STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

April 19, 2012

Mercer Canyons Inc
Attn: Robert Mercer
46 Sonova Rd
Prosser WA 99350

RE: Water Right Change Application Nos.:

CS4-01344(A)C@1 (BENT-11-17)	**CS4-30053(A)C@1 (BENT-11-18)**
CS4-30053(K)C@1 (BENT-11-19)	**CS4-30053(P)P@1 (BENT-11-20)**
CS4-25639(I)C@1 (BENT-11-21)	**CS4-25639(P)C@1 (BENT-11-22)**
CS4-25639(S)C@1 (BENT 11-23)	

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

Ecology has **modified** the decision of the Board and the proposed change/transfer of water right is **approved** under the following conditions:

Combined Summary of Ecology's Final Order

MAXIMUM CFS	MAXIMUM GPM	MAXIMUM AC-FT/YR	TYPE OF USE, PERIOD OF USE			
131.1		19,055	2012 Seasonal irrigation of up to 7,105 total irrigated acres (730 additional acres).			
SOURCE			TRIBUTARY OF (IF SURFACE WATER)			
Columbia River			Pacific Ocean			
¼	¼	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY.
NE	NE	6	4 N	24 EWM	31	Benton
AT A POINT LOCATED (PARCEL NO.)						
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD						
All within: Mercer Canyons (and Associates) all within T.4N and T.5N, R.23E.W.M and R24 E.W.M. as authorized by individual water rights, total acreage 6,375 acres. AND Added 2012 seasonal use within: NE1/4, Section 20, T.5N. R.23E.W.M (120 acres) and NE1/4, Section 21, T.5N. R.23E.W.M (290 Acres) and Section 15, T.5N R.23 E.W.M. (320 acres)						
DEVELOPMENT SCHEDULE						
BEGIN PROJECT BY THIS DATE:		COMPLETE PROJECT BY THIS DATE:		WATER TO PUT TO FULL USE BY THIS DATE:		
Immediately		Immediately-2012 season		Immediately-2012 season		

Green Card is in File:
CS4-01344(A)C@1 (BENT-11-17)

FILE COPY

Ecology has **MODIFIED** the decision of the Board as follows:

Ecology AFFIRMS the Board's decision that, in aggregate, 730 acres can be added to the 7 rights and not exceed the aggregate ACQ. However, the annual consumptive quantity (ACQ) requirement under RCW 90.03.380 is a right-by-right evaluation. The Board did not clarify the proposed number of acres that would be irrigated under each water right. Since Ecology agrees that the annual quantities approved for change are entirely consumptive, there is no risk of enlargement or exceeding the ACQ. Mercer Canyons shall report the seasonal acres irrigated for each water right as part of its annual metering submittals.

As a part of the 2011 seasonal review, Office of Columbia River (OCR) staff visited the site to perform proof inspections on the subject permits and verify the Board's findings. In many cases, the Board approved crop duties higher than that listed in the Washington Irrigation Guide (WIG) and WSU AgWeatherNet. Based upon site specific irrigation practices by Mercer Canyons confirmed in Ecology's field visit and the Board record, the increased consumptive use appears justified. Factors Ecology considered in approving the higher consumptive use numbers than standard guidance would suggest include:

- The location is primarily exposed south facing slopes that are subject to high wind and high heat conditions. Water is applied to the top few inches of soil beginning early in the season to maintain soil moisture in the seedbed and keep the soil moist to prevent wind erosion. This leads to increased evaporation as the pivots rotate faster than in normal irrigation practices.
- Water is applied to soils and cover crops grown as erosion control after primary crop harvest, which cause increased evaporation.
- Mercer Canyons uses extensive cover cropping (sometimes harvested and sometimes tilled back into the soil for organic soil amendments) which increase evapotranspiration.
- Mercer Canyons uses double-cropping that causes increased evapotranspiration and is not well predicted by traditional irrigation guidance.
- Mercer Canyons uses plastic mulch that extends the growing season of key crops like carrots which increase evapotranspiration.
- Mercer Canyons uses irrigation scheduling to maintain soil moisture within the root zone.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing 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 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	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Ste 301 Tumwater WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia WA 98504-0903

Please send a copy of your appeal to:

Mark C. Schuppe
Department of Ecology
Central Region Office
15 W Yakima Avenue Ste 200
Yakima WA 98902-3452

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

Mark Schuppe, Operations Manager
Office of Columbia River
Central Region Office

MCS:TH:gg
SharePoint>WR Documents>CB

Enclosures: Your Right to Be Heard
Water Measuring Requirements and Form 1 (7)

By Certified Mail: 7010 0290 0000 7131 1101

cc: Janet Rajala, Department of Ecology, Eastern Region Office (email pdf)
Darryll Olsen, Benton County Water Conservancy Board
Philip Rigdon, Director, Natural Resources Division, Yakama Nation