



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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Sent Via Email

February 1, 2022

Ed Fisher, President
Seavue Water System Association
PO Box 155
Seabeck, WA 98380-0155
seavuewatersystem@gmail.com

RE: Water Right No. G1-27484

Dear Ed Fisher:

The Department of Ecology (Ecology) issued Permit G1-27484 on December 11, 2000, to Seavue Water System Association (Seavue). Under the Permit, water was to be put to full beneficial use and a *Proof of Appropriation of Water* (PA) submitted to Ecology by July 1, 2011.

Since the Permit was issued, two extensions have been granted. On August 13, 2021, Seavue requested a new extension to put water to full beneficial use. That request is the subject of this Order.

Revised Code of Washington (RCW) 90.03.320 authorizes granting of permit extensions and states in part, the Department of Ecology, for good cause shown, shall extend the time fixed for construction and grant further periods as may be reasonably necessary, having due regard to the good faith of the applicant and the public interests affected.

Under this statutory authority, Ecology considers each permit extension request on its own merits and unique set of facts.

Determination

In response to your request, Seavue Water System Association is hereby **GRANTED** an extension of Water Right Permit G1-27484 to put the water to full beneficial use. The new deadline to submit your *Proof of Appropriation of Water* is July 1, 2024.

Prior to this deadline, Seavue must submit an action plan to Ecology regarding compliance with their mitigation requirement. This is due by July 1, 2023.

Considerations

Information Provided

- Seavue is currently serving 25 lots out of the maximum 28 lots. However, Department of Health (DOH) states they are only approved for 26 lots. Please contact Fern Schultz at the DOH regarding this discrepancy.
- Currently one lot is under development, which represents their last approved lot by DOH.
- Seavue is uncertain when the other two lots will be developed or if the other two lots can be developed without submitting a new water system plan to DOH.
- In 2016, they installed new pressure tanks, and hired NW Water Systems to manage their water system.
- Seavue wants to update their distribution lines and is hoping to apply for a DOH loan in the next few years.

Unmet Permit Provision

Required stream flow augmentation/mitigation of Seabeck Creek has not been done. When the permit was issued, Seavue Water System Association was aware of the requirement to put 2 gallons per minute (gpm) and 3 acre-feet/year (ac-ft/yr) into Seabeck Creek; however, current conversations with Seavue representatives suggest the board at that time decided not to do it.

In 1979, Ecology adopted the Kitsap Basin Instream Resources Protection Program Washington Administrative Code (WAC) chapter 173-515. Seabeck Creek is closed year-round to further consumptive appropriation pursuant to WAC 173-515-040. Without the Seabeck Mitigation Plan to offset new impacts to Seabeck Creek, Seavue's application would not have been approved.

This Permit issued in 2000 with Seavue understanding they were/are required to put 2 gpm and 3 ac-ft/yr into Seabeck Creek. Seavue has had 21 years to implement this mitigation in their water system.

Ecology expects Seavue to comply with the provisions of their water right permit. Non-compliance with any of the provisions may result in issuance of orders, monetary penalties and may result in the cancellation of the water right permit. Revised Code of Washington (RCW) 90.03.605 describes Ecology's compliance and enforcement authority.

Reminders

Permittee is required to notify Ecology of any address or contact information changes.

You have provisions on your water right that must be followed. A final certificate will not issue until all provisions are met. Here is a full list of your provisions:

- Mitigation of 2 gpm and 3 ac-ft/yr into Seabeck Creek.
- An approved measuring device shall be installed and maintained for each diversion/withdrawal of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", chapter 173-173 WAC.

Water use data shall be recorded bi-weekly. Data shall be maintained by the property owner and promptly submitted to Ecology upon request. Recording and retention of data by the water right holder are required to inform the water users about how much water is used, when the water is used and to assist users in efficient water management.

Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

- This authorization to make use of public waters of the state is subject to existing rights, including any existing rights held by the United States for the benefit of Native American Indian Tribe under treaty or otherwise.
- Installation and maintenance of an access port as described in Ground Water Bulletin No. 1 is required for each well. An airline and gauge may be installed in addition to the access port.
- A certificate of water right will not be issued until water has been put to full beneficial use and a final investigation is made.

We have added the following provisions because the mitigation requirement is not being met:

By July 1, 2023, Seavue Water System Association is required to submit an action plan to Ecology on how they are going to comply with their mitigation requirement.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. 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 the Order:

- File your appeal and a copy of this Order 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 Order to 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.

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://www1.leg.wa.gov/CodeReviser>.

If you have any questions, please contact Michele Curtis at (206) 594-0206 and at michele.curtis@ecy.wa.gov.

Sincerely,



Ria Berns
Section Manager
Water Resources Program

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

ecc: Savi Lyles, NW Water Systems (savi@nwwatersystems.com)
Fern Schultz, Washington State Department of Health (fern.schultz@doh.wa.gov)