

April 11, 2005

Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia WA. 98504-7250

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STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

Re: Transfer of water systems.

Dear Secretary:

Gamble Bay Water Inc. is informing the WUTC that it has transferred the following systems to the following companies.

Rimrock ID# 01916K to Snohomish County  
Owenwood ID# 37471C and Pioneer Acres ID#67710T to Kitsap County Public Utility District.  
Littlewood ID#47560R to Silverdale Water District.

If you have any questions, please call the office 360-779-1515.

Sincerely



Mike Knapp  
Gamble Bay Water Inc.

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STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN THE COUNTY OF SNOHOMISH**

MARY SELECKIE, SECRETARY,  
WASHINGTON STATE  
DEPARTMENT OF HEALTH,

Petitioner,

v.

MIKE KNAPP AND GAMBLE BAY  
WATER, INC.,

Respondents.

No. 05-2-07326-6

ORDER APPOINTING RECEIVER

THIS MATTER came before the court on March 24, 2005, pursuant to a Petition for Appointment of Receiver of Public Water System and a Motion For Appointment of Receiver filed by Petitioner State of Washington, Department of Health, Office of Drinking Water ("DOH"), which was filed on March 21, 2005.

The Court heard oral argument from counsel for Petitioner, Jacqui Brown Miller, counsel for Snohomish County, Gordon Sivley, and (did) (did not) hear oral argument from counsel for Respondent Gamble Bay Water Company ("Gamble Bay"), James Dudley.

In making its decision, the Court considered:

1. Petition for Appointment of Receiver of Public Water System;
2. Motion For Appointment of Receiver;

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Agriculture & Health Division  
2425 Bristol Court SW  
PO Box 40109  
Olympia, WA 98504-0109  
(360) 596-6500

- 1 3. Declaration of Derek Pell in Support of Petition and Motion to Appoint Receiver;
- 2 4. \_\_\_\_\_;
- 3 5. \_\_\_\_\_;
- 4 6. \_\_\_\_\_;
- 5 7. \_\_\_\_\_;

**I. FINDINGS OF FACT**

Based on the arguments made and the evidence presented, the Court finds:

1.1 The Rimrock water system provides domestic water service for about 57 households.

1.2 Respondent Gamble Bay owns the Rimrock water system. Mike Knapp is an owner and shareholder in the Gamble Bay.

1.3 The Rimrock water system has a history of poor water quality. The primary source of water supply is an unprotected spring that is likely under the influence of surface water runoff and contaminants associated with surface water. Spring flow decreases substantially during the summer months resulting in a decrease of system pressure. The well pump and controls have failed in the past. The disinfection treatment installed is not designed to address surface water contaminants. The storage tanks are in poor and vulnerable condition. The Rimrock water system is fragile. Future component failures in the Rimrock water system are expected. If the utility operator fails to take immediate action in the event of another system failure, there will be a significant risk to the public health of the system users.

1.4 As of March 26, 2005, the Rimrock water system will not have a willing and viable operator. On March 26, 2004, Respondent Gamble Bay declared in a letter to customers its intent to abandon the Rimrock water system.

1 1.5 The precarious state of the Rimrock system, coupled with there being no duty  
 2 imposed on Respondent Gamble Bay to continually maintain and operate the system, poses an  
 3 immediate and serious threat to the health of the Rimrock water system users.

4 1.6 RCW 43.70.195 provides that the county in which the water system is located  
 5 shall be appointed as the receiver if no other person is willing and able to act as receiver for the  
 6 water system. Snohomish County is reluctant to act as receiver of the Rimrock water system  
 7 because it operates no other public water systems.

8 **II. CONCLUSIONS OF LAW**

9 Based on the above findings of fact, the Court makes the following conclusions of law:

10 2.1 Respondent Gamble Bay is a "water company" as defined under chapter 80.04  
 11 RCW.

12 2.2 The Rimrock water system is a Group A public water system as defined under  
 13 WAC 246-290-020.

14 2.3 Respondent is an owner and "purveyor" of the water system under chapters  
 15 70.119 and 70.119A RCW and as such is responsible for complying with the State Board of  
 16 Health regulations regarding public water systems and related statutes and regulations.

17 2.4 DOH is authorized to administer State Board of Health regulations and related  
 18 statutes regarding public water systems. DOH is also authorized to enforce the provisions of  
 19 chapters 246-290 and 246-292 WAC and other public water system statutes and regulations,  
 20 pursuant to chapter 43.70 RCW.

21 2.5 As of March 26, 2005, Respondent Gamble Bay will have no duty to operate the  
 22 Rimrock water system in compliance with public water system requirements and has expressed  
 23 its intention to abandon the Rimrock water system under WAC 246-290-035(4).

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1           2.6    Under 43.70.195, DOH has clear legal authority to determine that a drinking  
2 water system should be placed into the hands of a receiver and to petition the Court for  
3 placement of that public water system with a receiver.

4           2.7    Under 43.70.195(1), Snohomish County must be appointed as the receiver  
5 where no other person is willing or able to be named as the receiver. In this case, there is no  
6 other willing person that is willing or able to be named as the receiver.

7           2.8    DOH has a well-grounded fear that after Respondent Gamble Bay no longer  
8 operates the system, the system will experience failures and will become contaminated with no  
9 one to treat the water.

10          2.9    The injury which could result if a receiver is not immediately appointed is  
11 substantial and likely to outweigh any harm that might result to Respondent Gamble Bay by  
12 appointing Snohomish County as the receiver. The public interest in the safe and effective  
13 operation of the Rimrock water system is significant.

14          2.10   Unless a receiver is appointed immediately, the health of the customers of the  
15 Rimrock water system, which DOH is charged to protect, will be jeopardized and DOH's right  
16 to relief will be substantially prejudiced.

17          2.11   In the operation of a water system, as the receiver, Snohomish County would  
18 have full jurisdiction and authority to manage and control the system, and to fix, alter, regulate  
19 and control the rates and charges for the service and to levy charges for connection to the  
20 system.

21          2.12   Snohomish County is qualified to act as receiver of the system.

22          2.13   The preliminary appointment of Snohomish County as receiver of the Rimrock  
23 water system is appropriate.

24          For the reasons set forth in the above findings of fact and conclusions of law, it is  
25 hereby:

26          ORDER APPOINTING RECEIVER

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It is further

ORDERED that the receiver immediately take all reasonable and prudent actions it deems necessary to operate the Rimrock water system in compliance with State Board of Health regulations and statutes regarding public water systems;

ORDERED that all fees for water service charges to the Rimrock water system customers be deposited into the account to be established by the receiver for the purpose of reasonably compensating the receiver for its services and to pay for such costs and to effect such improvements as are necessary to operate the system in compliance with chapter 246-290 WAC or chapter 246-292 WAC and related public Rimrock water system statutes and regulations; it is further

ORDERED that the receiver provide an accounting from time to time as the Court may require; it is further

ORDERED that the receiver report to the Court, at an appropriate time, its recommendations for the future ownership and operation of the Rimrock water system and, in conjunction with Petitioner and any appropriate health agencies, develop and present to the Court a plan for disposition of the system within twelve months of appointment; it is further

~~ORDERED that Respondent Gamble Bay, and anyone acting at its direction, under its agency, on its behalf, or in cooperation with Gamble Bay, be enjoined from interfering in any way with the activities of the receiver or with the operation of the Rimrock water system; it is further~~

~~ORDERED that violations of this order may result in punishment for contempt; it is further~~

ORDERED that the requirement of a bond is waived in this matter; it is further

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ORDER APPOINTING RECEIVER

1 ORDERED that Snohomish County be and is hereby appointed as receiver of the  
2 Rimrock public water system with the power to:

3 1. Act in the best interest of the customers of the Rimrock water system;  
4 2. Operate and manage the Rimrock water system so that it complies with State  
5 Board of Health regulations and statutes regarding public water systems, which authority will  
6 include, but not be limited to, the following:

7 a) Enter into an agreement with a certified operator or satellite management  
8 agency to operate and manage the system;

9 b) Purchase equipment, meters, chemicals, or anything else necessary to the  
10 improvement and proper operation of the system.

11 c) Pay for expenses of operating the Rimrock water system incurred after  
12 appointment as receiver including but not limited to payment of certified operator or satellite  
13 management agency services, monthly utility bills, water sample analyses, consultant services  
14 and administrative expenses;

15 d) Establish an account in the name of the County as a Court-appointed receiver of  
16 the Rimrock water system in a bank, financial institution, or other commercial depository in  
17 Snohomish County, Washington or in the County treasury, to be determined at the County's  
18 discretion. The receiver is authorized and directed to deposit all funds hereafter coming into its  
19 possession as receiver, as soon as practicable after they are received, into said account.

20 e) Contract with a private individual, corporation, or entity to receive and collect  
21 payments from the Rimrock water system customers.

22 f) Such other powers as the Court shall order.

23 3. Impose reasonable assessments on the Rimrock water system customers to  
24 recover expenditures for improvements necessary for the public health and safety pursuant to  
25 the County's statutory authority;

26 ORDER APPOINTING RECEIVER

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1 ORDERED that this order shall go into effect when signed and shall remain in effect  
2 until further order of the Court.

3 DONE IN OPEN COURT this 24<sup>th</sup> day of March, 2005

4  
5 S/  
6 The Honorable Eric Lucas

7 PRESENTED BY:

8 ROB MCKENNA  
9 Attorney General  
10 S/

11 JACQUI BROWN MILLER, WSBA No. 28130  
12 Assistant Attorney General  
13 Attorneys for Petitioner

14 S/  
15 GORDON SIVLEY, WSBA No. 8837  
16 Deputy Prosecuting Attorney  
17 Attorney for Snohomish County

18 S/  
19 JAMES DUDLEY, WSBA No. 5981  
20 Attorney for Respondent Gamble Bay

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