

January 26, 2011

Ron Ihrig, Director of Operations & Generation
Public Utility District No. 1 of Klickitat County (KPUD)
1313 S. Columbus
Goldendale WA 98620

RE: Trust Water Donation, Water Right No. CS3-00845C@3 and Extension.

Dear Mr. Ihrig:

Ecology is in receipt of your June 23, 2010 letter and March 4, 2010 Water Service Agreement asking that the state Trust Water Rights Program (TWRP) assign a portion of the KPUD trust water to be available as mitigation for a new water right for municipal use for City of White Salmon (No. S4-35068). The purpose of this decision is to clarify how this assignment affects KPUD's water right holdings under No. S3-00845C.

1. The portion assigned by KPUD to offset City of White Salmon municipal uses is 2.5 cfs and 320 acre-feet (AF)¹, which your June 23, 2010 letter describes as entirely consumptive. We understand that this is not a sale of the assigned quantity to the City of White Salmon and is not a permanent trust commitment. The right will remain owned by the KPUD and subject to the March 4, 2010 Water Service Agreement. This water will remain in trust but will be assigned as beneficial uses for instream flow and mitigation for the impacts on the Columba River for the City of White Salmon's Permit No. S4-35068 from Buck Creek for municipal use. Ecology will issue a Trust Water Certificate for Non-Permanent Conveyance pursuant to RCW 90.42.040(2) to document this decision. For tracking purposes, this quantity will be designated as No. S3-00845C(C). In the event that the City finds an alternate source of mitigation and the Water Service Contract is terminated, Ecology will revoke Trust Water Certificate No. S3-00845C(C) and will return said quantities to temporary trust donation, unless otherwise directed by KPUD.
2. On December 29, 2010, Ecology approved KPUD's application No. CS3-00845C@4 to transfer 0.67 cfs and 112 acre-feet of consumptive use to a new point of diversion and place of use to provide municipal and power generation water for Roosevelt Landfill and construction projects in eastern Klickitat County. Upon completion of the development schedule described in said decision, Ecology will issue Superseding Certificate No. S3-00845C(B) pursuant to RCW 90.03.380(1) to document this decision.

¹ The Water Service Contract provides up to 1800 gpm (4 cfs) and 500 acre-feet to the City (Section 1.1). Proportionately, the 320 acre-feet referenced in KPUD's June 23, 2010 letter equates to 2.5 cfs.

3. The balance of KPUD's trust water holdings total 32.13 cfs and 13,479 acre-feet of which 4,419 acre-feet is consumptive. This quantity is held in trust pursuant to a December 30, 2005 donation for instream flows under RCW 90.42.080(1)(b) which will expire on December 31, 2011.

This quantity is also authorized for municipal water supply purpose, including power generation, based on a 2007 change authorization. Upon completion of the development schedule described in said decision, Ecology will issue Superseding Certificate No. S3-00845C(A) pursuant to RCW 90.03.380(1) to document this decision.

The 2007 change authorization asserted two determined future development (DFD) relinquishment exemptions. One was for development of the Cliffs Water System totaling 13,911 acre-feet and one was for the Cliff's Energy Project totaling 1,680 acre-feet². By email on January 12, 2011, KPUD informed Ecology that the Cliffs Water System DFD submitted on December 22, 2005 is no longer applicable. The Cliff's Energy Project DFD remains valid and applicable as provided in the last extension approval.

The 13,911 acre-feet associated with the Cliffs Water System DFD was based on: (1) 13,911 acre-feet of water used in 2001 and nonuse thereafter; (2) a trust donation on December 30, 2005; and (3) the December 22, 2005 DFD for the Cliffs Water System. We also conclude that the 13,911 acre-feet remains valid as only four years passed before the unused quantity was placed in the TWRP. In accordance with RCW 90.42.040(6) and RCW 90.14.140(2)(h), a water right is not subject to relinquishment while managed by the TWRP.

4. Pursuant to the KPUD's letter for an extension filed on behalf of the KPUD dated November 16, 2010, trust water right application No. CS3-00845C@3 (water right No. S3-00845C(A)) is extended and will remain in trust until the KPUD provides 60 day written notice to withdraw all or a portion of the trust. This extension supersedes the extension granted in a letter from Ecology dated December 10, 2010.

Please contact Dan Haller at (509) 454-4255 if you have any questions regarding this trust water right.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

² Upon completion of the development schedule for the Cliff's Energy Project, Ecology will issue Superseding Certificate S3-00845C(D) pursuant to RCW 90.03.380(1) to document this decision.

To appeal you must do the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 111 Israel RD SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

For additional information, visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>

Sincerely,

Mark C. Schuppe, Section Manager
Water Resources Program
Central Regional Office

MCS:DH:gh
110155

Enclosure: *Your Right to Be Heard*

By certified mail: 7007 2560 0001 9535 4745

Cc: Philip Rigdon, Yakama Nation