



ATTORNEYS

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Brian Werst  
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Via Email Only: [BWerst@workwith.com](mailto:BWerst@workwith.com)

**Re: Irvin Water District No. 6 & City of Millwood  
Request to Enter into an Agreement for Wholesale Water**

Dear Brian:

I am sending this letter on behalf of Irvin Water District No. 6 (“Irvin”) requesting that the City of Millwood engage in discussions to enter a wholesale water agreement under Millwood Municipal Code Ch. 13.04.

### **Irvin’s Moratorium**

It is no secret that Irvin issued a moratorium on new connections in April 2023, because it hit its limit on paper water rights. Irvin’s water rights portfolio currently includes 1,767 AF<sup>1</sup> (acre feet) of Qa (annual quantity) Water Rights. Irvin’s existing customers’ water usage results in Irvin exceeding that annual pumping limit. Irvin’s issues have nothing to do with existing infrastructure, but rather limitations on how much water Irvin is permitted to pump out of the aquifer.

Irvin’s Board of Commissioners adopted the moratorium via a resolution that only permits new connections within Irvin’s service area under strict exceptions. Such exceptions include projects that have previously been issued an unexpired certificate of water availability. As a result, Irvin’s customers cannot fully utilize their land – since Irvin cannot provide them water for new connections. That moratorium has been extended several times and remains in effect.

Irvin has actively been looking for solutions and has had multiple discussions with Washington State Department of Ecology regarding its predicament. Based on those meetings, it has become clear that the simplest solution is to acquire wholesale water service from a neighboring municipal water purveyor.

As such, Irvin was pleased to learn that earlier this year Millwood enacted an ordinance authorizing the wholesale of water.

This letter is a request to enter a wholesale contract with Millwood.

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<sup>1</sup> It can sometimes be difficult to understand how many homes equate to acre feet of water serves. To put things in perspective: Washington State Department of Health often discusses this in terms of equivalent residential units (ERU’s) and through rounding of estimated usage 1 ERU is often thought of as 1 AF / Qa.

### **Amount of Water Needed by Irvin**

For purposes of planning, it is anticipated that in the next twenty years Irvin will need a total of 2,600 AF/Qa to serve its existing and growing population. That means, Irvin will either need to acquire an additional 833 AF/Qa of paper water rights or find a new source (such as wholesale water) for the additional 833 AF/Qa.<sup>2</sup>

Since Millwood has already codified its ability to enter into wholesale water agreements with neighboring municipalities, Irvin is requesting that Millwood enter into such an agreement with Irvin.

While Irvin is interested in acquiring additional paper water rights (i.e., water right certificates), Irvin's primary concern is addressing its moratorium and providing exceptional service to its customers. As such, this letter is requesting that Millwood engage with Irvin in negotiating the form of an agreement to govern wholesale of water under Millwood Municipal Code Ch. 13.04. To clarify, this letter does not contain a request that Millwood sell its paper water rights. Under a wholesale arrangement, Millwood will retain its water rights and Irvin would simply become a customer of wholesale water.

### **Proposed Form of Agreement**

Irvin, as a Water District under Title 57 RCW and Millwood as a noncharter code city under Title 35A RCW have the authority to enter Interlocal Agreements with other municipalities. *See* Title 39 RCW Chapter 34. As such, Irvin proposes that the parties enter an Interlocal Agreement detailing the terms of the wholesale water agreement.<sup>3</sup>

To get the ball rolling, enclosed with this letter is a draft Interlocal Agreement. Please note that there are plenty of blanks and details that need to be worked out, including what the wholesale rate will be and the exact means of delivery. However, those are terms I'm confident that Millwood, Irvin, and the parties' respective engineers and attorneys can hash out.

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Millwood will receive revenue from the sale of physical water and Irvin will be allowed to lift its moratorium. We appreciate your consideration of this request. I look forward to working with Millwood on a solution to Irvin's moratorium. I sincerely believe that a wholesale agreement is mutually beneficial.

Best regards,



Aaron D. Dunham  
Attorney at Law  
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<sup>2</sup> Given that Irvin has already exceeded the last projected growth and hit its capacity on paper water rights, Irvin desires to obtain either paper water rights or committed wholesale service of more than 1,000 AF/Qa.

<sup>3</sup> Millwood Municipal Code Sec. 13.11.020 authorizes Millwood to enter contracts for wholesale water. Given the municipal nature of the parties, an Interlocal Agreement makes sense as the form of the contract.