STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

April 15, 2011

Berg Farms, LLC
c/o Matt and Nicole Berg
PO Box 127
Paterson, WA 99345

Dear Mr. & Ms. Berg:

The purpose of this letter is to acknowledge Department of Ecology's acceptance of your request to extend to the 2011 irrigation season your 2010 donation to the Washington State Trust Water Rights Program (TWRP). The trust water right has been assigned the control number CS4-30834@4. Please refer to that 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 4.60 cubic-feet-per-second and 1,000 acre-feet per year. The purpose of the donation is to benefit instream flow in the Columbia River from April 1 to October 31. The instream place-of-use commences at about River Mile 270 and ends at the Pacific Ocean.

This trust water right expires on December 31, 2011.

The parent water right, S4-30834, authorized the withdrawal of 13.37 cubic-feet-per-second, up to 2,850 acre-feet per year for the irrigation of 750 acres during the irrigation season. The recorded place of use is located within NE1/4 of T. 6 N., R. 25 E.W.M., and in Sections 6, 7, and 18 within the W1/2 of T. 6 N., R. 26 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.

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 Rights Program.

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 water right as defined under Chapter 90.66 RCW. The Act does not provide explicit authority for Ecology to accept water rights via the 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 Family Farm Water Act 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 Gary Steele at (509) 249-6299.

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
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 RD SW STE 301 Tumwater WA 98501	**Pollution Control Hearings Board** 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://www.leg.wa.gov/CodeReviser

Sincerely,

Derek I. Sandison, Director
Office of Columbia River

GS:DIS:RAZ (110403)

Enclosure: Your Right to be Heard

By certified mail: 7007 2560 0001 7675 5509