



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

July 17, 2013

COPY

Mr. Chris Lyle, Chairman
Adams County Water Conservancy Board
c/o Adams County Conservation District
402 E Main Avenue
Ritzville, Washington 99169

Dear Mr. Lyle:

Re: Withdrawal of Applications for Change under Ground Water Certificates 4671-A
(ADAM-13-01) and G3-00246C (ADAM-13-02)

On February 8, 2013, we received the above referenced applications for change from the Adams County Water Conservancy Board.

On July 16, 2013, we received McCain Foods' letter stating that they wish to withdraw the change applications.

Therefore, Applications for Change under Ground Water Certificates 4671-A (ADAM-13-01) and G3-00246C (ADAM-13-02) are hereby withdrawn

I can be reached at 509-329-3585 or by email at KTUS461@ecy.wa.gov if you have any questions.

Sincerely,

Karen Tusa
Processing Lead
Water Resources Program
Eastern Regional Office

KT:md





June 24, 2013

Keith Stoffel
Section Manager
Ecology, Eastern Regional Office
4601 N. Monroe
Spokane, WA 99205-1295

Derek Sandison
Director
Ecology, Office of Columbia River
15 West Yakima Avenue, Suite 200
Yakima, WA 98942-3452

RE: Status Update, McCain Foods USA, Inc. (McCain Foods) Water Right Transfers

Dear Keith and Derek:

I wanted to give you both an update on the progress McCain Foods has been making since our meeting on November 2, 2012 regarding our efforts to 1) restore lost well capacity due to regional aquifer declines and local interference issues, and 2) correct water right compliance issues. We have been making good progress both on our efforts to coordinate with the City of Othello and to implement the strategy we discussed in our meeting, which is summarized in our technical assistance request letter to you on October 26, 2012. For review, key policy issues we took away from that meeting were:

1. Grande Ronde and Wanapum wells in our area are co-managed as the same body of groundwater.
2. McCain's water deliveries from the City in response to well failure and well interference issues meets Ecology's Policy for defacto changes in point of withdrawal under Policy 1120.
3. The regional aquifer declines and well interference issues create a strong "unavailability of water" case for relinquishment protection associated with partial nonuse of water at McCain Foods.

While I understand you cannot prejudge permitting decisions, I left with the understanding that you were supportive of our proposal, and that our approach was consistent with your policies and guidelines when you were faced with a formal review of our change applications.

A summary of the key actions we've taken to-date is provided below:

1. On January 28, 2013 we filed change applications on our two water rights with the Adams County Water Conservancy Board (Board) to add 2 wells and correct a minor place of use deficiency..

2. On January 31, 2013, we began meeting with the City of Othello about options to add their wells to McCain's water rights to account for their delivery of water to our facility and correct the defacto change in point of withdrawal.
3. On March 15, 2013, the Board performed a site visit on our change applications. During that site visit, the Board indicated that they had been advised by Ecology staff Herm Spangle that the place of use being added for the future well sites could be overly-large, and Ecology may have some relinquishment concerns.
4. On March 20, 2013, we emailed Mr. Spangle and the Board a copy of our October 26, 2012 letter so they had the benefit of our previous discussion on policy issues.
5. On May 7, 2013, we met with the City of Othello to further coordinate our change applications. We also filed SEPA checklists for our pending Board transfers with the City, who will act as lead agency on our proposal.
6. On May 30, 2013, we again met with the City of Othello to coordinate our change applications, and secured their support in adding the City's wells to our change applications.
7. On June 20, 2013, we sent change application amendments to the Board to reflect the addition of the City's wells to our water rights. We plan to meet with the Board on June 24, 2013 in the hopes that they will accept the amendments. We had been delaying publication of the notice until the negotiations with the City had resolved, and following acceptance of the change applications, our plan is to publish the notice, and work with the board over the next 2 months to finalize the decisions for your review.

While it has taken a few more months than I anticipated, we are on track to implement the full suite of changes we initially discussed in our meeting last November.

I would like to address a recent comment that was directed to the Board by Mr. Spangle to ensure that we are indeed still united in our approach and communications to the Board. I direct your attention to the following email (underline emphasis added):

From: Spangle, Herm (ECY) [<mailto:HSPA461@ECY.WA.GOV>]
Sent: Friday, June 21, 2013 4:33 PM
To: Breean Zimmerman
Cc: cara_hulce; Rudy Plager; Dennis Swinger
Subject: FW: Amendment request to WR Change application nos. ADAM-13-01 and ADAM-13-02

Made some changes to the notice for clarity. Is the City planning on serving McCain's water rights to their facility. Has the applications been sent to interested parties such as the Dep. Of Health? I know that the City has been serving water to McCain by way of City water rights that have been accounted for so we will not count that use towards McCain's water rights.

Thanks, Herm

When the issue of relinquishment was first raised by Mr. Spangle to the Board in advance of our site visit, I presumed that he did not have the benefit of our earlier technical assistance with you both. We

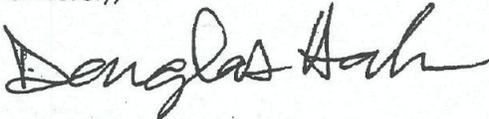
followed up with an email to him and the board describing our meeting and attaching the October 26, 2012 letter. We did not receive any reply and assumed that this resolved any concerns.

Mr. Spangle's recent email suggests this is not the case. By advising the Board in affirmative terms that Ecology "will not count that use towards McCain's water rights", he is in direct contrast with the policy framework we discussed with you. This concerns me greatly as McCain Foods has been expending considerable time and resources on implementing an approach we understood that the Department accepted.

I understand that Mr. Spangle's advice is simply guidance and not binding on the Board¹. However, the Board gives strong weight to such advice (as it should and did in our application meeting with them earlier this week). If Ecology now believes that we are pursuing changes that are not consistent with Ecology's policy interpretation, we will need to drastically alter our approach and rescind the applications submitted for change. Based on what has transpired, I would like to set up a physical meeting or conference call to review.

I'm not sure about everyone's schedule with the July 4th rapidly approaching, but I can arrange for a conference call this week if you have available time. Please reply at your earliest convenience and I will arrange. I can be reach at (715)342-8182 or cell at (715)459-4060. My e-mail address is doug.hahn@mccain.com.

Sincerely,



Douglas Hahn, PE
Director of Environmental Engineering

CC: Jeremy Hopkins, Dan Haller (Aspect Consulting), Tim Flynn (Aspect Consulting)

¹ WAC 173-563-120(5): "... in deference to the independent status of boards, such technical assistance shall be solely in the form of guidance and shall not dictate or otherwise direct any board to reach a specific conclusion regarding any aspect of application processing or of a board's administrative functions."



RECEIVED

JUL 16 2013

DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

July 11, 2013

Adams County Water Conservancy Board
402 E. Main Ave.
Ritzville, WA. 99169

RE: Request to Withdraw Application Nos. ADAM-13-01 and ADAM-13-02

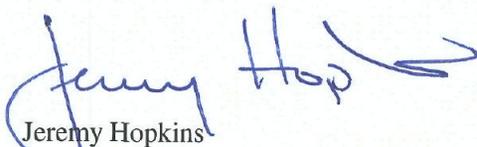
On January 28, 2013, McCain Foods, USA, WA filed application for change/transfer numbers ADAM-13-01 and ADAM-13-02 with the Adams County Water Conservancy Board (Board) to add three points of withdrawal and add place of use to 4671-A and add two points of withdrawal and change place of use to G3-00246C.

Water Right No. 4671-A, under priority date of May 9, 1962, authorizes the withdrawal of 700 gallons per minute and 445 acre-feet per year from a well located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, T. 16 N., R. 29 E.W.M. That said right authorizes water to be used for continuous manufacturing and domestic supply within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, T. 16 N., R. 29 E.W.M.

Water Right No. G3-00246C, under priority date of April 23, 1970, authorizes the diversion of 2500 gallons per minute and 2960 acre-feet from two wells located within the NW $\frac{1}{4}$ of Section 34, T. 16 N., R. 29 E.W.M. That said right authorizes water to be used continuously for the irrigation of 740 acres generally located within portions of Sections 28, 32 and 33 and manufacturing in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34 all located in T. 16 N., R. 29 E.W.M.

I formally request the Board withdraw application numbers ADAM-13-01 and ADAM-13-02.

Sincerely,


Jeremy Hopkins
McCain Foods, USA

Applicant Representative Contact Information:

Aspect Consulting – Breean Zimmerman and Dan Haller

123 E. Yakima Ave., Ste. 250

Yakima, WA 98901

509-895-5462

bzimmerman@aspectconsulting.com or dhaller@aspectconsulting.com



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

February 13, 2013

Dennis Swinger, Sr., Vice Chairman
Adams County Water Conservancy Board
c/o Adams County Conservation District
402 E Main Avenue
Ritzville, WA 99169

Dear Mr. Swinger:

Re: Applications for Change under Ground Water Certificate Nos. 4671-A & G3-00246C

In accordance with WAC 173-153-070, the Department of Ecology has received the above referenced applications for change and has noted your assigned numbers: ADAM-13-01 & ADAM-13-02. The Ecology WRTS numbers assigned to these applications are: CG3-*06296C@1 and CG3-00246C@1.

The Board may now proceed with the processing of these applications under WAC 173-153.

I can be reached at 509-329-3585 if you have any questions.

Sincerely,

Karen Tusa
Processing Lead
Water Resources Program

KT:md

