FILED SG
12 12 25
SUSAN SPEIKER
OKANOGAN COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF OKANOGAN

TOWN OF COULEE DAM, a Washington noncharter code city,

Plaintiff,

v.

TOWN OF ELMER CITY, a Washington town,

Defendant.

Case No. 25-2-00396-24

~~[PROPOSED]~~ **ORDER GRANTING PLAINTIFF COULEE DAM'S MOTION FOR PRELIMINARY INJUNCTION**

On December 12, 2025, this matter came before the Court at hearing on Plaintiff Town of Coulee Dam's Motion for Preliminary Injunction ("the Motion"). In the Motion, Plaintiff Town of Coulee Dam ("Coulee Dam") seeks an order from the Court requiring Defendant Town of Elmer City ("Elmer City") to (1) implement an effective system, within a reasonable time after this Order is entered, to pretreat its sewage prior to being pumped to the Coulee Dam wastewater treatment plant; (2) actively seek alternative treatment options for its sewage other than pumping it to Coulee Dam in light of the 2023 notice from Coulee Dam that it would no longer treat Elmer City's sewage upon the expiration of the 50-year Agreement, which occurred on January 1, 2025, and was not replaced by a new contract; and (3) pay an

ETTER, McMAHON, LAMBERSON, VAN WERT & ORESKOVICH, P.C.
618 WEST RIVERSIDE AVENUE, SUITE 210
SPOKANE, WASHINGTON 99201 (509) 747-9100

ERU of twice the amount charged to Coulee Dam residents until an alternative treatment option for its sewage is found, or a new agreement is reached with Coulee Dam.

At the hearing, Coulee Dam was represented by Ronald A. Van Wert of Etter, McMahon, Lamberson, Van Wert & Oreskovich, P.C. and Defendant Town of Elmer City was represented by Jeffrey R. Galloway of Witherspoon, Brajcich, McPhee. Each attorney presented oral argument to the Court on behalf of their respective clients. This Court has also reviewed and considered the moving papers and Court File herein, including, but not limited to the following:

(1) Plaintiff Town of Coulee Dam's Motion and Memorandum for Preliminary Injunction;

(2) Declaration of Daniel Cowger, as well as Exhibits thereto;

(3) Declaration of Stefani Bowden, as well as Exhibits thereto;

(4) Declaration of Ronald A. Van Wert, as well as Exhibits thereto;

(5) Defendant Town of Elmer City's Response in Opposition to Motion for Preliminary Injunction;

(6) Declaration of Jimmer Tillman, as well as Exhibits thereto;

(7) Declaration of Jesse Tillman as well as Exhibits thereto;

(8) Declaration of Jeffrey R. Galloway, as well as Exhibits thereto;

(9) Plaintiff Town of Coulee Dam's Reply in Support of Motion for Preliminary Injunction; and

(10) Supplemental Declaration of Daniel Cowger, as well as Exhibits thereto.

ETTER, McMAHON, LAMBERSON,
VAN WERT & ORESKOVICH, P.C.
618 WEST RIVERSIDE AVENUE, SUITE 210
SPOKANE, WASHINGTON 99201 (509) 747-9100

As such, the Court is fully prepared to rule as indicated herein, and FINDS as follows:

1. Coulee Dam has established a clear legal and equitable right to recover costs for the operation and maintenance of its wastewater treatment facility attributable to the treatment of sewage received from Elmer City, as well as the right to require pretreatment of Elmer City's sewage to prevent the premature deterioration of its wastewater treatment facility.
2. Coulee Dam has established a clear violation and breach of its rights by Elmer City. Thus, it has a realized and well-grounded fear of immediate invasion of its rights.
3. Failure to require Elmer City to act in accordance with this Order will result in:
   a. further irreversible, premature deterioration of the Coulee Dam wastewater treatment facility;
   b. continued loss to Coulee Dam's residents from incurring additional expense for treatment of its sewage as a result of Elmer City not paying a fair share of its costs; and
   c. Elmer City's continued unjust enrichment resulting from its refusal to pay a fair share of its costs for the treatment of its sewage despite continuing to pump tens of thousands of gallons of raw sewage monthly to Coulee Dam's wastewater treatment plant.
4. Coulee Dam is likely to prevail on the merits of its claims that Elmer City has violated its legal and/or equitable rights.

ETTER, McMAHON, LAMBERSON,
VAN WERT & ORESKOVICH, P.C.
618 WEST RIVERSIDE AVENUE, SUITE 210
SPOKANE, WASHINGTON 99201 (509) 747-9100

NOW THEREFORE, it is hereby **ORDERED, ADJUDGED,** and **DECREED** as follows:

(1) Plaintiff Town of Coulee Dam's Motion for Preliminary Injunction is **HEREBY GRANTED** pursuant to CR 65.

(2) Within 90 days of this Order, Elmer City shall implement a system to effectively pretreat all sewage it pumps to the Coulee Dam wastewater treatment plant. and if this is not possible, to provide the court an explanation as to why it is not possible at the scheduled review hearing.

(3) Elmer City must actively seek a treatment option for its sewage independent of Coulee Dam or actively negotiate a new contract in good faith with Coulee Dam. Elmer City shall provide a status report to this Court within 90 days of its efforts consistent with this Order. at a hearing to be scheduled by Judicial assistant. Both parties may appear via zoom.

(4) Until Elmer City implements a treatment option for its sewage independent of Coulee Dam, or enters into a new contract with Coulee Dam for the continued treatment of its sewage, Elmer City shall pay Coulee Dam 125% the amount per ERU that Coulee Dam residents pay. The Court hereby finds ~~a double~~ this amount differential to be fair and reasonable based on the factors set forth by Coulee Dam in the Motion on pages 24-25, and RCW 35.92.020.

It is so **ORDERED,** this 12th day of December 2025.

HONORABLE KATHRYN BURKE
SUPERIOR COURT JUDGE

ETTER, McMAHON, LAMBERSON,
VAN WERT & ORESKOVICH, P.C.
618 WEST RIVERSIDE AVENUE, SUITE 210
SPOKANE, WASHINGTON 99201 (509) 747-9100