



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

June 4, 2014

Selah-Moxee Irrigation District  
PO Box 166  
Moxee WA 98936-0166

**RE: Trust Water Donation No. CS4-01651@7**

The purpose of this letter is to acknowledge the Department of Ecology's (Ecology) acceptance of your donation to the Washington State Trust Water Right Program. The trust water donation has been assigned the Control No. CS4-01651@7. Please refer to this number when corresponding with us about this donation.

Ecology acknowledges your donation in the amount of 5.363 cubic feet per second (cfs) and 2000 acre-feet per year (ac-ft/yr) pursuant to RCW 90.38.020(1)(b). 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 April 10, 2014 through October 15, 2014.

An Order Pendente Lite was signed in Yakima County Superior Court on April 10, 2014 changing the purpose of use to instream flow. The actual quantities transferred, broken down by month, are as follows:

	April	May	June	July	August	September	October	Total
<b>Acre-feet</b>	212.8	329.8	319.1	329.8	329.8	319.1	159.6	2000
<b>Cfs</b>	5.363	5.363	5.363	5.363	5.363	5.363	5.363	

**This donation expires on October 15, 2014.**

Selah-Moxee Irrigation District proposes to fallow numerous acres within the 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 2011 plus the 7,500 acre-feet accepted into trust shall not exceed 42,120 acre-feet.

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.

<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.



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.

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.

If you have questions or concerns, please call the Central Region's Trust Water Coordinator, Kelsey Collins at (509) 575-2640, or Teresa Mitchell by phone at 509-575-2597 or via email at [teresa.mitchell@ecy.wa.gov](mailto:teresa.mitchell@ecy.wa.gov).

Selah-Moxee Irrigation District  
TW Donation File No. CS4-01651@7  
June 4, 2014  
Page 3 of 3

Sincerely,



Mark Kemner, LHG Section Manager  
Water Resources Program

MK:JM:ss/140603

By certified mail: 7010 0290 0000 7127 2235

cc: Lawrence E. Martin, Attorney  
Philip Rigdon, Director, Natural Resources Division, Yakama Nation

