



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

October 5, 2011

CDL Developments, LLC
2115 N Ashland Ave
East Wenatchee WA 98802-4010

RE: Trust Water Donation Application No. CG4-30432C

To whom it may concern:

Because an error occurred in the recorded place of use, we are resending a corrected version. The purpose of this letter is to acknowledge Department of Ecology's partial acceptance of your donation to the Washington State Trust Water Rights Program (TWRP). The trust water right Application was received September 13, 2010, and has been assigned No. CG4-30432C. Please refer to this number when corresponding with us about this trust water right.

Based on information derived from Landsat images from 2005 -2010 and information in Ecology's files, the last year there was beneficial use under G4-30432C was 2005. There was no use in 2006, 2007, 2008, 2009 and 2010. Meter readings on the "Proof of Appropriation of Water" form received on July 14, 2006, Landsat images, aerial photographs and crop sale records were used to quantify beneficial use in 2005. RCW 90.42.080(4) states a water right donated into trust "...shall not exceed the extent to which the water right was **exercised during the last five years before the donation...**".

The Department of Ecology, pursuant to RCW 90.42.080(1)(b), accepts your donation in the amount of 650 gpm and 26.8 acre feet per year. The purpose of the donation is for ground water preservation each year from March 15 to October 31.

This trust water right expires on December 31, 2012.

The trust water right is made possible by the non-use of a portion of G4-30432C, which authorized the withdrawal of 650gallons per minute, up to 150.2 acre-feet per year for the irrigation of 75.1 acres during the irrigation season. The recorded place of use is located within S½SW¼ of Section 10, T. 22 N., R. 21 E.W.M.

Section 90.42.080 provides in part that the total of any portion of the water right remaining with the donor plus the donated portion of the water right may not exceed the extent to which the water right was exercised during the five years before the donation.



Ecology's acceptance of the donated water right into the Trust Water Rights Program is not evidence of the validity or quantity of the right. When the period of trust ends, the water right will revert back to the water right holder or landowner in the full quantity accepted into the trust water program and for the original purposes.

Your water right is a Family Farm Water Act (FFWA) water right as defined under Chapter 90.66 RCW. The Act does not provide explicit authority for Ecology to accept water rights via the trust water donation process as described under the trust water right statutes of Chapters 90.38 or 90.42 RCW. However, Ecology will accept a FFWA water right via donation into the TWRP with disclosure that certain legal risks to the future validity of your water right may exist. The primary risk could be relinquishment should a court proceeding determine that your water right was not legally able to qualify for trust status as defined under the FFWA or the trust water right statutes.

Absent a court ruling to the contrary, Ecology will view FFWA water rights donated to the TWRP as beneficially used and not subject to relinquishment consistent with RCW 90.42.040(6), RCW 90.14.140(h), and RCW 90.14.215. Ecology is willing to work with FFWA water right holders on a case-by-case basis to determine whether options exist to reduce or eliminate this legal risk.

If, prior to expiration of your donation, you elect to extend the term of this temporary donation, please send us a written request. Also, if you wish to modify any terms of your donation, your letter must include the new terms. Ecology will review your request of any new or modified terms and conditions and you will be notified if the donation can be extended.

If you have questions or concerns, please call the Central Region's Trust Water Coordinator, Scott Turner at (509) 457-7106.

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).

To appeal you must do all of 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 1111 Israel Road SW, Suite 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

Sincerely,



Melissa Downes, LHG
Acting Section Manager
Water Resources Program/CRO

MD:ST:ss/111003

Attachments: Your Right To Be Heard

Certified Mail: 7009 2250 0004 4952 1323

cc: Mark Peterson, Peterson Law Office