

RESOLUTION NO. 767

A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF BIRCH BAY WATER & SEWER DISTRICT, WHATCOM COUNTY,  
WASHINGTON, REVISING THE DISTRICT'S RETAIL WATER SERVICE AREA

WHEREAS, the Birch Bay Water & Sewer District ("District") adopted a Retail Water Service Area ("RWSA") in 2009 with the adoption of its Comprehensive Water System Plan ("WSP"); and

WHEREAS, the District last adopted a revised RWSA, including a water service area by agreement, in 2010 with the adoption of its WSP Amendment No. 1; and

WHEREAS, the District consultant has prepared an updated WSP, dated June 2019 and Revised April 2020 with a proposed revised RWSA; and

WHEREAS, for reasons set forth herein, the District determined that its RWSA should be revised in two locations; and

WHEREAS, the District advertised for a public hearing regarding the updated WSP including the proposed change to the RWSA scheduled for July 11, 2019; and

WHEREAS, on July 11, 2019, the District opened and closed a public hearing regarding the updated WSP including proposed change to its RWSA – two persons attended the hearing, but no public input was provided; and

WHEREAS, the District consultant prepared an environmental checklist pursuant to the State Environmental Policy Act ("SEPA") regarding the proposed change to the District RWSA; and

WHEREAS, the District issued a DNS for the proposed change to its RWSA, published and distributed notice thereof on October 16, 2020, and received no comments; and

WHEREAS, upon consideration of the proposed revision to its RWSA, the District enters the following general findings:

1. Pursuant to the Whatcom County Coordinated Water System Plan ("CWSP"), the District must declare a water service area within which it will provide water utility service.
2. One of the purposes of formally declaring a water service area is so that service areas may be defined in a manner which assures that resources are efficiently utilized and unnecessary duplication of services is avoided.

3. In 1997, Whatcom County adopted its first comprehensive plan pursuant to the Growth Management Act, Chapter 36.70A RCW (“GMA”).
4. The GMA and the 1997 County Comprehensive Plan clarified where and how public potable water service should be provided, particularly with respect to designated urban growth areas and land outside urban growth areas.
5. Among designated urban growth areas, the GMA and the current County Comprehensive Plan also distinguished between areas authorizing urban residential development and areas authorizing heavy industrial development.
6. Potable water services of the nature required for residential development is best served by the District; water required for heavy industrial development may primarily be supplied with untreated water from other sources.
7. It is in the best interest of the District for its RWSA to be consistent with and reflect the intent of the CWSP, GMA, and the current County Comprehensive Plan. Moreover, logical and uniform water service area boundaries are desirable.

WHEREAS, based upon the foregoing recitals and general findings, the District hereby enters the following specific findings in support of the revised RWSA:

**Bell Bay Jackson Water Association**

1. Bell Bay Jackson Water Association (“Association”) is a public water purveyor currently capable of serving most customers within its service area and the Association has historically served two areas adjacent to the District existing RWSA and the District existing water distribution system:
  - a. parcels immediately southeast of the intersection of Bay Road and Jackson Road
  - b. parcels west of Jackson Road, between Terrell Creek and Helweg Road.The Association has experienced leaks on its water distribution piping along Bay Road and Jackson Road serving these two groups of parcels and requested the District provide service to those parcels, in lieu of the Association completing significant repairs or upgrades in order to continue to provide service to the subject parcels.
2. It is in the best interest of the District to revise the RWSA to include the subject parcels along Bay Road and Jackson Road, which parcels are no longer served by the Association.

WHEREAS, the District must authorize submittal of its Declaration of Water Utility Service Area (“Declaration”) for the CWSP; and

WHEREAS, the District Board desires to authorize execution and submission of the Declaration by either the General Manager or by any one Commissioner on behalf of the District, substantially in conformance with Exhibit A, attached hereto and incorporated herein; and

WHEREAS, a map of the revised District RWSA is attached as Exhibit B hereto and incorporated by reference; and

WHEREAS, the District Board intends that in the event of any discrepancy or inconsistency between the descriptions of revisions herein and the WSP boundaries as shown on the Exhibit B map, the Exhibit B map shall take precedence; and

WHEREAS, the foregoing recitals and findings are a material part of this Resolution,

NOW, THEREFORE, be it resolved by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: The District hereby adopts the revised Retail Water Service Area (“RWSA”), as depicted on the map attached hereto as Exhibit B, as the official RWSA of the District.

Section 2: The District hereby authorizes signature of a Declaration substantially in conformance with Exhibit A by the District General Manager or by any one District Commissioner and submittal of same to Whatcom County for purposes of CWSP compliance. A copy of Exhibit B shall accompany any such submittal.

Section 3: In the event of any discrepancy or inconsistency between the District RWSA as depicted on Exhibit B and other terms or land area descriptions herein, Exhibit B shall take precedence.

Section 4: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Commissioners hereby declare that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 5: This Resolution shall be effective immediately upon Boundary Review Board approval without modification (after convening or by operation of law) of the revised District Retail Water Service Area authorized herein.

ADOPTED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 12<sup>th</sup> day of November, 2020.

Don Montfort  
COMMISSIONER

Fred Reid  
COMMISSIONER

Jeff Benner  
COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 767 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on November 12, 2020.

Fred Reid  
SECRETARY

I, Sandi McMillan, as authorized by District resolution and in my capacity as Finance Director of the Birch Bay Water & Sewer District, do hereby attest that the foregoing resolution was approved by the Board of Commissioners by virtual electronic meeting on this 12<sup>th</sup> date of November, 2020.

Sandi McMillan  
Sandi McMillan, Finance Director