



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

**SENT VIA EMAIL**

November 16, 2022

Jeff Bainter  
PO Box 1041  
Roslyn, WA 98941-1041  
Email: [jeffbainter@yahoo.com](mailto:jeffbainter@yahoo.com)

RE: Second Superseding Determination of Water Budget Neutrality for Request No. G4-35626

Dear Jeff Bainter:

Thank you for submitting a Request for Determination of Water Budget Neutrality, which was received by the Department of Ecology (Ecology) office on May 22, 2013. Additionally, Ecology received a letter on April 27, 2022, from you. The letter asked Ecology to issue superseding determinations of Water Budget Neutrality to reflect a change in the place of use (Kittitas County Parcel Nos. 19648 and 035135) and a change in point of withdrawal (Kittitas County Parcel No. 095135).

In accordance with Washington Administrative Code (WAC) 173-539A, Ecology has determined your proposed appropriation of groundwater, as mitigated by the trust water right identified in your request, will be water budget neutral with respect to Total Water Supply Available at Parker.

The information in the table below was based on the documents you provided.

**Proposed Uses and Mitigation Offered**

<b>Use</b>	<b>Proposed Total Annual Quantity (ac-ft/yr*)</b>	<b>Proposed Mitigation (ac-ft/yr*)</b>
Indoor	0.784	0.235
Outdoor	0.042	0.038
Total	0.826	0.273

\*ac-ft/yr = acre-feet per year (1 acre-foot = 325,851 gallons)

Consumptive use, totaling 0.273 ac-ft/yr, is proposed to be offset with Trust Water Right No. S4-05259CTCL@2sb7. The total consumptive use does not exceed the amount of water available under the subject trust water right during the irrigation season nor does it exceed the availability of unused Bureau of Reclamation storage capacity to retain the subject portion of the trust water right for later release during the non-irrigation season. Please refer to the enclosed Advisory Letter for additional information.

Ecology has determined, based on review of your Request for Water Budget Neutral Determination and the accompanying materials, your proposed use of groundwater will be Water Budget Neutral as follows:

1. Water use is to be made within Parcel No. 19648 and 035135 located within the SE¼ of Section 32, T. 20 N., R. 16 E.W.M.
2. Indoor commercial or residential water use is for 2 connections, resulting in a consumptive use of 0.235 ac-ft/yr.
3. Outdoor irrigation use is 0.022 acres, resulting in a consumptive use of 0.038 ac-ft/yr.
4. The existing well(s) is located in Parcel No. 095135, located within the SE¼ of Section 32, T. 20 N., R. 16 E.W.M.
5. Water use shall be recorded and reported as required under WAC 173-539A-070 and as described in the Advisory Letter enclosure.
6. You will record with the Kittitas County Auditor a property covenant as required under WAC 173-539A-050 that restricts or prohibits trees or shrubs over a septic drain field on Parcel No. 19648 and 035135.
7. You will record with the Kittitas County Auditor an appropriate conveyance instrument under which the applicant obtains an interest in Trust Water Right No. S4-05259CTCL@2sb7 to offset consumptive use as described in this letter.
8. You will pay to Ecology the sum of \$114.05 which represents a proportionate amount of the payment due and owing to the United States for storage and deliver of water under Paragraph 15(a) of Water Storage and Exchange Contract No. 09XX101700, between the Bureau of Reclamation and the State of Washington Department of Ecology, Yakima Project, Washington, dated January 29, 2009.<sup>1</sup> The consumptive use of 0.144 acre-feet from September 1 through March 31 is subject to the terms and conditions in the Water Storage and Exchange Contract No. 09XX101700. The Department of Ecology received payment in full on August 23, 2013. No further payment is required.
9. Any valid priority calls against Trust Water Right No. S4-05259CTCL@2sb7 based on local limitations in water availability, will result in temporary curtailment of the use of water until the priority call for water ends.

#### **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).

<sup>1</sup> Water Storage and Exchange Contract No. 09XX101700 between the Bureau of Reclamation and the State of Washington Department of Ecology.

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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 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 111 Israel RD SW Ste. 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> 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://www.leg.wa.gov/CodeReviser>

If you have any questions, please contact the Water Resources Help Desk at (509) 575-2597.

Sincerely,



Heather Simmons, Section Manager  
Water Resources Program  
Central Regional Office

HS:JMR:aa (221108)

Enclosures: Your Right to Be Heard  
Water Measurement Requirements, Form 1, Form 2, Telemetered Metering Options

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

cc: Jessica Kuchan, Confluence Law – ecc  
Philip Rigdon, Yakama Nation – ecc