



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

January 28, 2009
CERTIFIED MAIL
7007 2560 0001 9534 5033

Susanne Robbins
PO Box 151
Malott WA 98829-0151

Re: Ground Water Superseding Permit No. G4-28905(B)P

Dear Ms. Robbins:

We apologize for the delayed response to your letter received July 12, 2007, (copy enclosed).

On July 12, 2007, the Department of Ecology (Ecology) received a request to extend the above Superseding Permit in the Proof of Appropriation (PA) stage. In response to your request, you are hereby **denied** an extension of time to further increase the acres being irrigated.

The Superseding Permit referenced above allows up to 600 gallons per minute (gpm), 241 acre-feet per year (af/yr) for continuous domestic supply to 1 home and to irrigate a maximum of 60 acres. One well is authorized by the Permit. Superseding Permit No. G4-28905(B)P was originally issued September 17, 1993. A Permit contains a development schedule to ensure that due diligence and reasonable progress is made in putting water to use. A Permit holder is required under RCW 90.03.320 to pursue the completion of a project with due diligence. The Superseding Permit development schedule was set to complete construction by July 1, 1994 and put the water to full beneficial use by July 1, 1995.

As evidenced by the history of this file, the progress of this Superseding Permit has been unreasonably slow. Although Ecology has previously granted numerous extensions, there is no evidence to support that any progress has been made since July 2001. Aerial and satellite photographs show approximately 25 acres irrigated in 2008. The long delay in perfecting irrigation is contrary to the public interest. The State Water Code does not allow the reservation of water for use at an unspecified time in the future. As such, due to the ongoing lack of development of irrigable acreage, Ecology cannot conclude that the development of the permitted project is being pursued with good faith and due diligence.

Upon complete beneficial use of the water in agreement with the terms of the Permit or for any lesser amount, a Proof of Appropriation (PA) form is appropriate.

If you wish to keep active the portion of the project that is complete **and to avoid cancellation of the Permit, a Proof of Appropriation notice must be submitted to Ecology by July 1, 2009.**



The quantity of water required by the project that has currently been put to beneficial use must be identified. A Proof of Appropriation inspection will then be conducted. Elements of the proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions. The Certificate to follow will reflect the extent of the project perfected within the limitations of the Superseding Permit.

You have a right to appeal this decision. To appeal this 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 the document that you are appealing.
- 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 & Application for Relief
Coordinator
PO Box 47608
Olympia WA 98504-7608

OR

Deliver your appeal in person to:

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

3. And send a copy of your appeal to:

Mark C. Schuppe
Department of Ecology
Central Regional Office
15 W. Yakima Ave, Ste 200
Yakima, WA 98902-3452

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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, please contact Teresa Mitchell at 509-575-2597.

Sincerely,



Mark C. Schuppe
Acting Section Manager
Water Resources Program

MCS:CLG:gh
090143

Enclosures: *Proof of Appropriation*
Your Right to Be Heard
Extension request dated 6/12/07 (copy)

CC extension denied.doc