

1 August 27, 2013
2 Stay status continued. A stay status report is
3 now due March 12, 2014.

Gene S Jowersley
4 Clerk

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FILED

AUG 26 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

7 **THE COURT OF APPEALS**
8 **OF THE STATE OF WASHINGTON**
9 **DIVISION III**

9 CITY OF LEAVENWORTH,

10 Appellant,

11 v.

12 WASHINGTON STATE
13 DEPARTMENT OF ECOLOGY,

14 Respondent.

CASE NO. 312364

INITIAL JOINT STATUS REPORT

15 Pursuant to the Court's March 11, 2013 Order Staying Further Proceedings, the
16 Department of Ecology (Ecology) and City of Leavenworth (Leavenworth) submit this Initial
17 Joint Status Report.

- 18 1. Icicle Creek Comprehensive Water Resource Strategy. Ecology's Office of Columbia
19 River (OCR) and the Chelan County Department of Natural Resources (Chelan-DNR)
20 co-hosted a workshop of Icicle Creek sub-basin stakeholders on December 4-5, 2012.
21 Among the purposes of the workshop was to engage the stakeholders in identifying
22 water-saving and water management projects that will improve instream flows and
23 water availability in the Icicle Creek sub-basin. Leavenworth and other stakeholders,
24 sometimes referred to as the Icicle Working Group, have since participated in follow-
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1 up workshops on March 7 and July 8, 2013. A draft Icicle Integrated Project List
2 dated May 17, 2013 is included as Attachment A.

3 2. Identification of Water-Saving Projects. Project scoping and feasibility has not been
4 completed by the Icicle Working Group, but Chelan-DNR is making progress on a
5 scope of work to engineer one or more of the projects, including the restoration of
6 permitted storage on Eight-Mile Lake by Icicle Irrigation District. After additional
7 project scoping and preliminary engineering, Ecology and Leavenworth will meet to
8 determine which project or projects will provide the best prospects for leading to a
9 settlement in this case, along with other potential benefits to the Icicle sub-basin.

10 3. Funding and Permitting of Water-Saving Projects. Until the previous step is
11 completed, it is premature to move forward with actions to fund and obtain permits.
12 However, preliminary analysis by Ecology-OCR, Chelan-DNR and Leavenworth
13 indicates that the Eight-Mile Lake project has potential to be funded along with
14 several other projects within the Icicle sub-basin that would provide a path towards
15 settlement in this case.

16 4. Transfer of Water Rights to City of Leavenworth. Until funding and permitting of a
17 project is completed, it is premature to move forward with actions to transfer water
18 rights to Leavenworth.

19 5. Court Assistance with Settlement Process. At this point, the parties do not believe
20 that the assistance of the Court is necessary.

21 6. Request for Settlement Conference. Neither party is requesting a settlement
22 conference with the Court at this time.

23 7. Next Status Report. The parties will submit the next joint status report in six months,
24 on or before March 12, 2014.

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3 DATED this 17th day of August, 2013.


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6 LAW OFFICE OF THOMAS M. PORS

7 

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9 Attorney for Appellant

10 City of Leavenworth, Washington
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12 ROBERT W. FERGUSON
13 Attorney General

14 

15 ALAN M. REICHMAN, WSBA #23874
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17 Attorneys for Respondent
18 Washington State Department of Ecology
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Draft Work Product for Review by the Icicle Working Group

May 17, 2013

Icicle Integrated Project List, "Base" Integrated Alternative Meeting Guiding Principles

Total Project Benefit =69 cfs & 22,500 acre-feet, Total Investment including 25% contingency = \$50 M, cost/acre-foot = \$2,250 / acre-foot

Project Description: This alternative is characterized by a project list targeted at the Icicle Subbasin Guiding Principles with substantive flow benefit in the late summer/early fall in the historic channel. Key features include a pump exchange for a portion of Icicle-Peshastin Irrigation District summer demand, retaining the existing hatchery facilities but with aggressive conservation measures, modernization of the Alpine Lakes with flow benefit to both instream flows and the City of Leavenworth, and habitat/screening projects.

Project Name	Description	Project Cost	Icicle Creek Project Benefit			
Icicle-Peshastin Irrigation District Pump Exchange Project I	Icicle-Peshastin Pump Exchange at Dryden (40 cfs for 8 weeks, 15 cfs to Icicle, 25 cfs to Peshastin).	\$8 M	15	cfs	1,663	ac-ft
Alpine Lakes Optimization, Modernization, and Automation	Automate and optimize releases of the 6 Alpine Lakes (flow benefit estimated over 75 days).	\$1.1 M	14.57	cfs	2,163	ac-ft
Icicle, Peshastin, and Cascade Orchards Irrigation Efficiencies	Update Irrigation Comprehensive Plans and fund efficiency projects (flow benefit estimated over 150 days).	\$7.7 M	10	cfs	3,000	ac-ft
Leavenworth National Fish Hatchery Conservation Improvements	Combination of on-site reuse, effluent pump-back, and/or wellfield enhancements.	\$10 M	20	cfs	14,000	ac-ft
Eight-Mile Lake Restoration	Restore Eight-Mile Lake to normal permitted pool elevation.	\$1.2 M	8.7	cfs	1,300	ac-ft
Habitat Improvements in RM 2.7-4.5, land acquisition	Riparian plantings, engineering log jams, conservation easements, and other habitat projects. Land acquisition as part of the Wenatchee Lands Plan in Icicle Basin.	\$2.5 M	2.7	miles	2000	acres
Rehabilitate Leavenworth Hatchery Intake, Passive Flow at Structure 2, Boulder Field Construction Project, Tribal Fisheries Improvements	Replace delapidated sections of intake piping, and improve passage at Boulder Field	\$ 6.5 M	Improve fish passage and hatchery operation			
Instream Flow Rule Amendment	Modify WAC 173-545 Icicle Reserve from interim level of 0.1 cfs to final level of 0.5 cfs	\$ 50 K	0.4	cfs	292	ac-ft

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DIVISION III
STATE OF WASHINGTON
By _____

August 19, 2013

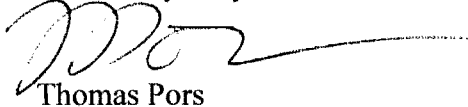
The Honorable Dennis J. Sweeney
The Court of Appeals, Division III
North 500 Cedar Street
Spokane, WA 99210

*Re: City of Leavenworth v. Washington State Department of Ecology, Case
No. 31236-4-III*

Dear Judge Sweeney:

Enclosed is the parties' Initial Joint Status Report in this matter, as required by the Order Staying Further Proceedings. I was authorized to sign the report by Mr. Reichman on behalf of the Department of Ecology. At this time, the parties are not requesting any court assistance with the settlement process. The next joint status report will be filed on or before March 12, 2014.

Yours very truly,



Thomas Pors

Encl

Cc: Clerk of the Court, Division 3, Court of Appeals
Alan M. Reichman

Renee S. Townsley
Clerk/Administrator

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*The Court of Appeals
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August 28, 2013

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CASE # 312364
City of Leavenworth v. Washington State Department of Ecology
CHELAN COUNTY SUPERIOR COURT No. 092007483

Counsel:

Pursuant to the Initial Joint Status Report, the following notation ruling was entered:

August 27, 2013
Stay status continued. A stay status report is now due March 12, 2014.
Renee S. Townsley
Clerk

Judge Sweeney retired on April 30, 2013. Please forward future status reports to me. If a settlement conference judge is needed at a later date, Chief Judge Kevin Korsmo will address it at that time.

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:jr