasco	5/13/1963	Columbia River (WTP)	Municipal	Water Treatment plant: SW1/4NE1/4 Sec. 31, Twp 9N, R 30EWM.	Area served by the City of Pasco	15,709 (35cfs)	7000
7205-A(A)		3/12/1970					375	209
10192(B)		3/12/1970						
G3-26081C(A)		10/21/1978	(Transferred to surface water) Columbia River				integrated 700	integrated 640
G3-26081C(B)		10/21/1978						
G3-25177C(A)		1/13/1977						
G3-25177C(B)		1/13/1977						
S4-30976 (Quad Cities)		9/23/1991	Columbia River				(2.5 cfs)	1,810*
*G3-27413P-C	City of Pasco	11/24/1982	wells & WTP	Seasonal municipal	WTP	Area served by the City	*573.75	*203.4
*G3-27413P-D		11/24/1982					*281.25	*112.4
<b>TOTAL</b>							<b>17,639</b>	<b>9,975</b>
<b>Pending change applications</b>								
S3-28615C	City of Pasco	7/24/1980	Columbia river (Mcrary Pool)	Irrigation	POD at Sec.18,T9N,R29EWM	North of Franklin county irrigation district: Sec.17,T9N,R29EWM	3.66 cfs	732
S3-28788C		7/24/1980					0.31 cfs	56
S3-28789C		7/24/1980					0.27 cfs	48
S3-28790C		7/24/1980					1.11 cfs	200

**Table 2 -- City of Pasco Water System Plan (Ground Water: Municipal)**

**Water Right(s) Status**

Water Right Certificate, permit or Claim #	Name of Rightholder or Claimant	Priority Date	Source Name/ Number	Purpose of Use	Location (Township; Range; and section)		Water Right Quantity	
					Point of withdrawal	Place of use	Qi (gpm)	Qa (AF/yr)
G3-01085C	warranty deed to city of Pasco	3/1/1956	a well	domestic	Sec.34,T9N, R30EWM	Sec.34,T9N, R30EWM	70	22.4
G3-20243(B)	city of Pasco	6/2/1972	three wells	municipal	Sec.11&14,T9N R29EWM	Sec.11,T9N, R29EWM	214	107.9
G3-22447C	city of Pasco	1/25/1974	a well	domestic	Sec.20,T9N, R30EWM	Sec.20,T9N, R30EWM		2
G3-01243C	Dept.of natural resources	12/17/1970	a well	domestic	Sec.14,T9N, R29EWM	Sec.14,T9N, R29EWM		2
G3-28452C	warranty deed to city of Pasco	12/3/1987	a well	domestic	Sec.14,T9N, R29EWM			2
<b>TOTAL</b>							<b>284</b>	<b>136</b>
<b>Pending change applications</b>								
G3-20245P	Temporary permits (expired 6/30/2004) from farm circles	6/2/1972	well field: total of 4 wells	Irrigation	Four wells in Sec.18,T.9N, R.29EWM	Sec.3,T9N, R30EWM	650	833.3
G3-20247P		6/2/1972				Sec.11, T9N, R30EWM	650	592.4
G3-24546P		8/7/1975				Sec.12, T9N, R30EWM	100	80
G3-25175P		1/13/1977				Sec.34,T10N, R30EWM	100	235.4