

RESOLUTION NO. 273

AUTHORIZING WITHDRAWAL OF FUNDS FROM SPECIAL CONSTRUCTION FUND SAVINGS ACCOUNT

WHEREAS, the East Wenatchee Water District has accumulated monies in the 1976 Special Construction Fund to cover various items of construction work as authorized from time to time, and

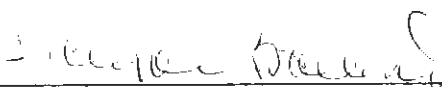
WHEREAS, the District is in the process of constructing a new reservoir with monies to be paid from the 1976 Special Construction Fund, and

WHEREAS, the District has set up a savings account with the Douglas County Treasurer to pay the contractor from said fund as statements are received from the contractor, and

WHEREAS, it is in the best interest of the District to utilize all available means of its investments,

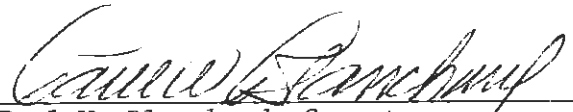
NOW THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF THE EAST WENATCHEE WATER DISTRICT, that the Douglas County Treasurer is hereby authorized to withdraw from the 1976 Special Construction Fund savings account and pay warrants as authorized by the Board of Commissioners of the East Wenatchee Water District.

ADOPTED this 20th day of August 1979, by the Board of Commissioners of the East Wenatchee Water District, Douglas County, Washington at a regular meeting thereof.



J. Clyde Ballard, President

ATTEST:



Paul W. Blanchard, Secretary

/sr

**COMMISSIONERS:**

Clyde Ballard
Lloyd Brett
Paul Blanchard

CHARLIE JOHNSTON, Manager

East Wenatchee Water District

(509) 884-3569 890 Eastmont Avenue P.O. Box 0289 East Wenatchee, WA 98801

April 18, 1979

Board of Commissioners
EAST WENATCHEE WATER DISTRICT
890 Eastmont Avenue
East Wenatchee, Washington 98801

Gentlemen:

Before you conclude the settlement of the District's pending lawsuit, I would like to point out several of the reasons supporting my recommendation that we accept the offered settlement.

(1) One of the major issues in the lawsuit was the negligent expenditure of some \$55,639 in the drilling of a well and related improvements to the Town of Rock Island's Water System. There has been and remains a very real question of whether it was legally permissible for the Water District to spend District bond monies on an improvement outside the boundaries of the District. While the District spent approximately \$55,639 in Rock Island, we did receive \$15,979.12 as a grant from the State of Washington and this reduced our actual out-of-pocket loss to approximately \$39,659.00. Recently, in February of 1979, we concluded months of negotiations and sold these improvements to the Town of Rock Island for the total purchase price of \$53,500.00. This price is payable over a 21 year contract in the amount of \$422.00 per month, with interest at 7½%. We will use the monthly payments to pay back our bond funds so that the money might be properly invested within the District itself.

(2) A second major element of our lawsuit was the claim regarding Frank P. Johnson's property where the District had spent in excess of \$37,800 to drill three test wells. These monies were illegally spent improving a commissioners private property. The District, at that time, was considering expanding their East Wenatchee well sites or, in the alternative, joining the Regional Water System. The District engineer believes that it was unnecessary to drill the wells on the Johnson property as there was, and still remains, adequate water flow capacity in the District's system.

The District does not need the Johnson well site property and maintains that this money was wrongfully and unwisely spent in drilling test wells on a commissioners private property.

(3) The State Auditor has continued to audit the East Wenatchee Water District on a yearly basis. The serious problems revealed in the audit findings of 1977 have been either completely corrected or are in the process of being corrected. We have a new accounting system and are paying back the funds from which monies were wrongfully spent. I direct your attention to the most recent

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audit findings which concluded that the Water District was, in 1978, in general compliance with the statutes of the State of Washington. I am confident that our audit for the current year 1979, will conclude that we are in full compliance with the statutes.

(4) The cost of continuing this litigation would be exceedingly high. The Water District would call a minimum of 24 witnesses at the time of trial and the defendants would have the opportunity, and indeed would find it a necessity in certain cases, to take the deposition of many of these witnesses prior to trial. The District would have to hire several expert witnesses including engineers, accountants, and attorneys.

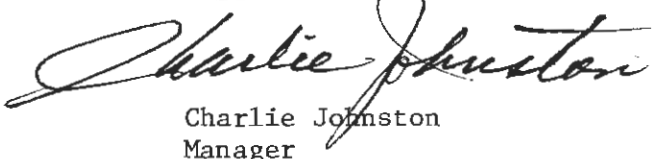
(5) The settlement as negotiated and proposed of \$20,000.00 cash will partially reimburse the District for the expenditures on the Johnson property. The amount expended in Rock Island will be reimbursed as a result of our contract with the Town of Rock Island. The counter claims against the District for unpaid attorneys fees to William M. Hamilton and for lease payments which the District did not pay to the B.R. Walker Company, will be dismissed with prejudice. These disputed claims exceed \$6,500.00. Frank P. Johnson's claim against Commissioners Ballard and Brett will be dismissed with prejudice.

(6) This settlement must, by law, be approved in advance by the State Auditor. On March 28, 1979, Robert V. Graham, State Auditor, did sign an approved and consent to Settlement, a copy of which is attached to this letter.

(7) Therefore, having considered the total financial impact of the settlement of this negotiation on the District, it is my conclusion, as a manager of the District, that it is in the best interest of our rate payers to accept the \$20,000.00 cash offered and conclude that lawsuit. The District is now on a firm financial foundation, is in compliance with the applicable state laws, and we are able to commence several improvement projects which will upgrade our system and insure that water will be available to our rate payers in the coming years. I hope you will consider this report and accept the terms of the settlement as proposed.

Sincerely,

EAST WENATCHEE WATER DISTRICT



Charlie Johnston
Manager

CJ:sr

encl:

cc: Dale Foreman

Ron Kirkpatrick