



June 19, 2000

Mr. Pat Svoboda
Department of Ecology
Northwest Regional Office
3190 - 160th Avenue SE
Bellevue WA 98008-5452

Dear Mr. Svoboda:

RE: Application of Change of Water Right

The Port of Seattle is submitting a Change of Water Right Application for a well located on Port property. The intent of the application is to add a use to the water right. In addition to its current use (irrigation of a tenant-operated golf course), the Port wishes to add flow augmentation for Des Moines Creek as a use. The proposed flow augmentation project is part of the Des Moines Creek Basin Plan, which has been jointly developed and funded by the cities of SeaTac and Des Moines, the Washington Department of Transportation, King County, and the Port of Seattle.

Attached to this letter, as part of the application package, please find the following:

- The application form for Change/Transfer of Water Right,
- A copy of the report "Des Moines Creek Flow Augmentation Plan" (which includes maps showing the well location and copies of the water rights certificates),
- A copy of an agreement between the Port and Highline Water District concerning the well and the associated water right,
- Copies of electrical statements from Puget Power (now Puget Sound Energy) showing electrical usage of the well pump,
- Photographs of the wellhouse and electrical meter,
- Aerial photographs from 1969, 1974, 1980, 1985, 1990, 1995, and 1999, showing the golf course irrigated area, and
- A check for the \$10.00 processing fee.

The well was drilled in the late 1940's for King County Water District No. 75 (now Highline Water District). The well has a Certificate of Ground Water Right (No. 2369) for 400 gallons per minute/560 acre-feet per year. The certificate is dated October 18, 1955, with a priority date of February 9, 1949.

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DOI: 8/00 044



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The property around the well was leased by the Port to Golf Management, Inc, and was developed into a public golf course. According to Mr. Roy Moore of Golf Management, Inc., the golf course opened for business in 1965 and has operated continuously under his management until 1999, when the lease was transferred to a new tenant. Mr. Moore states that one of the primary reasons he developed the golf course in that location was the presence of the well and the availability of water for irrigation. Mr. Moore states that water from the well irrigates the entire golf course (tees, greens, and fairways), and the irrigation system is designed to deliver 2 inches per week distributed over an irrigated area of approximately 96 acres. He states that irrigation system was constructed with the golf course in 1965, and irrigation with water withdrawn from the well has taken place every year since the golf course opened, primarily during the months of July, August, and September, but that irrigation has taken place during other months as weather conditions demand. Electrical statements for a portion of the period, obtained from Golf Management, Inc., are enclosed. We are still working with Puget Sound Energy to find archived power bills, and will submit these additional records to you as soon as they are located. The aerial photographs show the golf course in place and operating (mowed grass and cultivated green, tees, etc.) between 1969 and 1999.

The requested additional use will be for flow augmentation of Des Moines Creek. The basin plan calls for water from the well to be used if flows in the creek drop below one cubic feet per second or if the temperature of the water in the creek exceeds 16 degrees Celsius. Estimates are that the well will operate between two and 18 weeks per year to meet both criteria. Since development of the flow augmentation facility and other projects associated with the basin plan will result in a reduction or elimination of the golf course, water will be available for flow augmentation and temperature enhancement. Although the final engineering and design of the flow augmentation project has not yet taken place, the new use is estimated to be a maximum of one cubic feet per second (instantaneous) since that is the target flow rate in the creek from the combination of natural flow and well water. Additional details of the proposal, including copies of water right certificates, are in the attached report "Des Moines Creek Flow Augmentation Plan."

We understand that questions have been raised by third parties regarding the validity of this water right. Any suggestion that the Port or Highline Water District (HWD) intended to abandon the water right is absolutely false, as demonstrated by the Port's effort to acquire the water right and its continuous use of the water right for golf course irrigation from the mid-1960s to the present. In two condemnation cases filed in 1960 (King County Superior Court Cause Nos. 550306 and 557216), the Port acquired properties for an airport expansion, including three well sites from King County Water District No. 75 (now HWD). The petitions noted that District 75 was the water right claimant for the properties being condemned. As part of a settlement of the case on July 6, 1960, District 75 assigned to the Port its water right certificate 2376, which the Port mistakenly assumed to be the water right associated with Well I. The only purpose we are aware of for this assignment of the water right was for golf course usage. Subsequently, the Port's counsel filed a copy of the assignment with Ecology's predecessor, the Department of

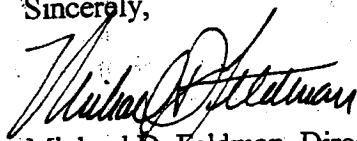
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Conservation. The Department responded that an assignment was not necessary because the water right was perfected and became appurtenant to the property, and that title to the water right passed with title to the property. Copies of all these documents are in the attached report. Based on this, the Port assumed ownership of the water right and has since allowed its use by its tenant, Golf Management, Inc. (Tyee Valley Golf Club). Based on the same principle set forth in the Department of Conservation's letter, no assignment of water right was necessary for Certificate 2369 (Well 1) because the Port also acquired that parcel from District 75. The Well 1 water right has in fact been used continuously since the Port acquired it in 1962. The Port or its tenant installed pumps in the well and irrigation system following District 75's removal of its own equipment. In preparation for the Des Moines Creek Augmentation Plan, the Port sought clarification of ownership to Certificate 2369 with HWD. Subsequently, HWD and the Port entered into the enclosed agreement in which it was agreed that the Port had title to "Water Right #1" (Certificate 2369). This finally resolves the question of ownership of the water right resulting from the misidentification of the Well 1 water right in Exhibit A.

If you have any questions concerning this matter, or require any additional information to review this application, please contact Keith Smith, the Port's Water Resources Manager, at 206/988-5528 or smith.k@portseattle.org. Thank you for your attention to this matter.

Sincerely,



Michael D. Feldman, Director
Aviation Facilities

cc: Keith Smith, POS

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bcc: Tom Hubbard, Elizabeth Leavitt, Michael Cheyne, POS
Tom Pors, Foster Pepper & Shefelman
Tom Luster, Department of Ecology
David Masters, King County
Julie Oiyee, Burien Public Library

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