

Law Office of
WILLIAM D. MCCOOL

Suite 425, Denny Building, 6 East Alder Street, P.O. Box 514, Walla Walla, WA 99362 (509) 525-2630, FAX 525-2640

April 8, 2014

Gregory J. Kopta
 Dir., Administrative Law Division
 State of Washington
 Utilities and Transportation Commission
 1300 S. Evergreen Park Dr. SW.
 PO Box 4725
 Olympia, WA 98504 – 7250

RECEIVED
 PROJECT MANAGEMENT
 2014 APR -9 AM 10:55
 STATE OF WASH.
 UTIL. AND TRANS.
 COMMISSION

Re: My client: Randy Buchanan d.b.a. Buchanan Farms

Dear Mr. Kopta:

On April 7, 2014, my client received a letter from you dated April 2, 2014. That letter indicated that it was a NOTICE DENYING REQUEST FOR HEARING and granting Mr. Buchanan the opportunity to submit reasons in support of application for mitigation.

Mr. Buchanan respectfully submits that your notice denying request for hearing is both arbitrary and capricious. The notice that the Washington utilities and transportation commission sent to Mr. Buchanan on or about March 3, 2014, which was received by Mr. Buchanan on or about March 10, 2014, gave Mr. Buchanan three options. Those three options were either (1) payment of penalty, (2) to request for a hearing or (3) application for mitigation. Mr. Buchanan chose the second option; namely, request for a hearing.

It is obvious from the language of the second option that the individual who desires a hearing to contest the allegations is to select that box. However, it is not equally clear that an individual must fill in specific information in order to obtain a hearing by an Administrative Law Judge. There is absolutely nothing contained in the option entitled **Request for hearing** that suggests that failure to include specific information along with the request will result in the denial of a hearing. According to *Mullane v. Central Hanover Bank and Trust Company*, 339 U.S. 306, 314, 70 S.Ct. 652, 94 L. Ed. 865 (1950), the first and foremost requirement of due process under the Fourteenth Amendment is notice and an opportunity to be heard. "The notice must be of such nature as reasonably to convey the required information ... and it must afford a reasonable time for those interested to make their appearance." 339 U.S. at 314.

If the form which your office sent to Mr. Buchanan had clearly indicated to him that he must set forth specific reasons in support of his position or be denied the right for a hearing, then perhaps your position in denying a hearing would be meritorious. Your failure to indicate such a

limitation on your form has effectively denied Mr. Buchanan's right to due process under the Fourteenth Amendment.

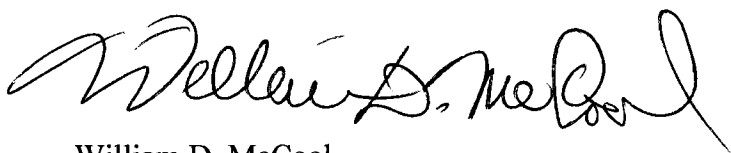
I would also note that your NOTICE OF PENALTIES starts out by indicating that " The Washington Utilities and Transportation Commission (Commission) *believes* that you have committed one or more violations of the Revised Code of Washington... ." (Italics supplied.) Mr. Buchanan *believes* that he did not violate provisions at least in the manner that he was accused of by Tesoro.

He believes that if he is afforded due process by the Washington Utilities and Transportation Commission, he will be able to demonstrate that the complaint is not entirely accurate.

He is therefore respectfully requesting that you reconsider your position and afford him the hearing which he requested in a timely fashion.

Your prompt response to this letter will be greatly appreciated. Thank you in advance for your continuing cooperation in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "William D. McCool". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William D. McCool
Attorney at Law

WDM: bm

cc: Randy Buchanan, Buchanan Farms, file