STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

June 23, 2016

WA Dept. of Transportation
Attn: Brian White, Regional Administrator
2809 Rudkin Road
Union Gap, WA 98903

RE: Temporary Authorization No. G4-33133 – Highway 410 Restoration Project

Dear Mr. White:

On March 13, 2015, the Washington State Department of Transportation (WSDOT) submitted an application seeking a Temporary Authorization to withdraw 65 gallons per minute (gpm), 5 acre-feet per year (ac-ft/yr) of groundwater for restoration following the re-construction project on State Route (SR) 410 near Milepost 108. Water will be withdrawn from two temporary wells near the Naches River and used during the April through October irrigation seasons ending October 31, 2024. The proposed wells would be located in the SW¼ of Section 2, Township 15 N., Range 15 E.W.M., and the NW¼ of Section 11, Township 15 N., Range 15 E.W.M.

WSDOT's request under G4-33133 is a new request for additional water for the highway re-contruction project that was previously authorized under an approved Order Pendente Lite utilizing Court Claim 00525 by Yakima Superior Court on April 12, 2012, which expired on October 31, 2015. This new request is for up to 9 years ending October 31, 2024. The proposed purpose of use is for irrigation for mitigation site restoration.

WSDOT has developed a water bank to provide mitigation for construction and restoration projects. WSDOT purchased Acquavella Court Claim No. 00366 and temporily changed the purpose and place of use to instream flow and mitigation until 2019 under Application No. CS4-00366CTCLsb9@1. The Report of Examination (ROE) identified 113 ac-ft/yr available to be transferred to the Trust Water Right Program and managed under an agreement with Ecology. This water contributes to Yakima River flows measured at the United States Bureau of Reclamation's (USBR) Parker Gage and mitigates for impacts to the Total Water Supply Available for the USBR's Yakima Project.

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WSDOT's current request proposes the following monthly water needs for the restoration associated with the SR 410 Reconstruction Project:

	April	May	June	July	August	September	October	Total
Application No. G4-33133	0.50	0.50	0.75	1.0	1.0	0.75	0.50	5.0 ac-ft.

The water will be used for irrigation of mitigation sites. Since irrigation water will be targeted to particular plants or plantings, it is assumed to be fully consumptive.

Public notice of the application was published in the Yakima Herald of Yakima, Washington, on March 15, 2016 and March 22, 2016. No letters of protest or comments were received during the 30-day protest period.

This project was presented to the Water Transfer Working Group on March 7, 2016. The group gave a thumbs up to the project.

In compliance with the State Environmental Policy Act (SEPA), RCW 43.21C and WAC 197-11, WSDOT prepared an Environmental Checklist and issued a Determination of Non-Significance on March 3, 2011 for the SR 410 Re-construction Project which disclosed the need for temporary groundwater source for the restoration planting. WAC 197-11-800(4) lists groundwater withdrawals less than 2250 gpm as minor new construction and exempt from review and threshold determinations. All SEPA documents are available upon request.

CONCLUSIONS

Water is available for the beneficial use of irrigation of mitigation areas. Since the proposed water use would be mitigated by a trust water right, and water is available at the proposed points of withdrawal, this authorization would not impair existing water rights. The proposed use of water would not be detrimental to the public interest.

This authorization supersedes WSDOT's previous temporary authorization under the OPL dated April 12, 2012.

This TEMPORARY AUTHORIZATION is subject to the following conditions:

The maximum rate of withdrawal and volume of water allowed to be diverted under this Temporary Authorization is 65 gpm, 5 ac-ft/yr. It is available seasonally (April 1 to October 31) until 2024 for the purpose of restoration area irrigation.

This Temporary Authorization expires on November 1, 2024.

Violation of any of the terms and/or conditions of this authorization will result in immediate termination, issuance of Administrative Orders to Cease and Desist, and may also subject the violator to civil penalties.

Water use under this Temporary Authorization is contingent upon Court Claim No. 00366 (the mitigation) being in trust and available to provide mitigation as discussed in Change Authorization No. CS4-00366CTCLsb9@1 and as prescribed in a water banking agreement between Ecology and WSDOT. This agreement provides mitigation to offset regional impacts, however a valid priority call or local unavailability could result in curtailment or cancellation of this authorization.

The authorized points of withdrawal are authorized to be drilled into the alluvial sediments in the following locations:

Well	¼ ¼ Section	Section	Township	Range
Well 1	SWSW	2	15	15
Well 2	NWNW	11	15	15

The places of use exist within the State Route 410 project area between the state highway and Nile Loop Road, a county road, and are listed below:

Site Name	¼ Section	Section	Township	Range
Restoration Area 1	SW	2	15	15
Restoration Area 2	NW	11	15	15

Water use under this Temporary Authorization is limited to 5 ac-ft/year seasonally through 2024 and is also limited to the following monthly quantities:

	April	May	June	July	August	September	October	Total
Temp Permit No. G4-33133	0.50	0.50	0.75	1.0	1.0	0.75	0.50	5.0 ac-ft.

If WSDOT foresees a need for additional water (available mitigation under No. CS4-00366CTCLsb9@1 is limited to 113 ac-ft/year), WSDOT must notify Ecology by the end of the preceding irrigation season. Ecology will provide a determination in the form of a letter order indicating whether or not additional water may be utilized.

The Department of Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this Temporary Authorization. Applicants for temporary authorizations should not construe this authorization will result in the granting of a permanent water right.

The applicant and operator of the system under this Temporary Authorization shall:

- Have a copy of this Temporary Authorization available on-site.
- Be aware of the parameters and provisions and operate accordingly.
- Provide said copy as evidence of this authorization upon request by Ecology staff.

The applicant will be responsible for recording weekly water use data. The maximum monthly rate of diversion and the monthly total volume shall be submitted to the Department of Ecology by January 31 or each calendar year. January 31, 2025 will be the last year required to submit water use data for this Temporary Authorization.

At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Authorization No., source name, annual quantity used including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting. Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

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, but only to the extent otherwise allowed by law.

This Temporary Authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.

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 **Pollution Control Hearings Board** 1111 Israel Road SW, Suite 301 Tumwater WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608 **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://www.leg.wa.gov/CodeReviser

If you have further questions or concerns, please call Kelsey Collins, Department of Ecology, Water Resources Program, at 509-575-2640.

Sincerely,

Trevor Hutton

Trevor Hutton, Section Manager
Water Resources Program
Central Regional Office

TH:KC:SS/160635
WR ID# 6512668

Enclosures: Your Right to Be Heard

By certified mail: 7010 0290 0000 7128 2210

cc: Debi Freudenthal, WSDOT
Philip Rigdon, Director Natural Resources Division Yakama Nation