



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

August 21, 2009

Ron Schuyler, Delta Petroleum Corp
370 17th St Ste 4300
Denver CO 80202

**RE: Second Extension Request for Temporary Permit No. G4-35212
Delta Petroleum Corporation**

Extension of Quantity and Duration: August 16, 2009 – December 31, 2009

On July 29, 2009, Delta Petroleum Corporation requested an extension on the above referenced Temporary Permit to extend until December 31, 2009. In addition, the applicant requested an additional 9 acre-feet of water. To compensate for consumptive use in this extension, Neal Brown, the lease of the Al Matsen LLC farm property which is irrigated by the well described below, has agreed to decrease his water use under Certificate No. G3-00993C an additional 9 acre-feet (ac-ft) and fallow an additional 4.25 acres of winter wheat in 2009 to account for the consumptive portion of the temporary use (9 ac-ft ÷ 2.12 ac-ft/acre consumptive use = 4.25 acres). Land to be fallowed is located in the SW¼NE¼ of Section 30, T. 7 N., R. 21 E.W.M.

Originally Authorized Quantities: December 22, 2008 – August 15, 2009

On October 9, 2008, the Department of Ecology (Ecology) received an application from Delta Petroleum Corporation seeking authorization to withdraw 300 gallons per minute (gpm), 9.2067 ac-ft. The application has been assigned Identifier No. G4-35212. The applicant proposed to withdraw water from the Saddle Mountains Aquifer via a well within the SW¼NE¼ of Section 30, T. 7 N., R. 21 E.W.M.

On December 8, 2008, Ron Schuyler of Delta Petroleum updated the application by e-mail. The application request has been changed from 9.2067 ac-ft to 7.95 ac-ft. Of the 7.95 ac-ft, 5.25 ac-ft accounts for the exceedance of water under Temporary Authorization No. G4-35165 and the remaining 2.70 ac-ft is requested for continued operations from December 8, 2008 through February 16, 2009.

On February 11, 2009, the applicant requested a similar extension on the above referenced Temporary Permit to extend until August 15, 2009. In addition, the applicant requested an additional 9 acre-feet of water. The water use in this request was also mitigated for by fallowing 4.25 acres of winter wheat under Certificate No. G3-00993C.

Summary of Authorized Quantities:	
Period of Use:	Quantity:
12/22/2008 - 2/16/2009	2.70 ac-ft.
2/17/2009 - 8/15/2009	9 ac-ft.
8/16/2009 - 12/31/2009	9 ac-ft.
Total*	20.70 ac-ft.

*Note: Total quantities are less 5.25 ac-ft for the exceedance of water under Temporary Authorization No. G4-35165.



Water will be used for lubrication, cooling, and creating drilling mud, during the drilling of an exploratory natural gas well, Gray 31-23. The exploration well is located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T. 6 N., R. 22 E.W.M. More specifically, approximately 1980 feet north and 1980 feet east of the SW quarter corner of Section 31, T. 6 N., R. 22 E.W.M. The land on which Gray 31-23 well is located is owned by Rick Gray. This portion of Rick Gray's property will be leased to the applicant.

This request for a Temporary Authorization will not impair existing rights due to the no-net consumptive use mitigation proposed and provided the following conditions are met.

This extended TEMPORARY AUTHORIZATION is subject to the following conditions:

- 1) The duration of this Temporary Permit is from December 22, 2008, through **December 31, 2009**, unless sooner revoked for cause.
- 2) Violation of any of the terms and/or conditions of this Temporary Permit will result in this authorization being immediately terminated, issuance of administrative orders to cease and desist, may also subject the violator to civil penalties.
- 3) The source of the water will be withdrawn from the Saddle Mountains Aquifer from a well located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, T. 7 N., R. 21 E.W.M.
- 4) Total quantities authorized under this extended temporary permit from the above well is limited to 300 gpm and 9 acre-ft. This extension request in addition to the original Temporary Permit No. G4-35212 must not exceed a total of 25.95 acre-ft (9 acre-ft from this extension + 9 acre-ft from previous extension + 2.70 acre-ft from original temporary permit in addition to the 5.25 acre-ft to account for the exceedance of water under Temporary Authorization No. G4-35165).
- 5) Irrigation, authorized under G3-00993C, on the Al Matsen LLC farm property will decrease by 4.25 acres in 2009 for the purposes of this extension request to compensate for the additional 9 ac-ft of consumptive use. Total acreage to be fallowed in 2009 equals 12.25 acres (G4-35212 = 3.75 acres, this extension and previous extension request for G4-35212 = 8.5 acres).
- 6) Total annual withdrawals under G3-00993C and this Temporary Authorization, including two extension requests, shall not exceed 400 gpm and 402 ac-ft/yr.
- 7) An approved measuring device shall be installed and maintained for the source(s) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. Water use data shall be recorded weekly and shall be submitted to Ecology by April 1, 2010.
- 8) The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation, and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements".

- 9) At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, weekly meter readings including units, and peak flow including units for each week. In the future, Ecology may require additional parameters to be reported or more frequent reporting.
- 10) Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.
- 11) The proposed project well (Gray 31-23) will be drilled within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T. 6 N., R. 22 E.W.M.
- 12) The exploratory test well to be constructed for this project will comply with the provisions of WAC 344-12. Compliance includes associated well construction reporting.
- 13) This Temporary Permit does not constitute approval for further use of water.
- 14) The issuance of this Temporary Permit does not convey a right of access to or other right to use land, which you do not legally possess. Obtainment of such a right is a private matter between the applicant and owner of that land.
- 15) The water sources and/or water transmission facilities may not be located entirely upon the land owned by the applicant. Therefore, the applicant is advised that issuance of a permit by this Department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess.

You have a right to appeal this decision. To appeal this you must:

- File your appeal with the Pollution Control Hearing Board within 30 days of the “date of receipt” of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the “date of receipt” of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). “Date of receipt” is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board:

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia WA 98504-0903

OR Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey WA 98503

Delta Petroleum Corp
G4-35212
August 21, 2009
Page 4 of 4

2. To serve your appeal on the Department of Ecology:

Mail appeal to:

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals & Application for Relief
Coordinator
PO Box 47608
Olympia WA 98504-7608

The Department of Ecology
Appeals & Application for Relief
Coordinator
300 Desmond Dr SE
Lacey WA 98503

3. And send a copy of your appeal packet to:

Mark C. Schuppe, Acting Section Manager
Water Resources Program, Dept. of Ecology
Central Region Office
15 W Yakima Ave Ste 200
Yakima WA 98902-3452

*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,



Mark Schuppe
Section Manager
Water Resources Program

MCS:BZ:gg/090837

Enclosures: Your Right To Be Heard
Water Measuring Requirements

Certified Mail: 7007 2560 0001 9534 6245

cc: Philip Rigdon, Director, Natural Resources Division, Yakama Nation
Al Matsen
Neal Brown