

State of Washington
Department of Ecology
Yakima Washington

IN THE MATTER OF APPLICATION FOR CHANGE BY)
ZASER & LONGSTON INC. DBA KEYSTONE FRUIT LLC)
REQUESTING A CHANGE IN THE PLACE OF USE) Emergency Drought
AND POINT OF DIVERSION OF WATER USE UNDER) Change Authorization
SURFACE WATER CERTIFICATE NO. 11749)
)

In accordance with the provisions of RCW 43.83B.405, on March 14, 2001, it was ordered and determined by the Director of the Department of Ecology that the State of Washington is under drought conditions. In accordance with the provisions of WAC 176-166-060, the Department of Ecology is under the terms of this Order, issuing an EMERGENCY DROUGHT CHANGE AUTHORIZATION. The intent of this authorization is to alleviate hardships and reduce the burdens on water users arising from the drought conditions.

Background

On April 25, 2001, Zaser & Longston, Inc. (dba Keystone Fruit Co. LLC) filed an application to change existing water rights in Okanogan County to other property they own in Okanogan County. Irrigation on their lands is authorized under existing non-interruptible water rights and some water rights subject to interruption under the Okanogan River Instream Resources Protection Program, WAC 173-549.

WAC 173-166-080 allows the state to authorize temporary transfers of irrigation rights provided that the acreage on the second parcel does not exceed the acreage reduction on the first parcel.

Surface Water Certificate 11749

Surface Water Certificate 11749, with a priority date of 1968, was issued to Kenneth D. Crowfoot and authorizes the diversion of 0.94 cfs and 141 acre-feet per year to irrigate 47 acres from the Okanogan River. The applicant now owns this property. The place of use is described as the SE $\frac{1}{4}$ SE $\frac{1}{4}$; and that part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ lying easterly of the county road; and that part of NE $\frac{1}{4}$ SE $\frac{1}{4}$ lying westerly of the county road; all in Section 12, T. 35 N., R. 26 E.W.M.; less roads. The authorized point of diversion from the Okanogan River is located within Government Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) or Government Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 7, T. 9 N., R. 24 E.W.M.

The applicant proposes to transfer the place of use of Surface Water Certificate No. 11749 to 42 acres of orchard located up river on property currently provided irrigation water under Surface Water permits S4-26567P and S4-28272P which are subject to interruption when the Okanogan River falls below the minimum flow levels established in Chapter 173-549-020 WAC.

The new place of use contains 42 acres described as a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 33, T. 36 N., R. 27 E.W.M. lying south of the established Golden & Red Delicious Apple Orchards; portions of the W $\frac{1}{2}$ SW $\frac{1}{4}$ (being portions of Government Lots 1 & 2) of said Section 33; a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, T. 35 N., R. 27 E.W.M. lying east of the county road; one (1) acre being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 4; the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T. 35 N., R. 27 E.W.M.; the southerly 6 acres of that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ lying easterly of the established Golden Delicious Orchard and north of the established Pear orchard in Section 33, T. 36 N., R. 27 E.W.M.; AND ALSO approximately 3+ acres located in that portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ lying west of the county road in said Section 33 and the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 32, T. 36 N., R. 27 E.W.M., ALL located in Okanogan County.

The new emergency points of diversion will be the existing points of diversion for Surface Water Permits No. S4-26567P and S4-28272P on the Okanogan River located within the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32, T. 36 N., R. 27 E.W.M. and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, T. 35 N., R. 27 E.W.M.

Surface Water Permit No. S4-26567P with a priority date of February 26, 1980 authorizes the diversion of 6.0 cfs and 230 acre feet per year. 132 acre-feet per year for the irrigation of 46 acres April 1 through August 31 and October 1 to October 31, 48 acre-feet per year, to be used from March 15 through May 31 for frost control of 62 acres of orchard. No water shall be diverted during the month of September. The points of diversion are located approximately: 1) 675 feet west and 400 feet north from the E $\frac{1}{4}$ corner of Section 32 and; 2) 400 feet west and 50 feet north of the E $\frac{1}{4}$ corner of Section 32, both within Government Lot 2 of Section 32, T. 36 N., R. 27 E.W.M.

Surface Water Permit No. S4-28272P with a priority date of August 5, 1983 authorizes the diversion of 2.33 cfs and 138.56 acre-feet per year with 120 acre-feet per year for irrigation of 30 acres from April 1 to August 31, and 18.56 acre-feet per year for frost control for 30 acres as required (but not before April 1). The point of diversion is approximately 2250 feet south and 1850 feet west from the Northeast corner of Section 5, T 35 N., R. 27 E.W.M. The place of use is the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 4; NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5; both within T. 35 N., R. 27 E.W.M., and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, T. 36 N., R. 27 E.W.M. all in Okanogan County.

Approximately 47 acres of irrigation will not occur on the authorized place of use this year under Surface Water Certificate No. 11749, however, the applicant has submitted another change application requesting to irrigate the property with other interruptible water rights.

Conclusions and Decision

Authorizing these changes of water rights up river along the Okanogan River will not impair existing water rights.

This **DROUGHT EMERGENCY CHANGE DECISION** authorizes the transfer of 42 acres of irrigation under Surface Water Certificate 11749 in Okanogan County to property described as follows:

42 acres described as a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 33, T. 36 N., R. 27 E.W.M. lying south of the established Golden & Red Delicious Apple Orchards; portions of the W $\frac{1}{2}$ SW $\frac{1}{4}$ (being portions of Government Lots 1 & 2) of said Section 33; a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, T. 35 N., R. 27 E.W.M. lying east of the county road; one (1) acre being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 4; the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T. 35 N., R. 27 E.W.M.; the southerly 6 acres of that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ lying easterly of the established Golden Delicious Orchard and north of the established Pear orchard in Section 33, T. 36 N., R. 27 E.W.M.; AND ALSO approximately 3+ acres located in that portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ lying west of the County road in said Section 33 and the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 32, T. 36 N., R. 27 E.W.M., ALL located in Okanogan County.

A water duty of 0.02 cfs and 3 acre-feet per acre is authorized for use on the property.

The point of diversion is the existing pump stations on the Okanogan River located within the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32, T. 36 N., R. 27 E.W.M. and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, T. 35 N., R. 27 E.W.M.

Provisions

The following provisions shall apply to this change authorization:

Within fifteen (15) days of receipt of this authorization, the applicant shall submit a map to Ecology showing the lands (47 acres) formerly irrigated under Surface Water Certificate No. 11749 that will not be irrigated under this right and the lands (42) acres to be irrigated at the new place of use as a result of this change.

A measuring device approved by the Department of Ecology must be installed prior to use of the water.

Bi-weekly (every 2 weeks) readings of the measuring device shall be recorded and shall include the date and time of measurement, water flow rate, volume of water, and the name of the person taking the meter readings. Within thirty (30) days of the end of this irrigation season, the permittee shall send a copy of this data to the Central Regional Office.

This drought emergency authorization expires on October 31, 2001.

REPORT BY: Philip M. Kerr DATE: MAY 3, 2001
Philip Kerr

APPROVED BY: Robert F. Barwin DATE: 5/3/2001
Robert F. Barwin, Section Manager

SWB:gg
010502b
Enclosure(s):