



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

April 13, 2010

Shore Properties Inc  
Attn: Clifford Plath  
PO Box 1588  
Yakima WA 98907-1588

**Re: Water Right Application No. CG4-26018C@5 – Temporary Authorization to change of place of use and change of point of diversion**

**THIS AUTHORIZATION SHALL IN NO MANNER BE CONSTRUED TO GUARANTEE OR IMPLY THAT A PERMANENT WATER RIGHT WILL ISSUE FOR THE WATER USE HEREIN AUTHORIZED.**

**Background**

On August 18 2009, Shore Properties, Inc., of Yakima, Washington, filed an application for Temporary Authorization to temporarily change the place of use and change to a point of withdrawal of Ground Water Change Permit No. CG4-26018C from April 1 through October 31, 2010.

Benton County Water Conservancy Board (the Board) issued a Record of Decision (ROD) for Ground Water Certificate No. G4-26018C@4 and, CG4-26464C@1 on December 12, 2003, and modified by the Department of Ecology (Ecology) on March 5, 2004. The ROD, as modified, authorized the applicant to utilize 7 points of withdrawal (wells).

These wells are jointly used to supply water for Change Authorization Nos. CG4-26018C@4, CG4-26464C@1, and Permit No. G4-31006P. The following table show the authorized instantaneous quantities for each of these rights.

Authorization	Instantaneous Quantity
CG4-26018C@4	2200 gallons per minute
CG4-26464C@1	2200 gallons per minute
G4-31006P	7900 gallons per minute

The annual quantities of water issued in the ROD as modified for Change Authorization Nos. CG4-26018C@4 and CG4-26464@1, are a combined 1820 acre-feet for irrigation of 455 acres.



The applicant has filed the Proof of Appropriation of Water form (PA) for the rights addressed in the ROD on August 13, 2009, and a letter amending the annual quantity on March 4, 2010. The quantities of water listed on the PA and subsequent amendment are 2200 gallons per minute (gpm) and 1820 acre-feet and irrigation of 455 acres. The 1820 acre-feet and 455 acres represent the combined water used between Change Authorization Nos. CG4-26018C and CG4-26464C.

On February 25, 2010, a site visit for this Temporary Authorization Application, in conjunction with a Proof Examination for Change Authorization Nos. CG4-26018C@4, CG4-26464C@1, and Permit No. G4-31006P, was conducted. The quantities of water used for this Temporary Authorization Application will be based on the observations during the Proof Examination.

### **Proposed Temporary Change**

The applicant proposes to divert water from the Columbia River (John Day Pool) at a maximum of 2760 gallons per minute (6.16 cubic feet per second) and 1096 acre feet per year (ac-ft/yr) for irrigation of 269.9 acres. The 269.9 acres in that authorized place of use under Change Authorization No. CG4-26018C@4 will be left fallow for the 2010 irrigation season.

The point of diversion will be located on the Columbia River within the John Day Pool within the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 15, T. 5 N., R. 27 E.W.M., both within Benton County, Parcel No. 115571000000000 commonly known as the Prior pump station.

Place of use is described being within the as E $\frac{1}{2}$ , SW $\frac{1}{4}$  and SE $\frac{1}{4}$  Section 28 and NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 33 all within T. 6 N., R. 27 E.W.M

### **Public Notice**

Public notice of the application was published in the Prosser Record-Bulletin on December 23, and December 30, 2009. No letters of protest or comments were received during the 30-day protest period.

### **Impairment**

The Board issued a ROD for Change Application Nos. CG4-30016P, CG4-26464C, and CG4-26018C, on March 30, 2000, and affirmed by Ecology on May 15, 2000. This ROD determined that the wells used for this change application are in continuity with the Columbia River (John Day Pool). Furthermore, minimum flow provisions for the Columbia River have been placed on Change Authorization No. CG4-26018C@4 (the right preceding the subject change application). This ROD and affirmation are available in the file for Change Application No. CG4-26018C@4.

Therefore, by moving the water to a point of diversion downstream on the Columbia River and staying within the John Day Pool the impacts to other water rights would not be likely.

### **Columbia River Minimum Flows**

WAC 173-561-040 and WAC 173-561-050 establishes the minimum flows for the Columbia River as whenever the March 1<sup>st</sup> forecast of the April-September runoff at The Dalles Dam is 60 million acre feet (MAF) or less. The March forecast for the April-September 2010 is above the 60 MAF. Therefore, the Columbia River will not be regulated in 2010 to meet the minimum flows.

### **Conclusions and Decision**

The water for this proposed Temporary Authorization for Change has been put to beneficial use and is available for the proposed project and can take place on a temporary basis without impairing existing water rights and is eligible to change.

### **Provisions**

This Temporary Authorization for Change is subject to the following limitations and provisions:

1. The priority date of this water right is October 10, 1978.
2. The point of diversion will be located on the Columbia river within the John Day Pool within the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 15, T. 5 N., R. 27 E.W.M., both within Benton County, Parcel No. 115571000000000 commonly known as the Prior pump station.
3. The place of use is located within the as E $\frac{1}{2}$ , SW $\frac{1}{4}$  and SE $\frac{1}{4}$  Section 28 and NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 33 all within T. 6 N., R 27 E.W.M
4. The period of use will be April 13, 2010 through October 31, 2010.
5. This Temporary Authorization will expire October 31, 2010, unless sooner revoked for cause.
6. The diversion shall not exceed 4.9 cubic feet per second (2200 gallons per minute); not to exceed 1096 acre feet per year.
7. The purpose of use is for irrigation of 269.9 acres.
8. The diversion intake shall be tightly screened at all times with wire mesh having openings with dimensions not greater than 0.125 (1/8) inch.
9. The operator of the system under this authorization shall:
  - Be aware of the parameters and provisions and operate accordingly.
  - Have a copy of this Temporary Authorization for Change.
  - Provide said copy of this Temporary Authorization upon request of Department of Ecology staff.
10. Under RCW 90.03.360, measuring is required for all surface water diversions, and all withdrawals of ground water in fish-critical basins. Whenever water is being diverted, volume of water shall be recorded and maintained by the permittee.
11. The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://www.wdfw.wa.gov/reg/regions.htm>

12. 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 No., source name, annual quantity used (acre-feet) and maximum instantaneous rate of diversion (cubic feet per second). Copies of these records shall be submitted to the Department of Ecology by January 31, 2011.
13. Department of 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.
14. This Temporary Authorization shall in no way excuse the applicant from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.
15. The water source may not be located entirely upon land owned by the applicant. Therefore, the applicant is advised that issuance of a permit by the Department of Ecology 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.
16. No water right in perpetuity shall result from this temporary authorization.

You have a right to appeal this order. 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:

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

OR

Deliver your appeal in person to:

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:

OR

Deliver your appeal in person to:

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

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

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

G. Thomas Tebb, L.E.G.  
Department of Ecology  
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://www1.leg.wa.gov/CodeReviser>*

Sincerely,

*Mark C. Schuppe, Section Mgr. by ~~MAURIST DOWNEY~~*

Mark C. Schuppe, Section Manager  
Water Resources Program

MCS:EH:gg/100406

Enclosures: Water Measuring Requirements

Certified Mail: 7006 0100 0002 8191 9703

cc: Darryll Olsen, Benton County Water Conservancy Board  
Philip Rigdon, Director, Natural Resources Division, Yakama Nation