



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

May 15, 2012

Keith Charrier
10679 Entiat River Road
Entiat WA 98822-9753

Re: Surface Water Change Authorization No. CS4-SWC258(B)

Dear Mr. Charrier:

On November 21, 2011, Ecology received a Proof of Appropriation of Water extension request for the above-referenced Change Authorization. In response to your request, you are hereby **denied** an extension of time in which to put the water to full beneficial use.

In 1987, Ecology issued two Superseding Certificates, an A portion and a B portion of the original Certificate, authorizing Mr. Whitehall to divert water from the Entiat River via the Bonar-Rothrock Ditch in the amount of 100 af/y for the irrigation of 25 acres from April 15 to October 31 annually. In 1994, Ecology received an application from Mr. Whitehall for a change solely to the point-of-diversion due to a forest fire that burned the ditch and “. . . melted the plastic pipe where it was used.”

In 2008, Ecology processed the 1994 application and issued a Report of Examination (ROE). The ROE documents that (1) in 2003, the property was sold to you and you continued to irrigate the land; (2) water had historically been and was currently being applied to alfalfa and orchard grass, lawn and garden, and wine grapes; and (3) “The highest total irrigated acreage on the farm over the past five-year period appears to be 25 acres.” This implies that the change in point-of-diversion, or rather completion of the project, had already been completed even before the writing of the ROE (*de facto*). Conclusively, an extension is unnecessary since the proposed change in point-of-diversion has long since been completed and 25 acres continue to be irrigated.

Your extension request letter mentions that you have not approached the projected 0.45 cfs, 100 acre-feet as stated in your water right. Please note that the measure of a water right is the amount of water applied to beneficial use under the terms of the authorization. Changes in crop type or changes to irrigation efficiency can often reduce the amount applied to beneficial use. To expand the number of acres irrigated under No. CS4-SWC258(B) (25 acres have previously been identified as being irrigated) due to a change in crop type would require prior approval from a separate change application filed with either Ecology or the Chelan County Water Conservancy Board. The change authorized under the current authorization (CS4-SWC258(B)) was in point-of-diversion only and does not authorize an increase in number of acres irrigated.



Any water currently being unused up to the 100 af authorized may be donated to the Trust Water Right Program offered through Ecology (application enclosed). A donation can be made that is either temporary or permanent. Should you choose to donate the unused portion of water remaining, the process would be much simplified since an extent and validity of the entire water right was already done at the time of the ROE. Please call our Trust Water Coordinator, Scott Turner at 509-457-7106 for trust water-related questions.

Your extension request letter also mentions that approximately 2,300 indigenous trees are predicted to be planted. Please note that the planting of approximately 2,300 indigenous trees can be accomplished within the area currently under irrigation without further applications and their approvals as long as they fall inside the current authorized place-of-use. However, new irrigation outside of the 25 acres already developed requires both (1) submittal and approval of a change application expanding the number of acres irrigated and perhaps altering the place of use; or (2) submittal and approval of an application for a Temporary Permit (short term up to two years) to establish the indigenous trees.

As such, Ecology cannot conclude that an extension request should be approved and that pursuant to the development schedule in the 2008 ROE, **a Proof of Appropriation of Water notice must be submitted to Ecology by June 30, 2012 for any lesser amount to avoid cancellation of the Change Authorization.**

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 Superseding Certificate to follow will reflect the extent of the project perfected within the limitations of the Change ROE.

A Proof of Appropriation of Water form is included with this letter.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503</p> <p>Pollution Control Hearings Board 1111 Israel Rd SW Ste 301 Tumwater WA 98501</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608</p> <p>Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903</p>

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 or concerns about this information, please call the Department of Ecology at (509) 575-2597.

Sincerely,



Mark Kemner, LHG
Section Manager
Water Resources Program

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120506

Enclosure(s): *Proof of Appropriation of Water form*
Your Right to Be Heard
Extension request dated 11/21/11 (copy)
Application for the Trust Water Right Program
Portions of Trust Water Guidance