



CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for
Environmental Law & Policy

Contact:

Shirley Nixon , Staff Attorney
206-223-8454 x10
2400 N 45th Street, Seattle, WA 98103

PRESS RELEASE: AUGUST 14, 2003

Settlement agreement ends lawsuit over Columbia River water permit

**PACT BETWEEN THE CENTER FOR ENVIRONMENTAL LAW & POLICY (CELP), ECOLOGY, AND
THE “QUAD CITIES” ALLOWS CITIES TO ACCESS WATER, WHILE ADDING PROTECTIONS FOR
THE COLUMBIA RIVER**

Four Eastern Washington cities will have access to water they want, and river advocates and the state Department of Ecology will have more tools to protect river resources under a settlement agreement announced this week. In December 2002, the water watchdog group Center for Environmental Law & Policy (CELP) appealed the state's decision to grant the “Quad Cities” of Richland, Kennewick, Pasco and West Richland a permit to withdraw 178 cfs (cubic feet per second or 80,000 gallons per minute) from the Columbia River for use in their municipal water systems. Following initial rulings in June affirming CELP's legal standing to bring the appeal, the state Pollution Control Hearings Board was ready to hear the case during a six-day trial set to begin September 15, 2003. However, settlement negotiations over the last two months have resulted in an agreement which ends the appeal, and allows the cities to initially use up to 10 cfs of water under the terms of a newly drafted permit. The negotiated permit features stronger conservation requirements, tighter standards and conditions for accessing incremental water dispersals, and more tools for measuring, monitoring, and mitigating the impacts of water diversions.

“This agreement – now approved by the elected representatives of all four cities, the Department of Ecology and CELP – puts in place some important safeguards that will help ensure that the precious waters of the Columbia River will flow for future generations of the families, farms, businesses and wildlife that depend on it,” said Karen Allston, Executive Director of CELP. “The parties worked hard to hammer-out a comprehensive settlement package that considers everyone's interests, and we're pleased about that,” added Allston.

CELP brought to the negotiating table its concerns over cumulative impacts of newly permitted water diversions that deplete vital instream flows, its belief in the importance of water conservation in an era of increasing water scarcity, and its policy perspective that the already-stressed Columbia River system and its resources should not be managed by guess-work. “CELP appealed the permit because we saw it as giving the cities an unaccountable blank check to withdraw water from a river that is dangerously close to bankruptcy,” said Shirley Nixon, Staff Attorney for CELP. “Terms of the settlement now spell-out that the river will receive a pay-back for water dispersals that could harm it.” Incremental requests for future water disbursements from the total allowable 178 cfs may occur over the next 48 years. If the cities want to access more water than the first 10 cfs, they must follow rigid procedural requirements, and base their requests upon contemporaneous need projections and conservation efficiency data. Further, the cities must design required mitigation (“river pay-back”) plans in accordance with standards of best available science, and show a benefit to the river system and its fish. As part of the settlement agreement, the Quad Cities also agreed to relinquish certain unused water rights and claims, to completely withdraw four pending water applications, and to amend five remaining applications to show that any amounts of water awarded should be deducted from the 178 cfs allowable under this permit.

In addition to making improvements in the Quad Cities water permit, the settlement package addresses river and water resource issues of broader regional and statewide significance. The state has agreed to postpone rule-making under the on-going Columbia River Initiative until after it receives a final scientific report, due in March 2004, assessing Columbia River instream flow and management needs. And, Ecology has agreed to defer issuing new water permits from the Columbia until January 1, 2005 or the effective date of new Columbia River rules, whichever comes earlier. Furthermore, Ecology has committed to work closely with the Department of Health to develop improved statewide water conservation standards, and will meet regularly with CELP and other

interested parties to develop guidelines by April 30, 2004 for conducting “maximum net benefit analyses” in connection with water resource rule-making.

The initial Summary Judgment ruling in this case, issued in June, 2003 by the Pollution Control Hearings Board, may be accessed on the Environmental Hearings Board web site by visiting: <http://www.eho.wa.gov/boarddecisions.asp> and then clicking on the link to “PCHB 02-216”.

Other data about this case from the Pollution Control Hearings Board appears at: <http://www.eho.wa.gov/viewCaseDetails.asp?CASEID=2971>

###

This press release is available at: <http://www.celp.org/pressreleases.html>