



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

February 11, 2011

Selah-Moxee Irrigation District  
c/o Lee White  
PO Box 166  
Moxee WA 98936-0166

**RE: Trust Water Donation No. CS4-01651CTCL@5**

Dear Mr. White:

The purpose of this letter is to acknowledge your request to extend the donation of temporary trust water right No. CS4-01651CTCL@5 to the Washington State Trust Water Right Program.

The Department of Ecology (Ecology), pursuant to RCW 90.38.020(1)(b), acknowledges your donation in the amount of 21.1 cubic feet per second and 7,500 acre-feet per year. The purpose of the donation is to benefit instream flow in the Yakima River between the Moxee-Hubbard point of diversion and the diversion at Parker Dam from March 15, 2010, through October 31, 2010.

An Order Pendente Lite was signed in Yakima County Superior Court on May 14, 2009, changing the purpose of use to instream flow. The actual quantities transferred, broken down by month, are as follows:

	March	April	May	June	July	August	September	October	Total
<b>Acre-feet</b>	500	975	975	1225	1300	1300	825	400	7500
<b>Cfs</b>	15.8	16.4	15.9	20.6	21.1	21.1	13.9	13.4	

**This trust water right expires on March 14, 2011.**

This trust water right is made possible by the fallowing of numerous acres within the Selah-Moxee Irrigation District boundaries and various district system improvements.

The highest use in the five years prior to this donation is 42,120 acre-feet<sup>1</sup> in 2006; therefore, pursuant to RCW 90.38.020(4) the combined diversions by SMID during 2010 plus the 7500 acre-feet accepted into trust shall not exceed 42,120 acre-feet.

Selah-Moxee Irrigation District's (SMID) season of use runs from March 15 through October 31. In the future should SMID wish to donate a portion of their right to the Trust Water Right Program for the entire season, the application will need to be submitted to Ecology prior to

<sup>1</sup> Calculations for the 2006 season were figured by adding the total diversions from the Pomona, Moxee and Hubbard Diversions (31,655 acre-feet), the amount in the Trust Water Right Program through Irrigation Efficiencies Grant Program (465 acre-feet) and the amount donated into the Trust Water Right Program (10,000 acre-feet), equaling 42,120 acre-feet. Diversion data was provided by the United States Bureau of Reclamation.



March 15 of that year. Also, the SMID may extend this temporary transfer, in the same quantities authorized above, by written request to our office 30 days prior to the expiration of this Trust Water Right.

RCW 90.38.020 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.

In accordance with RCW 90.38.040(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.

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.

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.

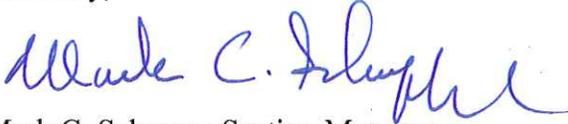
This Decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this Decision is issued, if he or she wishes to file an appeal, must file the notice of appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this Decision**. Appeals must be filed with the Superior Court Clerk's Office, Yakima County Superior Court, 128 North 2<sup>nd</sup> Street, Yakima WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III ("Appeals Procedures"). The content of the notice of appeal must conform to RCW 34.05.546. Specifically, the notice of appeal must include:

- The name and mailing address of the appellant;
- Name and address of the appellant's attorney, if any;
- The name and address of the Department of Ecology;
- The specific application number of the decision being appealed;
- A copy of the decision;
- A brief explanation of Ecology's decision;
- Identification of persons who were parties in any adjudicative proceedings that led to Ecology's decision;
- Facts that demonstrate the appellant is entitled to obtain judicial review;
- The appellant's reasons for believing that relief should be granted; and
- A request for relief, specifying the type and extent of relief requested.

The "parties of record" who must be served with copies of the notice of appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

All others receiving notice of this Decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within **thirty (30) days of the date the Order was mailed**. The appeal must be filed in the same manner as described above.

Sincerely,



Mark C. Schuppe, Section Manager  
Water Resources Program/CRO

MCS:ST:gg/110218

By Certified Mail: 7007 2560 0001 9535 3540

cc: Lawrence E. Martin, Velikanje Halverson PC  
Philip Rigdon, Director, Natural Resources Division, Yakama Nation