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

August 28, 2012

George & Diane Burchak
1941 Mohar Rd
Cle Elum WA 98922-8972

RE: Water Right Change Application No. CS4-05216sb5a (KITT-11-10)

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 Kittitas 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:

Summary of Ecology's Final Order

MAXIMUM CUB FT/ SECOND	MAXIMUM ACRE-FT/YR
Right A: 1.64 irrigation 0.02 domestic supply 0.01 stock water	Right A: 600 irrigation 2.0 domestic supply 2.0 stock water
Right B: 0.33 instream flow	Right B: 120 instream flow

QUANTITY, TYPE OF USE, PERIOD OF USE

Right A: Irrigation, stock, and domestic supply as follows:
1.64 cfs and 600 acre-feet for irrigation of 50 acres from April 1 through October 31; 0.02 cfs and 2 acre-feet per year for continuous use for domestic supply; 0.01 cfs and 2 acre-feet per year for stock water.

Right B: Instream flow as follows:

Primary Reach:
0.33 cfs and up to 120 acre-feet from April 1through Oct. 31 (99 af is non-consumptive);

Secondary Reach:

Month	JUNE	JULY	AUGUST	SEPTEMBER
Acre-feet per month	3.86	7.54	5.57	4.03
Cubic feet per second	.06	.12	.09	.07

SOURCE					TRIBUTARY OF (IF SURFACE WATER)	
Iron Mountain Creek					Tillman Creek	
¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY
SW	NW	9	19	15 EWM	39	Kittitas

AT A POINT LOCATED:
PARCEL NO.

Right A: 325 feet north and 450 feet east of the center of Section 9, T. 19 N., R. 15 E.W.M..
Right B: No diversion

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD

Right A: W ½ SE ¼ and NE ¼ SE ¼ of Section 4, T. 19 N., R. 15 E.W.M.; **EXCEPT**, the southernmost 350 feet of said W ½ SE ¼.

Right B:

Primary Reach – within the ordinary high water mark of Iron Mountain and Tillman Creeks commencing at the Burchak diversion, (which is located 325 feet north and 450 feet east of the center of Section 9, T. 19 N., R. 15 E.W.M.), and ending at the location where Westside Road crosses Tillman Creek in the NW ¼ SW ¼ of Sec 4, T. 19 N., R. 15 E.W.M.

Secondary Reach – within the ordinary high water mark of Tillman Creek and the Yakima River commencing at the location where Westside Road crosses Tillman Creek in the NW ¼ SW ¼ of Sec 4, T. 19 N., R. 15 E.W.M., and ending at the confluence of the Yakima and Columbia Rivers.

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,

DEVELOPMENT SCHEDULE		
BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	WATER TO PUT TO FULL USE BY THIS DATE:
N/A	N/A	November 1, 2013

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

1) The Water Board's decision has been modified as noted in the table above.

2) The "Combined Instream Quantity" as defined on page 7 of the Water Board's Report of Examination (ROE) and as used elsewhere in the ROE, shall not be "estimated" using the instantaneous rate quantities listed on page 7 of the ROE. The "Combined Instream Quantity" shall be determined as being synonymous with the instantaneous rate for the primary reach, and therefore, shall at no time exceed 0.33 cfs. Accordingly, the instantaneous quantities listed on page 7 of the ROE for both the primary reach and for irrigation are hereby stricken, and replaced with the quantities noted in the table above.

This Decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this Decision is issued, if he or she wishes to file an appeal, must file the notice of appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this Decision**. Appeals must be filed with the Superior Court Clerk's Office, Yakima County Superior Court, 128 North 2nd Street, Yakima WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III ("Appeals Procedures"). The content of the notice of appeal must conform to RCW 34.05.546. Specifically, the notice of appeal must include:

The name and mailing address of the appellant;
Name and address of the appellant's attorney, if any;
The name and address of the Department of Ecology;
The specific application number of the decision being appealed;
A copy of the decision;
A brief explanation of Ecology's decision;
Identification of persons who were parties in any adjudicative proceedings that led to Ecology's decision;
Facts that demonstrate the appellant is entitled to obtain judicial review;
The appellant's reasons for believing that relief should be granted; and
A request for relief, specifying the type and extent of relief requested.

The "parties of record" who must be served with copies of the notice of appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

S

All others receiving notice of this Decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within **thirty (30) days of the date the Order was mailed.** The appeal must be filed in the same manner as described above.

Mark Kemner, LHG, Section Manager
Water Resources Program
Central Region Office

MK:JK:ss/120829

Certified Mail: 7009 2250 0004 4952 1811

cc: Chery Varnum, Kittitas County Conservancy Board
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lawrence Martin, Attorney, Halverson & Applegate, PS (email PDF)
Jessica Kuchan, Attorney, Mentor Law Group, (email PDF)