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

June 20, 2012

Dan Peterson
WA State Department of Fish & Wildlife
54 Moe Rd
Brewster WA 98812-9636

RE: Temporary Water Right Application No. S4-35356 for Irrigation To Re-establish Wildlife Habitat.

THIS AUTHORIZATION SHALL IN NO MANNER BE CONSTRUED TO GUARANTEE OR IMPLY THAT A PERMANENT WATER RIGHT WILL ISSUE FOR THE WATER USE HEREIN AUTHORIZED.

Background

On June 16, 2010, Washington State Department of Fish and Wildlife (WDFW) of Olympia, WA filed 12 applications to temporarily divert water from 12 unnamed springs. Each application requests to divert water in the amount of 0.013 cfs (6 gpm) and five acre-feet per year, and to irrigate up to five acres per year per application. The period of use is proposed to be April 1 through October 31 from 2011 through 2020. The water is to be used to irrigate shrubs and trees for wildlife habitat restoration.

The 12 applications are proposed to divert water and irrigate lands within the;

- S4-35352 NE¼ NW¼ Section 21 T. 29 N., R. 25 E.W.M.
- S4-35353 NE¼ NE¼ Section 21 T. 29 N., R. 25 E.W.M.
- S4-35354 SE¼ SE¼ Section 21 T. 29 N., R. 25 E.W.M.
- S4-35355 NE¼ NW¼ Section 21 T. 29 N., R. 25 E.W.M.
- **S4-35356** (subject of this report) NW¼ SE¼ Section 22 T. 29 N., R. 25 E.W.M.
- S4-35357 NW¼ NW¼ Section 22 T. 29 N., R. 25 E.W.M.
- S4-35358 NW¼ NW¼ Section 22 T. 29 N., R. 25 E.W.M.
- S4-35359 SW¼ SE¼ Section 27 T. 29 N., R. 25 E.W.M.
- S4-35360 SW¼ SE¼ Section 27 T. 29 N., R. 25 E.W.M.
- S4-35361 NE¼ SW¼ Section 27 T. 29 N., R. 25 E.W.M.
- S4-35362 SW¼ NW¼ Section 29 T. 29 N., R. 25 E.W.M.
- S4-35363 SE¼ NW¼ Section 28 T. 29 N., R. 25 E.W.M.

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The proposed irrigation application method is gravity fed drip lines to irrigate at the base of each shrub and tree. It is anticipated that it will take one to three years to stabilize the trees and shrubs within a given five-acre plot. As the trees and shrubs are established in a given plot, the applicant will move to a new five-acre plot.

The proposed springs only express water for a short distance and then returns to subsurface flow. The applicant proposes to install a catch basin at each spring to collect the water for irrigation. The water will be piped to the irrigation lines. Any water that is not diverted will remain in its original drainage.

A site visit was conducted by Eric Hartwig and John Kirk from the Department of Ecology and Daniel Peterson from the WDFW on May 26, 2011.

Other Water Rights

There are six Surface Water Right Applications and one Ground Water Application that are appurtenant to the property that is proposed for this application.

Application No.	Applicant Name	Purpose of use
S4-32207	Mark C Miller	Irrigation and Fire Protection
S4-32208	Mark C Miller	Stock Water, Irrigation and Domestic
S4-32210	Mark C Miller	Stock Water, Irrigation and Domestic
S4-32211	Mark C Miller	Stock Water, Irrigation and Domestic
S4-32212	Mark C Miller	Storage Ponds
S4-32213	Mark C Miller	Stock Water, Irrigation and Domestic
G4-32209	Mark C Miller	Irrigation and Domestic

The lands that these applications were filed on, is no longer in the ownership of Mark C Miller. The land is currently owned by the WDFD. WDFD has no intention of developing this land for housing or stock watering.

Public Notice

Public notice of the application was published in the Quad City Herald of Brewster, Washington on October 27, and November 3, 2011. No letters of protest or comments were received during the 30-day protest period.

Water Availability and Impairment

Because of the small nature of these springs and the quantities of water being requested the use should have no effect upon the flow of the Columbia River. The water is available in these quantities to be diverted for the irrigation of the trees and shrubs. The land surrounding these springs are owned by WDFW and are maintained for wildlife habitat.

Public Interest

The use of this water for irrigation is a beneficial use. By the water use being used to re-establish wildlife habitat it would not be contrary to public interest.

Conclusions and Decision

There is water available for the proposed project and can take place on a temporary basis without impairing existing water rights, is a beneficial use, and is not contrary to public interest.

This Temporary Authorization is subject to the following limitations and provisions:

1. The priority date of this water right is June 6, 2010.
2. The point of diversion will be located within NW¼ SE¼ Section 22 T. 29 N., R. 25 E.W.M. Douglas County, Parcel No. 29252220004.

3. The place of use will be located within the NW¼ SE¼ Section 22 T. 29 N., R. 25 E.W.M. Douglas County, Parcel No. 29252222004.
4. The period of use will be from April 1 through October 31.
5. This authorization will expire October 31, 2020, unless sooner revoked for cause.
6. The diversion shall not exceed 0.013 cubic feet per second (6 gallons per minute) not to exceed five acre-feet per year.
7. The purpose of use is for irrigation of five acres.
8. The operator of the system under this authorization shall:
   - Be aware of the parameters and provisions and operate accordingly.
   - Have a copy of this Temporary Authorization.
   - Provide said copy of this authorization upon request of Department of Ecology staff.
9. Diversion of water under this Temporary Authorization may be limited or otherwise regulated in favor of senior rights.
10. Under RCW 90.03.360, measuring is required for all surface water diversions, and all withdrawals of ground water in fish-critical basins. Whenever water is being diverted, volume of water shall be recorded and maintained by the permittee. These readings shall be documented by time, date, and the person conducting the measurements. Copies of these records shall be submitted to the Department of Ecology by January 31 of each year.
11. The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit No., source name and maximum instantaneous rate of diversion (cubic feet per second).
12. Department of 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.
13. This Temporary Authorization shall in no way excuse the applicant from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.
14. The water source and place of use may not be located entirely upon land owned by the applicant. Therefore, the applicant is advised that issuance of a permit by the Department of Ecology for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess.
15. This water right may not be changed to any other purpose of use or place of use.
16. No water right in perpetuity shall result from this Temporary Authorization.

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 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

If you have further questions or concerns, please call Teresa Mitchell, Department of Ecology, Water Resources Program at 509-575-2597.

Sincerely,

Mark Kemner, LHG
Section Manager
Water Resources Program

MK:EH:ss

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Enclosures: Attachment 1 – Temporary Water Use Map
Your Right to Be Heard
Water Measurement Requirements & Form 1

By Certified Mail: 7009 2250 0004 4952 1712

cc: Lois Trevino, Water Administrator, Colville Confederated Tribes
Jennifer Quan, Lands Division Manager, WDFW