



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

August 9, 2011

Selah-Moxee Irrigation District
c/o Clancy Flynn
PO Box 166
Moxee WA 98936-0166

RE: Trust Water Donation No. CS4-01651CTCL@6

Dear Mr. White:

The purpose of this letter is to acknowledge the Department of Ecology's acceptance of your donation to the Washington State Trust Water Right Program. The trust water right has been assigned the Control No. CS4-01651CTCL@6. Please refer to this number when corresponding with us about this trust water right.

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 (cfs) and 7,500 acre-feet per year (ac-ft/yr). 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 15, 2011 through October 31, 2011.

An Order Pendente Lite was signed in Yakima County Superior Court on April 14, 2011 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
Acre-feet	675	1475	1225	1300	1300	825	700	7500
Cfs	21.3	24	20.6	21.1	21.1	13.9	11.4	

This trust water right expires on March 31, 2012.

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.

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The highest use in the five years prior to this donation is 42,120 acre-feet¹ 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.

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 2nd 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;

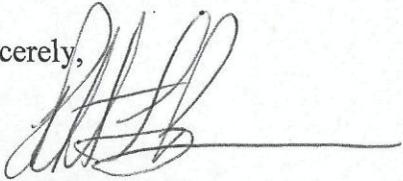
¹ Calculations for the 2006 season were figured by adding the total diversions from the Pomona, Moxee, and Hubbard Diversions (31,655 acre-feet), the amount in the Trust Water Right Program through Irrigation Efficiencies Grant Program (465 acre-feet) and the amount donated into the Trust Water Right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

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,

A handwritten signature in black ink, appearing to be 'RFB', with a horizontal line extending to the right.

Robert F. Barwin, Acting Section Manager
Water Resources Program

RFB:ST:gg/110809

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