



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

August 15, 2013

Pioneer Way Water Association  
c/o Richard Ragan  
PO Box 125  
Malaga, WA 98828

Re: Ground Water Permit No. G4-29200P – **PIONEER WAY WATER ASSOCIATION**

Dear Mr. Ragan:

Please consider this correspondence in response to the extension request pertaining to the above-referenced Permit.

First, as Ecology reviewed, evaluated, and assessed the extension request, it became evident that the intent of the project has somewhat changed since the issuance of said Permit. While the original Permit was issued as community domestic and Family Farm irrigation for up to 64 acres of orchard and pasture during irrigation season, the current irrigation use does not 100% support the same intent. The majority of the current use is still community domestic but with a large percentage of lawn/garden irrigation and to some degree, pasture irrigation under the Family Farm Permit. For this reason, Ecology must split the original Permit into two Superseding Permit portions as follows:

**G4-29200(A)P**

1. G4-29200(A)P will be a **non**-Family Farm Permit authorizing 88 gallons per minute\*; 30 af/yr for continuous, year-round group domestic supply with up to 10 acres total for irrigation of residential lawn/garden during irrigation season. Place of use will be described the same as the original Permit as the SE½NE½ of Section 29, T. 22 N., R. 21 E.W.M., all within Chelan County.

\*The existing 6-inch diameter well shall be limited to a maximum of 300 gallons per minute.

2. Since construction of an additional 2 homes is not yet complete and is the subject of the extension request, Ecology is reverting the stage of development for the "A" portion to the **Completion of Construction** stage. Therefore, the development schedule relating to this "A" portion is as follows:
  - a. Beginning Construction: Begun
  - b. Completion of Construction: May 1, 2018
  - c. Proof of Appropriation: May 1, 2020

**Superseding Permits will be issued within 60 days of the date of this letter.**



Therefore, in response to your extension request for Superseding Permit No. G4-29200(A)P, you are hereby **approved** an extension to complete construction and put water to full beneficial use for the reason below:

- Plans and permitting have been initiated for the remaining 2 homes.

The new deadline to submit your *Construction Notice* is **May 1, 2018**.

**G4-29200(B)P**

1. G4-29200(B)P will authorize 712\* gpm; 240 acre-feet per year (af/yr) for **Family Farm** irrigation for up to 54 acres during irrigation season. Place of use will be described the same as the original permit as the SE $\frac{1}{2}$ NE $\frac{1}{2}$  of Section 29, T. 22 N., R. 21 E.W.M., all within Chelan County. The development schedule relating to this "B" portion is as follows:
  - a. Beginning Construction: Begun
  - b. Completion of Construction: Complete
  - c. Proof of Appropriation: Due **60** days from receipt of this letter.

\*The existing 6-inch diameter well shall be limited to a maximum of 300 gallons per minute.

As evidenced by the exceptionally long history of this file, there is little support that any progress has been made toward the agricultural (Family Farm) portion of the original Permit, although Ecology has previously been generous in granting numerous extensions.

The long delay in perfecting this portion of the Permit 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, Ecology cannot conclude that the development of the Family Farm-permitted-project is being pursued with good faith and due diligence.

There have historically been several Pollution Control Hearing Board (PCHB) cases in which they ruled on criteria for granting extensions of time to develop beneficial use under a Permit.

The following are the Pollution Control Hearings Board (PCHB) examples why Ecology is denying this extension:

- Good cause for further extension of development schedule was not shown where ground water appropriation was uncompleted after six years and no evidence was presented indicating a likelihood of imminent progress toward completion. Taggares v. Ecology, PCHB No. 79\*-174 (1980).
- A permittee may not maintain a Permit indefinitely, because to do so makes the water unavailable to others who might wish to put it to a beneficial use. The Permit is by nature an intermediate stage in the creation of the water right and must be diligently pursued to be maintained. Oroville-Tonasket Irrigation District v. Ecology, PCHB Nos. 91-170 and 93-134 (1996).

- Time requirements for completion of appropriations are essential in the public interest. When allocating water, Ecology deducts the amount represented by outstanding Permits even though the water has not yet been put to full beneficial use. Those granted Permits that have not completed their projects have the potential to block subsequent applicants from obtaining water. Case v. Ecology, PCHB No. 89-114 (1990).
- Given that 23 years have passed since the appellant received such Permit, appellant had not developed the Permit with due diligence. Any further extension would be unreasonable since the appellant estimated that he needed another six years to develop the Permit. Peterson v Ecology, PCHB No. 94-265 (1995).

Therefore, in response to your extension request for Superseding Permit No. G4-29200(B)P, you are hereby **denied** an extension to put the water to full beneficial use for the reason below:

- It is not in the public interest to retain water indefinitely with little or no progress.

If you wish to keep active the “B” portion of the project that is complete, a **Proof of Appropriation** notice must be submitted to Ecology within 60 days of this letter to avoid **cancellation of Superseding Permit No. G4-29200(B)P**. The quantity of water required by the Family Farm portion of 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 Permit.

#### **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.

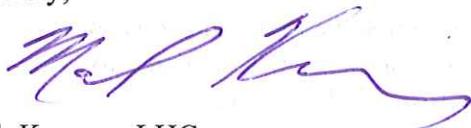
**ADDRESS AND LOCATION INFORMATION**

Street Addresses	Mailing Addresses
<p><b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503</p> <p><b>Pollution Control Hearings Board</b> 1111 Israel Road SW Ste 301 Tumwater WA 98501</p>	<p><b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608</p> <p><b>Pollution Control Hearings Board</b> 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, please contact Candis L. Graff at 509-454-4264.

Sincerely,



Mark Kemner, LHG  
Section Manager  
Water Resources Program

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130804

Enclosures: *Construction Notice - G4-29200(A)P*  
*Proof of Appropriation of Water - G4-29200(B)P*  
*Your Right to Be Heard*  
*Water Measurement Requirements – Form 1 & 2*

By certified mail: 7007 2560 0001 7675 7220

Cc: Frank Godfrey (e-copy)  
Sharon Chandler