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

October 3, 2013

City of Kennewick
Attn: Gary Deardorff
PO Box 6108
Kennewick, WA 99336-0198

RE: Water Right Change Application No. CG4-GWC094-D (BENT-12-04)

This Modification Order **SUPERSEDES** the previous Order of the Department of Ecology (Ecology) related to the above-referenced water right change application, dated December 20, 2012.

This Modification Order is the result of settlement between the parties in the Pollution Control Hearings Board (PCHB) case No. 13-010, which includes the above-referenced water right change. The original Order issued in accordance with RCW 90.80.080, which reversed the Benton County Water Conservancy Board's (Board) Record of Decision (ROD) and Report of Examination (ROE) dated October 1, 2012, and denied the water right change application, leading to the referenced appeal.

Summary of Department of Ecology's Superseding Order

MAXIMUM CUB FT/ SECOND	MAX GAL/MIN	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE			
	1000	450	Municipal and Domestic Use, Year-Round Use			
SOURCE: Three (3) Points of Diversion			TRIBUTARY OF (IF SURFACE WATER) Columbia River			
¼	¼	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY
(1) NE	SW	6	8N	30 EWM		Benton
(2) SW	SE	31	9N	30EWM		Benton
(3) Government Lots 1 & 2		35	9N	29EWM		Benton

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AND further described as: (1) Existing Point of Withdrawal (2) Water Treatment Plant (3) Ranney Well No. 5
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD
The place of use (POU) of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the water system is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

The Department of Ecology (Ecology) has **MODIFIED** the decision of the Board as follows:

1) Ecology has determined that the well draws from Columbia River Basalt Group rocks in hydraulic continuity to the Columbia River, and not in the same body of water as the ASR well which applicant had intended to designate as the changed point of diversion. Accordingly, and pursuant to a settlement agreement between the parties, the proposed point of diversion at the ASR well will instead be changed to the above points of diversion (2) & (3) which constitute existing water diversion facilities of the City. Accordingly, the above summary of the Superseding Order is substituted for the Water Board Decision.

2) Ecology removes from the Board's ROE all references related to the ASR well, including but not limited to the following:

   (a) Paragraph 4 of the FINDINGS AND CONCLUSIONS is replaced by:

   "The Water Board has determined that impairment is not an issue affecting this change request; the changed points of diversion are within the same body of water for management purposes."

   (b) Paragraph 7 of the RECOMMENDED PROVISIONS is omitted.

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

If you have any questions or concerns on the above information, please call Mark Schuppe at the Department of Ecology at (509) 454-4238.

Sincerely,

Mark C. Schuppe
Department of Ecology

MCS:gh
131002

Enclosure: *Your Right To Be Heard*

By certified mail: 7010 0290 0000 7126 4865

cc: Dr. Darryll Olsen, Benton County Water Conservancy Board
Stephen North, Office of the Attorney General (e-copy)
Philip Rigdon, Yakama Nation