



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Central Region Office
1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

SENT VIA EMAIL

September 30, 2002

Selah-Moxee Irrigation District
Attn: Nathan Draper
PO Box 166
Moxee, WA 98936-0166
Email: smidistrict@qwestoffice.net

RE: Temporary Trust Water Donation No. CS4-01651@9

Dear Nathan Draper:

The purpose of this letter is to retroactively acknowledge the Department of Ecology's (Ecology) acceptance of your donation to the Washington State Trust Water Rights Program. The temporary donation has been assigned File No. CS4-01651@9. Please refer to this number when corresponding with us about this temporary donation.

Under RCW 90.42.080(1) (b), Ecology accepts your donation, as summarized below.

Benefiting Water Body	Yakima River
Purpose	Instream Flow
Acre-Feet Per Year	10,193.51 ac-ft/yr
Season	April 1 through October 31, 2018

Quantities Accepted into the State Trust Water Rights Program

	APR	MAY	JUN	JUL	AUG	SEP	OCT	Total
Rate (cfs)	32	27.1	22	24.22	24.23	19.5	19.1	
Annual Quantity (ac-ft/yr)								10,193.51

* Applicant is retaining up to 10 cfs (4,488 GPM), 3,587.49 acre-feet per year for the irrigation of 2,001.94 acres, frost protection, other agricultural purposes and stock water.

Trust Water Expiration Date: October 31, 2018

We note Selah-Moxee Irrigation District also filed an Order Pendente Lite with the Yakima County Superior Court as part of the *Acquavella* adjudication for the 2018 irrigation season. Following the request for donation in 2018, Ecology also received a subsequent change application, requesting the permanent transfer of water under S4-84594-J to the Trust Water Rights Program for the purpose of instream flow and mitigation. The subsequent application and supporting documents Ecology received requesting the permanent transfer of this right to the Trust Water Rights Program note the water

available for transfer “represents consumptive savings from a series of changes within the District including fallowing land, cover crop savings derived from large scale changes in irrigation practices and piping reaches of District canal.”

In accordance with RCW 90.42.040(6), RCW 90.14.140(2)(h), and RCW 90.14.215, a water right is not subject to relinquishment while it is managed within the Trust Water Rights Program.

Ecology’s acceptance of the donated water right into the trust water rights program is not evidence of the validity or quantity of the right. When the period of trust ends, the water right will revert back to the water right holder or landowner in the full quantity accepted into the trust water rights program and as described on the water right certificate or most recent approved change authorization.

RCW 90.42.080 provides that the water right remaining with the donor plus the donated portion of the water right may not exceed the extent to which the water right was exercised during the five years before the donation.

If, prior to expiration of this temporary donation, you would like to extend the temporary donation, please send us a written request. Also, if you wish to modify any terms of your donation, your letter must include the new terms. Ecology will review your request and any new or modified terms and conditions and will notify you whether the donation can be extended or terminated.

If you have any questions, please contact Ben Carr by phone at (509) 490-1936 or via email at benjamin.carr@ecy.wa.gov.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearings 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 all of 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 Road SW, Ste. 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903



Nathan Draper
September 30, 2022
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*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>*

Sincerely,



Heather Simmons, Interim Section Manager
Water Resources Program
Central Regional Office

HS:BC:aa (220946)

Enclosure(s): Your Right To Be Heard

By certified mail: **Sent electronically with read receipt, delivery confirmation/notification**

cc: Lawrence Martin, Halverson Northwest Law Group (ecc)
Paul Dempsey, Halverson Northwest Law Group (ecc)
Dan Haller, Aspect Consulting (ecc)
Philip Rigdon, Yakama Nation (ecc)

