



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

August 11, 2011

Sid Perkins Trust  
Florence Perkins Estate  
1403 N Aurora Ave  
East Wenatchee WA 98802-4363

RE: Trust Water Donation Application CS4-29243C@2

To whom it may concern:

The purpose of this letter is to acknowledge Department of Ecology's acceptance of your donation to the Washington State Trust Water Rights Program (TWRP). The Trust Water Right Application has been assigned No. CS4-29243C@2. Please refer to this number when corresponding with us about this trust water right.

The Department of Ecology, pursuant to RCW 90.42.080(1)(b), acknowledges your donation in the amount of 0.24 cubic feet per second and 48 acre-feet per year. The purpose of the donation is to benefit instream flow in the Columbia River from the original point of diversion to the downstream boundary of WRIA 44, from April 1 to October 31 each year through 2014.

**This trust water right expires on December 31, 2014.**

This trust water right is made possible by the following of 12 acres, at the recorded place of use, located within that part of government Lot 6 and the W $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 18, T. 24 N., R. 21 E.W.M., Parcel No. 24211830004.

RCW 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.

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.

Ecology's acceptance of the donated water right into the trust water right 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.

If, prior to expiration of this temporary donation, you would like to extend the 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 and any new or modified terms and conditions and will notify you whether the donation can be extended or terminated.

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 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
<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</b> 1111 Israel Rd SW Ste 301 Tumwater WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia WA 98504-0903

Please send a copy of your appeal to:

Robert F. Barwin, Acting Section Manager  
Department of Ecology  
Central Region Office  
15 W Yakima Ave., Ste 200  
Yakima WA 98902-3452

*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,



Robert F. Barwin, Acting Section Manager  
Water Resources Program/CRO

RFB:ST:gg/110811

Attachments: Your Right To Be Heard

Certified Mail: 7007 2560 0001 9535 5698

cc: Mary McCrea, Cascadia Law Group