



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

March 2, 2009
CERTIFIED MAIL
7007 2560 0001 9534 5149

Yakima County Parks and Recreation
ATTN: Joe Stump
128 N. 2nd Street
Yakima WA 98901

Re: Ground Water Change Applications No. CG4-25445C(B) and CG4-25590C(B)

Dear Mr. Stump:

We apologize for the delayed response to your letter received March 31, 2008, (copy enclosed).

On April 3, 2008, the Department of Ecology (Ecology) received a request to extend the above referenced change applications 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.

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 and proofing of a project with due diligence. As evidenced by the exceptionally long history of this file (background attached), the progress of this change application has been unreasonably slow. Although Ecology has previously granted numerous extensions, there is no evidence to support that any progress has been made since 1991. The extraordinarily 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 project is being pursued with good faith and due diligence.

Upon complete beneficial use of the water in agreement with the terms of the change application 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, a Proof of Appropriation notice must be submitted to Ecology by August 25, 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 Superseding Certificate to follow will reflect the extent of the project perfected within the limitations of the change authorization.



Yours truly, 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

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>.

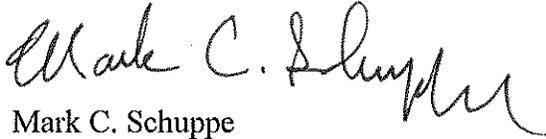
Yakima County Parks & Recreation Dept.

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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
090223

Enclosures: *Proof of Appropriation*
Your Right to Be Heard
Extension request dated 3/31/08 (copy)
History of file

PA extension denied.doc

History of Change Authorization Nos. CG4-25445C(B) and CG4-25590C(B) files:

1. On March 18, 1985, Max Benningfield assigned 100 gpm, 25 af/yr from each Certificate for the irrigation of five acres to Yakima County.
2. The same day, Ecology received change applications for No. G4-25445C and G4-25590C to add two points of withdrawal and change the place of use.
3. On February 12, 1986, Superseding Certificates issued for Max Benningfield for the portions of the Certificates he retained.
4. On October 9, 1986, Yakima County Parks and Recreation was out of compliance in the Completion of Construction phase.
5. On April 1, 1987, a request for extension was received and on October 1, 1987 the request was granted.
6. On November 2, 1987 another request for extension was received and granted.
7. On November 2, 1988, Yakima County Parks and Recreation was out of compliance in the Completion of Construction phase.
8. On November 8, 1988, another request for extension was received and on October 1, 1988, the request was granted.
9. On January 17, 1990, a request for extension was received and granted as the final extension.
10. On October 26, 1990, Ecology received a Completion of Construction form.
11. On November 20, 1991, Ecology received a Proof of Appropriation form.
12. On July 13, 1992, a site exam was conducted and no irrigation was found.
13. On October 23, 1995, Ecology suggested we grant an extension in the completion of Construction state to October 1, 1999 as a final extension in that stage with the Proof of Appropriation due October 1, 2000.
14. September 30, 2002, Ecology requested both forms be mailed or authorizations would be cancelled.
15. On December 2, 2002, Ecology sent a 60-day show cause letter.
16. On November 17, 2005, Ecology mailed a certified letter giving 60 days to respond or the change authorization would be cancelled.
17. In 2006 and again in 2008, Joe Stump responded with an extension request.