



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

June 26, 2015

Wooden Shoe LLC
c/o Steve Newhouse
6020 Gap Rd.
Outlook, WA 98938

Re: Water Right Application for Emergency Authorization G4-33145-15

Dear Mr. Newhouse:

Your application for emergency authorization is denied.

On June 12, 2015, the WA State Department of Ecology (Ecology) received an application for emergency authorization related to the 2015 drought and was assigned water right tracking number G4-33145-15. The application requests use of a well in Section 14, T. 10 N., R. 23 E.W.M., to supplement water delivery from Roza Irrigation District to approximately 105 acres of orchard.

The requested well has serious well construction issues. The well is open to a declining aquifer and its construction fails to preserve the natural aquifer barriers as required under WAC 173-160-181(6). The subject well needs to be corrected before a water right can be issued.

Brief Background on the Well

According to our records the well was constructed in 1977 to a depth of 680 feet below ground surface (bgs). A well log has yet to be submitted as required by law (WAC 173-160-141). Upon review of a down-hole video of the well, available Yakima Superior Court documents, and related water right files, the well allows cascading of water, is completed into multiple aquifers, and contains abandoned drilling tools near the bottom.

Review of the down-hole video shows a clear failure in the well casing at approximately 138 feet bgs which is allowing water to cascade down the well. The break in the casing and cascading water means that the well in its current condition fails to preserve the natural barriers between aquifers as required under WAC 173-160-181(6).



The well was the subject of a law suit by the original owner (Pacific Coast Nursery Inc.) against the driller, Adcock Air Drilling. Yakima County Superior Court Documents from 1980, show that the well is open to the upper and lower portions of the Saddle Mountain Aquifer and to the top of the Wanapum Aquifer resulting in what is known as a double aquifer completion. Again, the natural barrier between the aquifers was compromised in violation of WAC 173-160-181(6). Ecology testified that the "well could not legally be used in its present condition." We maintain this position.

Multiple water right applications have been filed with Ecology which identify the subject well as the point of withdrawal.

- G4-24611 – cancelled in 1982 due to well construction issues identified above.
- G4-29677 – cancelled in 1989 due to well construction issues identified above.
- G4-30627 – filed in 1991, no action.

During review of an application for emergency authorization, Ecology must consider potential impacts to the existing water right holders. The casing failure at 138 feet is troubling because it is draining off the upper portion of the Saddle Mountains Aquifer, which is used primarily for domestic purposes. We are also concerned about the impacts related to the partial completion into the Wanapum Aquifer. Ecology has collected groundwater level measurements from the Wanapum Aquifer for the previous 20+ years in the area of the request. Water level data indicates a steady and progressive decline of approximately 3.0 feet per year.

Under 90.44.130 and 43.83B.410 (copies enclosed), Ecology must limit groundwater appropriations, including emergency authorizations, to an amount that will maintain and provide a safe sustaining yield. Considering that the Wanapum Aquifer is in an overdraft condition, Ecology finds that water is not available for appropriation from this aquifer.

Other Options for the 2015 Drought

As an alternative to the well you have requested, I recommend that you consider using a well that is properly constructed into the Lower Saddle Mountains Aquifer. Wells completed into the Lower Saddle Mountains Aquifer will seal off the upper portion of the Saddle Mountains Aquifer and terminate before reaching the Wanapum Basalt Formation which is generally encountered around 630 feet bgs in the area of interest. If you wish to proceed with an emergency authorization utilizing the Lower Saddle Mountains Aquifer, please complete and submit a new drought application as quickly as possible. While this recommendation is not a promise of approval, we have recently approved several emergency authorizations from the Saddle Mountains Aquifer in the area.

I am sure this is not the news you were hoping for, but please know that we are fully committed to assisting you during this drought. Additionally, we would like to work with you to resolve well construction issues in order to bring the well into compliance or help you plan for a proper decommissioning.

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

- File your appeal with the Pollution Control Hearings 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

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
PO Box 47608
Olympia WA 98504-7608

OR Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey WA 98503

3. And send a copy of your appeal to:

Sage Park
Department of Ecology
Central Regional Office
1250 W. Alder St.
Union Gap, WA 98903

*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://www1.leg.wa.gov/CodeReviser>.*

If you have any questions, please contact Kurt Walker at 509-454-4237.

Sincerely,



Sage Park
Section Manager
Water Resources Program

SP:KW:SS/150635
WR ID# 6628492

Enclosures: Your Right To Be Heard
RCW 90.44.130
RCW 43.83B.410
WAC 173-160-181
WAC 173-161-141

By certified mail: 7010 0290 0000 7126 6449

cc: Philip Rigdon, Director Natural Resources Division Yakama Nation