



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

January 31, 2012 15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

Judy Brezina
PO Box 14
Carlton WA 98814

Re: Ground Water Change Authorization No. CS4-MVID@141

Dear Mrs. Brezina:

Change Authorization No. CS4-MVID@141 was originally issued January 30, 2001 for 35.9 gpm, 11.3 acre-feet per year for the irrigation of four acres, and was subsequently assigned to you on December 2, 2004. A Change Authorization contains a development schedule to ensure that due diligence and reasonable progress is made in putting water to use. The development schedule was set to begin construction by June 1, 2002, complete construction by June 1, 2003, and put the water to full beneficial use by June 30, 2004.

Ecology recognizes that the well was not drilled until 2004; however, the permit holder is required under RCW 90.03.320 to pursue the completion of a project with due diligence. Since 2004, several extensions have been authorized but reported data has been contradictory. In 2009, you reported that 85-90% of the project was complete. In 2010, you reported that only 75-80% was complete, and now in 2011 you report that 66% of the project is complete.

As evidenced by the history of this file, the progress of this Change Authorization has been unacceptable. Through the use of aerial photography, it appears that in 2011, approximately three of the authorized four acres has been developed. Although Ecology has previously granted several extensions, there is no evidence to support that any progress has been made since 2006 and it would be against the public interest to grant further extensions. As such, due to the ongoing lack of development of irrigable acreage, Ecology cannot conclude that the development of the project is being pursued with good faith and due diligence.

In response to your request, you are hereby **denied** an extension of time in which to complete construction.

As stated above, the lack of due diligence and commitment to put the water to full beneficial use does not meet the statutory criteria and Ecology is not justified in granting an additional extension. The State Water Code does not allow the reservation of water for use at an unspecified time in the future. Upon complete beneficial use of the water in agreement with the terms of the Change Authorization or for any lesser amount, a *Construction Notice* form is appropriate. If



you wish to keep active the portion of the project that is complete, a **Completion of Construction** notice must be submitted to Ecology by **March 26, 2012**, to avoid cancellation of the Change Authorization.

The new due date for the *Proof of Appropriation of Water* form to be submitted is **February 15, 2013**. The Superseding Certificate to follow will reflect the extent of the project perfected within the limitations of the Change Authorization.

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

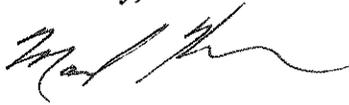
Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Rd SW Ste 301 Tumwater WA 98501	Pollution Control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

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>.

Judy Brezina
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If you have any questions, please contact Teresa Mitchell at 509-575-2597.

Sincerely,



Mark Kemner, LHG
Section Manager
Water Resources Program

MK:CLG:gh
120126

Enclosures: *Construction Notice form*
Proof of Appropriation form
Your Right to Be Heard
2011 aerial

By certified mail: 7007 2560 0001 9535 7234

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