

Restated and Amended Bylaws of the Chelan County Water Conservancy Board

Section 1.0 Authorization for Chelan County Water Conservancy Board

- 1.1 As approved by Resolution of the Board of Chelan County Commissioners, the Chelan County Water Conservancy Board (hereafter referred to as the “Water Board”) is established as a public body corporate and politic, a separate unit of local government in Washington State, as authorized under Chapter 90.80 of the Revised Code of Washington (RCW). Conduct and operations of the Water Board shall be in compliance with Chapter 90.90 RCW and are subject to review by the Director of the Washington State Department of Ecology.

Section 2.0 Water Board Purpose and Objectives

2.1 The Water Board shall expedite the administrative process for voluntary water right transfers among water right holders and shall convey greater operational control to local water managers and water right holders.

2.2 Voluntary water right transfers between water users can reallocate water use in a manner that will result in more efficient management of water resources; it can reduce water shortages, save capital outlays, and reduce development costs; and it will provide an incentive for investment in water conservation efforts by water right holders.

Section 3.0 Water Board Members and Funding

3.1 The Chelan County Water Conservancy Board is created through approval by the Board of Chelan County Commissioners and the Department of Ecology as required by RCW Chapter 90.80.

3.2 The Water Board shall consist of three commissioners appointed by the Board of Chelan County Commissioners to serve six-year terms, with an initial Water Board chair selected by the Water Board of Commissioners and subsequently elected by its members annually. The terms for initial appointments to the Water Board shall be staggered to serve as two, four, and six-year terms, respectively, from the date of appointment. Water Board appointments are within the discretion of the Board of Chelan County Commissioners; however, at least one commissioner must be an individual water right holder who diverts or withdraws water for use within Chelan County and one person who receives water from either municipal supply or a permit exempt well.

3.3 Appointees to the Water Board shall be legal residents of Chelan County or a county contiguous to Chelan County. The Water Board Commissioners shall serve without compensation.

3.4 No Water Board Commissioner may participate in Water Board decisions taking action on proposed water transfers until he or she has successfully completed the necessary training related to water transfers within the state. Minimum training requirements shall be defined by the Washington State Department of Ecology.

3.5 A Water Board Commissioner who has an ownership interest in a water right subject to an application for transfer before the Water Board shall not participate in the review process or the Water Board's certification decision. A Water Board Commissioner who is an employee of a public or private water purveyor who has an ownership interest in a water right subject to an application for transfer before the Water Board shall not participate in the review process or the Water Board's certification decision.

3.6 The Water Board constitutes an independently funded entity and shall provide for its own funding as determined by the Water Board Commissioners. The Water Board may accept grants or stipends, and it may adopt fees for processing applications for transfers of water rights, or provide for funding under other lawful means as approved by the Water Board. The Water Board may not impose taxes or acquire property by the exercise of eminent domain. All financial transactions, including funding for Water Board operations, will be approved during a board meeting and be carried out by the Water Board or its designees.

Section 4.0 Water Board Operations

4.1 The Water Board will determine a schedule for meetings and the conduct of business with public notice of meetings published within Chelan County newspapers. Water Board activities are subject to the Open Public Meetings Act Title 42 RCW. Water Board meetings will be recorded, and the minutes will be made available to the public upon request.

The Water Board may acquire, purchase, hold, lease, manage, occupy, and sell real and personal property or interest therein, and enter into and perform all necessary contracts; it may enter into contracts with or appoint necessary agents for professional services, or perform lawful acts required to carry out its management obligations; and the Water Board may sue or be sued.

4.2 The Water Board provides a water transfer exchange through which water right holders may seek a formal water right transfer of all or part of their legitimately established water right. The Water Board may review water right transfer proposals that involve all types of water transfers and changes, including short-term or long term transfers (leases), or permanent water transfers. The Water Board may make recommendations on (conditionally approve) transfers involving a change in place of use, point of diversion or withdrawal, purpose of use, and time of use.

4.3 The Water Board may make recommendations on (conditionally approve) the transfer of a water right or claim filed under Chapter 90.14 RCW that has not been adjudicated, but neither the Water Board's recommendation of a transfer nor the Director of the Department of Ecology's approval of the Water Board's recommendation constitutes an adjudication of the

validity, priority, or quantity of the transferor's water right, and such actions do not preclude or prejudice a subsequent challenge to the transferor's water right.

4.4 The Water Board shall maintain all information made available to it while change applications are pending before the Water Board. Approval by the Water Board of an application for a water right transfer functions as an open water exchange. The Water Board will establish policies and procedures for administration of a system of timely conditional approvals for water transfers, consistent with its water exchange function.

4.5 Application to the Water Board for water transfers shall be made on a form provided by the Washington State Department of Ecology and shall contain sufficient information as required by the Water Board to act upon the application. The application shall include information sufficient to establish to the Water Board's satisfaction the transferor's right to the quantity of water being transferred and a description of any applicable limitations on the right to use water, including the point of diversion or withdrawal, place of use, source if supply, purpose of use, quantity of use permitted, time of use, and place of storage.

The decision by a water right transfer applicant to apply to the Water Board, as opposed to seeking direct review by the Department of Ecology, is solely at the discretion of the applicant.

4.6 At the time the application is deemed complete and accepted for review the applicant shall deposit with the Board \$1,500. Five hundred dollars shall be a non-refundable application fee, \$1000.00 to be used to pay for expenses incurred in the review. The Board operates on the basis of 100% reimbursement for all direct expenses plus a 50% markup to cover miscellaneous operating costs of the Board.

4.7 The Water Board shall cause a public notice of the proposed change or transfer of water right to be published once a week for two consecutive weeks in the legal notice section of a newspaper of general circulation in at least the county or counties or proposed water use, diversion and storage of water. Ecology must provide the Water Board with a list of newspapers acceptable for this purpose. Additional public notice may be required in areas that may be affected by the change or transfer proposal. The public notice of the application for change or transfer must include the following information:

- (a) Applicant's name and city or county of residence;
- (b) Description of the water right to be changed or transferred, including any identifying number;
- (c) Proposed changes or transfers to be made;
- (d) Manner and time limit for filing protests with Ecology;
- (e) All other information required by the Revised Code of Washington or the Washington Administrative Code.

Before acting on an application, the Water Board must first receive a notarized affidavit of publication from each newspaper in which notice was published verifying that publication correctly occurred. The Water Board must also allow the 30-day period for the filing of protests

or objection following the last date of publication of the notice to expire before acting on the application.

When an applicant amends the application for a change or transfer of a water right subsequent to publication of the notice, or when a substantive error or omission occurs in the publication, the public notice must be republished, and reviewing agencies must be informed.

The water transfer applicant may apply to the Water Board for conditional approval of the transfer if the water proposed to be transferred is currently diverted or used within Chelan County, or if it would be used within Chelan County with transfer approval. In the case of a proposed water transfer in which water is currently diverted or would be diverted outside of the geographic boundaries of Chelan County, the Water Board shall hold a public hearing on the transfer within such other county, and it may hold a public hearing within Chelan County if the Water Board so desires. The Water Board shall publish notice of such hearings in a newspaper of general circulation in such other county at least 14 days prior to such hearing for the purpose of affording an opportunity for interested persons to comment on the transfer proposal.

4.8 A protest of the application must be received by the Department of Ecology within the time period set in the public notice. Persons inquiring of the Water Board or the Department of Ecology regarding protest procedures will be directed to file the protest with the Department of Ecology. The Department of Ecology will provide a copy of the protest to the Water Board.

A valid protest must include the name, address and phone number (if any) of the protesting party, identification of the change or transfer proposal that is being protested, and a statement of the basis for the protest. A proper basis for protest must relate to the impacts of the proposed change or transfer on other water rights or the public interest or be a challenge to the potential extent and validity of the water right proposed to be change or transferred.

Any protest received after 30 days, or without the required fee, will be filed as a letter of concern.

4.9 With the acceptance of a complete application to the Water Board, the Water Board shall publish and send notice of the filing as required by RCW 90.03.280; this will include notice as appropriate to the Director of the Department of Fish and Wildlife. Any person or entity may submit comments to the Water Board concerning the notice of the water right transfer application.

4.10 Any water right holder claiming detriment or injury (impairment) to an existing water right as a result of a proposed water transfer may protest the application process before the Water Board. The Water Board consider all evidence from the party claiming injury to determine the validity of the claim of impairment. If impairment is established by a preponderance of the evidence that the water right will be injured by the transfer, the water transfer may not be approved.

4.11 Following water right transfer application review, if a majority of the Water Board members determines that the application is complete and the transfer can be made without impairment to existing water rights, the Water Board shall issue a conditional approval of the transfer (the Record of Decision and Report of Examination), subject to review by the Director of the Washington State Department of Ecology.

The Water Board's conditional approval is not final and does not authorize the applicant to make the transfer until it also is approved, or approval is waived, by the Director of the Department of Ecology.

4.12 If the Water Board recommends conditional approval of a water right transfer application that is formally protested by a water right holder claiming impairment as creating an impairment under the Water Board's review process, then the Water Board shall submit notice of the Water Board's decision, by mail, to the party claiming impairment, and the Water Board will inform the party claiming impairment of the right to object to the Water Board's decision to the Director of the Department of Ecology.

4.13 When a transfer is approved by the Water Board, the Water Board is required to submit the complete record regarding the transfer to the Director of the Department of Ecology. The Water Board also shall submit a record of decision (ROD) to the Director summarizing the information and findings on which the Water Board relied to approve the water transfer, including any objections filed to the water right transfer. The Director is required to review the certificate and ROD provided by the Water Board and has forty-five (45) days to affirm, reverse, or modify the Water Board's decision; if no action is taken by the Director within forty-five (45) days of receipt of the certificate and ROD, the Water Board's decision is final, unless the Director extends the review period for an additional thirty (30) days. Receipt is dated from the postmark date on mail delivery to the Department of Ecology. Upon the Director's affirmation, the conditional certificate issued by the Water Board is final.

4.14 If the Water Board decides not to approve a water right transfer application, then the applicant is notified of the decision. The Water Board's decision does not prejudice an applicant's option to submit a water right transfer application to the Department of Ecology.

4.15 So long as a change application is pending before the Water Board, the Board will keep a complete record of the associated documents and information described in the above sections. Once a decision has been made on a change application by the Water Board, the responsibility for compliance with public disclosure relating to said change application is transferred to the Department of Ecology pursuant to RCW 90.80.135(2). The Water Board shall keep all other public records that are not transferred to the Department of Ecology as set forth above for a period of 5 years as required by RCW 90.80.135(1).

Section 5.0 Amendments to the Bylaws

5.1 These bylaws may be altered, amended, or repealed by a majority of the Water Board at a regular or special meeting of the Water Board.

Section 6.0 Effective Date

6.1 These bylaws shall take effect immediately. The Chelan County Water Conservancy Board Bylaws have been reviewed and unanimously approved by the Chelan County Water Conservancy Board Commissioners on the date noted below.

Don Phelps, PE, Chairman

Waikele Hampton, Member

Peter Fraley, Member

Dated this ____ day of _____, 2009