



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

July 20, 2009

CERTIFIED MAIL  
7006 3450 0001 6755 4946

Shelly Badger  
City of Yelm  
105 Yelm Avenue  
Yelm, WA 98597

**RE: Water Right Change Application No. CG2-21613 (THUR 08-01)**

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD) and Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Thurston County Water Conservancy Board (Board) for the above referenced application for change.

Ecology **REVERSES** the decision of the Board and the subject change is **DENIED** for the following reason:

In order for this change to be approved, certain associated voluntary relinquishments must occur in order for each of the landowner's water rights to stand alone and separate from the others. Otherwise, multiple water right change applications must be filed and processed to change the underlying associated water rights. The relinquishments described in the ROD fail to meet this standard. Because these relinquishments must be voluntary and originate from the landowners, Ecology cannot unilaterally modify this decision to achieve that end.

The Board failed to adequately analyze impairment of existing water rights, including but not limited to, instream flows on the Nisqually River and existing water rights from Thompson Creek.

The Board failed to adequately describe the impacts to surface water flows in the watershed, including but not limited to, stream flows in Thompson Creek and the Nisqually River.

The Board failed to adequately analyze the extent and validity of the subject water right. Ecology's records include a consultant report from 2005 that analyzed recent power records that indicate significantly less water available for change. This information



conflicts with the Board's extent and validity analysis, which must be reconciled prior to approval of the subject change.

The Board failed to analyze and quantify the extent of relinquishment of the water right including but not limited to, the stockwater portion of the right.

You have a right to appeal this decision. To appeal this you must:

- File your appeal with the Pollution Control Hearing Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board:

Mail appeal to:	OR	Deliver your appeal in person to:
The Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903		The Pollution Control Hearings Board 4224 – 6th Ave SE Rowe Six, Bldg 2 Lacey WA 98503

2. To serve your appeal on the Department of Ecology:

Mail appeal to:	OR	Deliver your appeal in person to:
The Department of Ecology Appeals and Application for Relief Coordinator PO Box 47608 Olympia WA 98504-7608		The Department of Ecology Appeals and Application for Relief Coordinator 300 Desmond Dr SE Lacey WA 98503

3. And send a copy of your appeal packet to:

Thomas Loranger  
Department of Ecology  
Southwest Regional Office  
PO Box 47775  
Olympia WA 98504-7775

*For additional information visit the Environmental Hearings Office Website:*

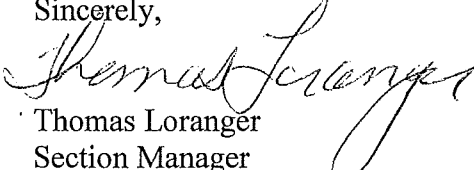
*<http://www.eho.wa.gov>*

*To find laws and agency rules visit the Washington State Legislature Website:*

*<http://www.leg.wa.gov/CodeReviser>*

If you have any questions or concerns on the above information, please call Phil Crane at the Department of Ecology at (360) 407-0238.

Sincerely,

A handwritten signature in cursive script that reads "Thomas Loranger". The signature is written in dark ink and is positioned to the right of the typed name.

Thomas Loranger  
Section Manager  
Water Resources Program

TL:PC:th

Enclosure: Your Right To Be Heard

cc: Thurston County Water Conservancy Board  
Kathleen Callison, Attorney  
Janet Rajala, Department of Ecology, Eastern Regional Office