



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

August 30, 2013

H&R Waterworks Inc
Attn: Steve Harrington
PO Box 542
East Olympia, WA 98540

Re: Water Right No. G2-28090 for McLane Point Seneca West Water System

Dear Mr. Harrington:

In response to your request, you are hereby granted a conditional extension to apply water to full beneficial use under Water Right Permit G2-28090. This extension is granted for the following reasons:

- Reasonable diligence shown in development of a portion of the original project.
- Housing construction delayed since the last extension approval due to economic conditions.

The new deadline to submit your *Proof of Appropriation of Water* is **January 1, 2016**.

This extension approval is conditioned based on the following information:

History of Water Right G2-28090

Permit G2-28090 was issued to McCormick and Canter, Northwest on November 25, 1992. The July 28, 1992 Report of Examination for this water right indicates that the original application had been filed for domestic supply of up to 21 homes but the applicant was already anticipating a scaled back development of only 12 homes. Despite this information, a water right was issued for 10.5 acre-feet per year for development of 21 homes.

Extensions were granted in 1993, 1994, and 1995 to begin construction. Construction started in 1996. By 2000, construction was complete but lots had not yet sold. The water right holder/developer indicated that the water right was intended for "four single family building lots". Ecology approved a five-year extension, through July 1, 2005.

Reminder letters for filing Proof of Appropriation were sent in 2006 and 2007. You responded to Ecology's 2007 reminder letter indicating that H&R Waterworks had purchased the water right on September 24, 2004 and the water system was serving one



home. Service to nearby properties was also being considered. At that time, the service area consisted of eight parcels.

On June 18, 2008, you reported that the water system had four active services and an extension was granted through July 1, 2012. Your May 24, 2013 extension request states that there are now six active connections of eight “available”. You indicate that you are still contemplating extension of services to nearby properties but “have not had any serious requests from adjacent neighbors for assistance with their sporadic wells”. You also indicate that you would be submitting a water system plan update in 2014 wherein you planned to assess “resizing” of your service area and place of use. You expect full development of this system by November 1, 2020.

Findings

- Water Right G2-28090 was issued over 21 years ago and holds a priority date of March 27, 1991.
- The intent to serve 21 homes at the time the application was filed had already been down-sized to a likely maximum of 12 services at the time the Report of Examination was issued in 1992.
- There was only one active service on this water system by 2004, 12 years later.
- The water system service area has included only eight parcels since H&R Waterworks acquired the system in 2004.
- McLane Point Seneca West is a non-municipal Group B water system with 6 active connections and current Department of Health (DOH) approval for only 8 services.

Conclusion

Your proposal to submit a Water System Plan or Small Water System Management Program update to assess “resizing” of the McLane Point Seneca West service area does not constitute due diligence or justify approval of an extension to develop unused annual quantities under this permit. This water system has had over two decades to plan for and obtain approvals for additional services. Based on the history of development of this right, expansion beyond the currently approved eight connections must be viewed as speculative intent which is prohibited under Washington Water Law.

I recommend that Water Right G2-28090 be partially rescinded and that the annual quantity be scaled back to an amount that can potentially be developed for beneficial use to supply eight homes. If nearby residences with unreliable wells request hook-ups to this water system, quantities may be added to the water right through a consolidation of the exempt rights associated with these homes.

Extension Conditions

Enclosed is Superseding Permit G2-28090. The annual quantity has been reduced to 4.0 acre-feet per year based on a maximum demand of 0.5 acre-feet per year per connection. This annual quantity may be further reduced on the final water right to reflect the actual quantity applied to beneficial use.

Because this is not a municipal water right, the 8-connection limit and described place of use boundaries are limiting attributes. You may choose to cancel this permit and serve additional homes (with Health Department approval) or areas by operating under the groundwater exemption provided you do not withdraw more than 5,000 gallons on any one day of the year. Otherwise, you will need to apply for an additional water right.

Because this water right has been partially rescinded and limited to 8 service connections, we continue to recommend, but no longer require, water quality sampling and reporting for chlorides.

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>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501</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://www1.leg.wa.gov/CodeReviser>.

If you have any questions, please contact Marie Peter at (360) 407-0279 or mpet461@ecy.wa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Gallagher".

Michael J. Gallagher
Section Manager
SWRO Water Resources

Enclosures: *Proof of Appropriation of Water*
Your Right to Be Heard

BY CERTIFIED MAIL: 7011 2970 0000 0555 2879