



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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APR 07 2015

Mr. Jim Miller  
Snohomish River Regional Water Authority  
3200 Cedar Street  
Everett, WA 98201

**RE: Temporary Trust Water Right Donation CS1-\*10629C@1 – Snohomish County (WRIA 7)**

Dear Mr. Miller:

This letter is to acknowledge the Department of Ecology's acceptance of Superseding Surface Water Certificate (SWC) 10617 for temporary donation to the Washington State Trust Water Right Program. The subject trust water right has been assigned control number CS1-\*10629C@1. Please refer to this number when corresponding with us about this trust water right.

The purpose of your temporary (voluntary) Trust Water Right Program donation is to benefit the instream flows, water quality, and fish and wildlife habitat of the lower Snohomish River mainstem and Ebey Slough, in accordance with RCW 90.03.550, RCW 90.54.020, and RCW 90.42.040. The manner in which the benefits will occur will be through non-use of the Snohomish River Regional Water Authority (SRRWA) water right for a 20 year period.

**Attributes of Superseding SWC 10617**

<b>Water Right Holder:</b>	Snohomish River Regional Water Authority
<b>Priority Date:</b>	August 10, 1951
<b>Source:</b>	A diversion from Ebey Slough (Snohomish River) within Section 4, Township 28 North, Range 5 East, W.M. (Parcel #28050400100800)
<b>Instantaneous Rate:</b>	56 cubic feet per second (cfs)
<b>Annual Volume:</b>	26,547.5 acre-feet per year (afy)
<b>Purpose of Use:</b>	Municipal
<b>Period of Use:</b>	January 1 thru December 31
<b>Place of Use:</b>	The service areas of the Snohomish River Regional Water Authority members as reflected in the service area map as shown in the Protested Report of Examination for Change to Surface Water Certificate 10617.



### **Background Information**

The SRRWA is a joint administrative entity comprised of the City of Everett, Northshore Utility District, and Woodinville Water District.

The subject water right was acquired by the SRRWA in 1996 from the Weyerhaeuser Timber Company for future municipal use by SRRWA members. In December 1996, within 5 years of last beneficial use of the water right, the SRRWA submitted to the Department of Ecology (Ecology) an application to change the purpose of use and place of use, and a Plan of Use (subsequently revised in 1998) was submitted. In 2001, the change application was approved by Ecology and was affirmed by the Thurston County Superior Court to be 56 cfs and 26,547.5 afy. A superseding certificate was issued upon request of SRRWA in 2014.

Due to significant achievements in water conservation, water use efficiency, changing land use practices, and the negative economic impacts of the great recession, over the past 15 years the SRRWA has witnessed a dramatic reduction in water demand occurring within the SRRWA service area, as well as the broader Puget Sound region. As a result of these conditions, the SRRWA has determined that cost-effective development of the SRRWA water right, including construction of treatment and transmission facilities, and replacement of its intake structure, may not occur for a period of approximately 20-30 years or more. In light of this circumstance, the SRRWA has determined that making a temporary voluntary trust donation of the water right is an appropriate and effective means of benefitting aquatic habitat and preserving the active legal status of the water right, pending the development of more robust water demand conditions.

### **Department of Ecology Determination**

The SRRWA water right is a certificated and perfected year-round municipal purpose water right. This water right, although currently unused, is exempt from relinquishment in accordance with RCW 90.14.140(2)(d), and as a result of the SRRWA's documented compliance with its Determined Future Plan of Development (DFD) as per RCW 90.14.140(2)(c). Pursuant to RCW 90.42.080(11)(a), the donation of water rights exempt from relinquishment may occur "based on historical beneficial use". The quantities listed on Superseding SWC 10617 have been historically perfected and therefore qualify for the temporary donation proposed by the SRRWA.

The Department of Ecology pursuant to RCW 90.42.080(1)(b) **accepts the temporary donation of your full certificated quantities in the amounts of 56 cfs and 26,547.5 afy** to benefit the instream flows, water quality, and fish and wildlife habitat of the lower Snohomish River and Ebey Slough.

**This temporary donation will expire on April 1, 2035.** In making this temporary voluntary trust donation, the SRRWA reserves the right to withdraw the water right from the Trust Program by April 1, 2035 or earlier, subject to the provision of proper written notice, or extend the period beyond April 1, 2035, if deemed appropriate by the SRRWA Board of Directors.

In accordance with RCW 90.42.040(6), RCW 90.14.140(h), and RCW 90.14.215, a water right is not subject to relinquishment while it is managed within the Trust Water Right Program.

If you have questions or concerns, please contact Buck Smith at (425) 649-7147 or [buck.smith@ecy.wa.gov](mailto:buck.smith@ecy.wa.gov).

Mr. Jim Miller  
Snohomish River Regional Water Authority  
CS1-\*10629C@1C TW Donation  
Page 3

**Your Right To Appeal**

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. 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).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order 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 Order 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.

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board Environmental Hearings Office</b> 1111 Israel RD SW, Suite 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> 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://www1.leg.wa.gov/CodeReviser>.

Signed at Bellevue, Washington, this 7<sup>th</sup> day of April 2015.



Thomas Buroker, Section Manager

Enclosure: Your Right To Be Heard

By Certified Mail: 7012 3460 0000 2586 9968

cc: Tom Mortimer, Attorney