

Water Utility Response to Notice and Statement of Appeal - Supplemental Statement to Sallal Water Association

The following statement is issued to supplement the response of Sallal Water Association (“Association”) to the Utility Technical Review Committee (“UTRC”):

The Association is a member owned cooperative organized and existing under Ch. 24.06 RCW. It serves approximately 1,500 connections directly and another 600+ connections through wholesale service. The Association’s water sources are wells located just below Rattlesnake Lake on the south side of I90 and one smaller well to the east of Trucktown on the north side of I90. The Association has been issued water right certificates for the use of its wells by the Washington State Department of Ecology having municipal water supplier status under RCW 90.03.015. The Association has a water system plan containing a water service area approved by the Washington State Dept. of Health. The Association has borrowed substantial funds from the United States Department of Agriculture and is afforded federal protection to take over by 7 USC 1926(b). Unlike situations involving RCW Title 57 water districts, city assumption powers under Ch. 35.13A RCW do not apply.

In approximately 2009, the City of North Bend (“City”) annexed a large area to the east out to and including Trucktown. The annexation extended the City’s corporate boundaries but the City’s water service area boundaries were not adjusted. The City annexation went through a central part of the Association’s water service area. The Association serves approximately 341 members within the annexation area of the City.

The City’s water service area abuts the Association’s water service area on the Association’s west side. A City well (“Centennial Well”) is located on the City’s public works site that is next to the Association’s western boundary. In 2008, the City received a Dept. of Ecology issued permit for the Centennial Well that authorized the City to sell water to the Association for resale within the City and contained other requirements. The City and the Association have been unable to agree upon contractual terms set forth in the DOE issued permit. To date, there exists an emergency intertie between the City and Association water systems which only allows Association water to flow westward into the City’s water service area.

Shelter Holdings’ property at issue in this appeal is King County Tax Parcel No. 1423089010 (“Property”) (title is held by Cedar River Partners, LLC, apparently an affiliate of Shelter Holdings). The Property is located within the corporate boundaries of the City and the water service area of the Association. The Property is located within close proximity to an existing Association water main.

The Association issued two certificates of availability to Shelter Holdings for a two phase proposed development on the Property, both dated May 10, 2018. The certificate for Phase 1 (110 units) did not contain a condition relating to a water supply contract with the City of North Bend. Due to an insufficiency of available water rights, the certificate for Phase II (106 units) contained a condition that service was not available until a water supply contract is entered into with the City. At the time the certificates were issued, the Association had a reasonable expectation that a supply contract with the City would be feasibly accomplished in one year. Despite diligent efforts on the part of the Association, the Association and the City have been unable to agree upon terms of a water supply contract.

The Association has sufficient physical water source capacity to serve all of Shelter Holdings’ proposed improvements. The Association is only deficient in water rights capacity.

As of the date of this writing, the Association is unable to estimate the date when a water supply contract will be entered into with the City. The Association is therefore unable to remove the water supply contract condition contained in the certificate of availability for phase II of Shelter Holdings' project.

The Association remains hopeful that a water supply contract can be successfully negotiated with the City but can offer no assurance or timeline in that regard. The Association has investigated other means to develop additional water rights capacity sufficient to serve all of Shelter Holdings' project and is presently in discussions with owners and developers of other proposed projects to obtain the release of prior issued commitments to serve. These other projects appear to have an uncertain need for water. The Association is unable to estimate if or when those discussions will be successful and it reserves the right to supplement and update this statement if circumstances change.

The Association would insist on serving the Property if it had the water rights capacity to do so, whether through a supply contract with the City or otherwise. Doing so would preserve long range water system planning that has been in place for decades and make unnecessary the duplication and overlapping of water system facilities to provide water for potable use, irrigation and fire protection. But, as of the date of this statement, the Association cannot grant assurance to Shelter Holdings that it will have that capability within 120 days.

Through this appeal, Shelter Holdings is seeking permission to extend a City owned and operated water main approximately 1,650 lineal feet along North Bend Way to serve the Property. A water main extension from the City's water system to the Property would pass through the Association's water service area and pass by properties presently served by the Association. If the City's water main is extended, the Association would nevertheless retain its existing members and the remainder of its service area.

The Association does not wish to impede Shelter Holdings' project. While this statement contains explanations of circumstances and Association positions, it is not an opposition subject to the comments stated in the next paragraph which are intended to confirm standard and customary principles.

Based on the foregoing, the Association does not oppose the appeal subject to the following items to be contained in the UTRC's decision:

1. The UTRC may only remove the Property from the Association's water service area;
2. The Association may nevertheless continue to serve its existing members and retain its water service area except for the Property; and
3. The Association shall have no obligation whatsoever to serve the Property and the certificates of availability issued by the Association to Shelter Holdings will be null and void.

Sallal Water Association

By: 
General Mgr

4-24-19
date