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STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

April 25, 2001

CERTIFIED MAIL

Kittitas Reclamation District
PO Box 276
Ellensburg WA 98926

RE: Kittitas Reclamation District Emergency Drought Change Authorization re:
Court Claim Nos. 1724, 00755, 02255, A04465, A04493, 00648, 01685, & 00908
Court Claim Nos. 00891, 01629 & 00465
Cause No. 77-2-01484-5

Enclosed please find a copy of the Department of Ecology's Emergency Drought Change Authorizations. This report constitutes our determination and order regarding the above-referenced applications for change. If you have any questions or concerns about any of this information, please call Carol Mortensen of the Department of Ecology at (509) 575-2597.

This Order may be appealed pursuant to RCW Chapter 43.21B. The person to whom this Order is issued must file an appeal with the Pollution Control Hearings Board **within thirty (30) days of receipt of this Order**. Send the appeal to: Pollution Control Hearings Board, P.O. Box 40903, Olympia, Washington 98504-0903. At the same time, a copy of the appeal **must** be sent to: Department of Ecology, Fiscal Office, P.O. Box 47615, Olympia, Washington 98504-7615. All others receiving notice of this Order must file an appeal with the Pollution Control Hearings Board **within thirty (30) days of the date the Order was mailed** in the same manner described above.

Sincerely,

Robert F. Barwin, Section Manager
Water Resources Program

RFB:gg
010436a
Enclosures: Emergency Drought Change Authorization
cc: Yakama Nation

State of Washington
Department of Ecology
Yakima Washington

IN THE MATTER OF APPLICATIONS FOR CHANGE BY KITTITAS RECLAMATION DISTRICT REQUESTING A CHANGE IN THE PLACE OF USE, POINT OF DIVERSION, AND PURPOSE OF USE UNDER COURT CLAIM NO's. 1724, 00755, 02255, A04465, A04493, 00648, 01685, & 00908 CAUSE NO. 77-2-01484-5

Emergency Drought Change Authorization

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

Governor Locke authorized the director of the Department of Ecology to declare a statewide drought emergency on March 14, 2001. The Yakima Valley is experiencing severe drought impacts in this 2001 water year. The US Bureau of Reclamation's (Reclamation) April 1 forecast of Total Water Supply Available (TWSA) predicts that the Yakima Project's pro-ratable water right holders are likely to receive only 28% of their full water supply amount this irrigation season.

The U.S. Bureau of Reclamation, as trustee for Kittitas Reclamation District (KRD) and its water users, holds a confirmed water right to divert water from the Yakima River in the amounts of 1,296.67 cfs and 336,000 ac-ft per year. The water may be used for irrigation of 59,122.29 acres, incidental domestic supply, which includes stock water, and power from April 1st to October 15. The priority date of the right is May 10, 1905.

KRD also holds a confirmed right to the Yakima River in the amounts of 70 cfs and 25,000 ac-ft for non-consumptive power generation at the Wippel Power Plant located in Section 33, T. 17 N., R. 20 E.W.M. from April 1st to October 15. The priority date is July 3, 1903. A maximum of 1,320 cfs is authorized for diversion at the KRD's headworks between the two rights for KRD. The point of diversion for both rights is within the SE¼NW¼ of Section 11, T. 20 N., R. 13 E.W.M.

KRD plans to improve its projected water supply this summer through a series of water right acquisitions and agreements with other irrigation districts that serve lands adjacent to the KRD service area. KRD would utilize the water to help all landowners mitigate the anticipated severe impacts of the drought during the major portion of the irrigation season (estimated to be late April until mid July). After KRD could no longer serve irrigators, they would utilize the balance of the water right to maintain the integrity of the canal liner and for the opportunity to provide water service later in the year if water supply conditions improve. Alternatively, KRD may elect to allow Roza Irrigation District to divert the unused balance of the rights proposed for transfer.

KRD proposes to change the point of diversion and place of use of a portion of two the mainstem Yakima water rights (Court Claims 01724 and 00908) to the KRD main canal diversion point at Easton dam and serve irrigated lands within the KRD. The proposed changes of point of diversion, place of use, and purpose of use of Trendwest's tributary water rights (Court Claims 00755, 02255, A04493, 00648, 01685 and A04465) are for the purpose of placing the water rights into instream flow within the respective tributaries from the historic points of diversion to the confluence of the tributary with the Yakima River (approved by an earlier order of the court) and then transferring a portion of each to Easton dam.

Mainstem Yakima Water Rights

Pautzke Water Right

The point of diversion for both rights is within the SE¼NW¼ of Section 11, T. 20 N., R. 13 E.W.M. The authorized place of use are those irrigable lands within the boundaries of the Kittitas Reclamation District.

Trendwest owns water rights that are appurtenant to three parcels of land in Ellensburg formerly owned by Pautzke Bait Company, Inc. (Pautzke). The former Pautzke water rights currently are appurtenant to three separate parcels that comprise approximately 291 acres of land and entitle Trendwest to divert up to about 28 cfs, not to exceed about 6,053 ac-ft each year from both the Yakima River and Reecer Creek. Trendwest's Yakima River water rights are described in Court Claim No. 01724, and were diverted historically from the Mill Ditch at the SW¼NE¼ of Section 29, Township 18 North, Range 18 E. W.M. and the Klein-Cobble Ditch at SW¼NW¼ of Section 3, T. 17 N., R. 18 E.W.M.

Trendwest and KRD are proposing to change the point of diversion of the Pautzke water rights from the Mill Ditch diversion to KRD's headworks at the NW¼SW¼ of Section 11, T. 20 N., R. 18 E.W.M. The water would be delivered to various points within the KRD service area. The period of use would be from the date KRD turns on and continuing until no later than September 1, 2001. The quantities of water under Trendwest's mainstem Yakima River water rights are described as follows:

Trendwest Mainstem Yakima River Water Rights

Name	Source	Priority Date	Acres	Qa (ac-ft)	Qi (cfs)	CU (ac-ft)	CU (cfs)
Court Claim No. 01724 (Pautzke Bait Co., Inc.) (Subbasin No. 7-Reecer)	Yakima River	5/6/1893	146.00	1,825.00	12.90	397.36	2.81
		10/30/1884	78.00	967.20	3.90	212.29	0.86
		10/30/1884	67.00	1,609.00	6.59	182.35	0.75
Yakima River Total:				**4,401.2**	**23.39**	**792.0**	**4.41**

Reecer Creek Supplemental Water Rights

Trendwest owns water rights from Reecer Creek to divert 4.0 cfs, not to exceed 1,270 ac-ft each year. Trendwest's Reecer Creek water rights are supplemental to its mainstem Yakima River water rights. Trendwest is willing to transfer all or a part of its Reecer Creek water rights to other Mill Ditch water users to mitigate for third-party impacts that otherwise could occur from the transfers to KRD from Trendwest and other water users.

Trendwest Supplemental Water Rights

Name	Source	Priority Date	Acres	Qa (ac-ft)	Qi (cfs)	CU (ac-ft)	CU (cfs)
Court Claim No. 01724 (Pautzke Bait Co., Inc.) (Subbasin No. 7-Reecer)	Reecer Creek	5/30/1890	146.00	1,270.0	4.00	(S)	0

Mill Ditch

KRD proposes to transport up to 4 CFS per day of Lamb water to KRD classified lands, but not more than 1,046 ac-ft. The change in point of diversion would be from the Mill Ditch headworks, located near the Yakima River at 300 feet north and 1200 feet east of the center of Section 29, being within the SE¼SW¼ NE¼ of Section 29, T. 18 N., R. 18 E.W.M., to the KRD at headworks NW¼SW¼ of Section 11, T. 20 N., R. 18 E.W.M.

The Lamb water rights are recommended for confirmation by the Yakima River Adjudication Court, Second Supplemental Report of Referee Re: Subbasin No. 7 (Reecer Creek), dated January 17, 2001.

The amount of Lamb water diverted at the KRD headworks would be no more than 2 cfs during the actual irrigation season to compensate for the difference in systems loss between the Mill Ditch (77.7%) and the KRD (estimated 51%). KRD would divert up to 4 cfs for concrete canal liner protection after the irrigation season.

Tributary Rights and Trust Water

Trendwest proposes that the balance of the water rights from four upper Yakima River tributary subbasins (the Teanaway River, Swauk Creek, and First Creek, Big Creek, and Reecer Creek), in excess of 3955 ac-ft proposed for transfer to KRD be transferred to the Yakima River Trust Water Rights Program, under Chapter 90.38 RCW. The purpose of the trust water right is to provide instream flow benefits in the tributaries and then, in the mainstem, to replace the water consumptively used by KRD from the Trendwest (former Pautzke) Mill Ditch water right. This action would ensure that the proposed water transfer would be water budget neutral. KRD will carefully monitor the Mill Ditch diversion conditions over the course of the 2001 irrigation season to ensure that this transfer does not cause any operational impairment water users remaining on Mill Ditch.

Placement of water into trust in accordance with Ecology's Trust Water Guidelines requires, among other parameters of the trust water right, determinations of the total and consumptive water use and the "primary" and "secondary" reaches affected. An emergency decision does not provide the time necessary to evaluate all aspects of the guidelines. Therefore, the analysis leading to the trust water recommendations in this report are simplified and conservative. It is noted that the Court has already addressed placement of the tributary water into an instream flow purpose of use in a previous order.

Big Creek Water Rights

Big Creek is a Yakima River tributary upstream from the confluence of the Cle Elum and Yakima rivers. Trendwest purchased water rights appurtenant to approximately 81.5 acres of land in the Big Creek watershed, between Easton and Cle Elum. Trendwest's Big Creek water rights total approximately 1.53 CFS, not to exceed 393 ac-ft of water each year. The Big Creek water rights formerly were used for irrigation purposes and have a June 30, 1887, priority date.

Teanaway River Water Rights

Trendwest owns water rights appurtenant to approximately 188 acres of land formerly irrigated from the Masterson-Walker Diversion on the Teanaway River. Trendwest's Teanaway River water rights entitle Trendwest to divert approximately 3.76 CFS, not to exceed 1,016 ac-ft each year. The Teanaway River water rights formerly were used for irrigation and stock watering purposes.

Swauk Creek Water Rights

Trendwest owns water rights appurtenant to approximately 75 acres of land formerly owned by Kenneth J. Hartman, et al. Trendwest has purchased 75 acres of each of the two 95-acre Hartman water rights. The Hartman water rights entitle Trendwest to divert approximately 3.34 cfs, not to exceed 562.5 ac-ft each year directly from Swauk Creek.

First Creek Water Rights

First Creek is a tributary of Swauk Creek. Water from First Creek is diverted into the Wold-Munson Diversion and imported by the FCWUA into the Reecer Creek Subbasin from the Swauk Creek Basin. Return flows from FCWUA irrigation return to Reecer Creek. FCWUA is a shareholder company with 640 outstanding shares. Trendwest purchased 359.85 FCWUA shares from two individual shareholders – $128^{1/2}$ shares from James Nelson, *et al.*, and $231^{1/3}$ shares from J.P. Roan. The water rights purchased by Trendwest represent approximately 56 percent of the water rights claimed by the FCWUA. Trendwest's share of the First Creek water rights totals 7.8 CFS, not to exceed 1,173 ac-ft each year.

Potential Effect on Yakima Project Operations

Yakima Project Operations staff analyzed the potential effects of the proposed transfers on Project operations and the Total Water Supply Available (TWSA) for WY 2001:

1. Kittitas Reclamation District (KRD) drought water transfer of not more than 1,046 ac-ft from Lamb, a diverter from the Mill Ditch, for the 2001 TWSA time period.
   (WTP #2001-3)

2. KRD drought water transfer of not more than 3,955 ac-ft from Trendwest, holding diversion rights from the Mill Ditch, Yakima River, and three upper Yakima River tributaries, for the 2001 TWSA time period.
   (WTP #2001-4)

The Lamb to KRD transfer would reduce the Lamb non-pro-ratable water supply by 1,046 ac-ft at the Mill diversion, with Lamb retaining 8 ac-ft of their water right of 1054 ac-ft for wetland maintenance. This transfer would provide 1,046 ac-ft of non-pro-ratable water for KRD, and would increase the KRD water supply by 1,046 ac-ft. This amount, which would be diverted by KRD at the at Easton dam, may need to be reduced to compensate for the difference in system losses between the Mill Ditch and the KRD canal to ensure that this transfer does not cause an increase in consumptive use of water.

Trendwest may divert up to 7,925 ac-ft of water per year out of the Mill Ditch, Yakima River, and three upper Yakima River tributaries. The Trendwest-to-KRD transfer would reduce the Trendwest non-pro-ratable water supply by up to 3,955 ac-ft at the Mill Ditch diversion. This transfer will provide 3,955 ac-ft of non-pro-ratable water for KRD, and would increase the KRD water supply by 3,955 ac-ft, which would be diverted at the KRD diversion at Easton dam.

The two KRD requests involve an upstream change of diversion point that affects storage water distribution. 25 cfs of water demand that can currently be supplied by releases from three reservoirs would be moved upstream to the Easton Diversion, which could then be supplied only by the two reservoirs (Keechelus and Kachess) located upstream of the Easton diversion dam. Reclamation has determined that the requested point of diversion changes would allow reservoir operations above Easton Dam to support the operation of the Easton fish ladder during the TWSA period. Also, the transfers would not conflict with reservoir of project operations, provided that approval may be withdrawn if the forecast runoff conditions deteriorate, storage distribution changes, or the TWSA decreases significantly.

Contingent Transfer to Roza Irrigation District

KRD may choose to terminate its canal operations at some point in mid-summer 2001 even though its water supply (including these transferred water rights) is not exhausted. In that instance, KRD wishes to then transfer its remaining water to the Roza Irrigation District for that district's diversion and use for the remainder of the irrigation season, until that remaining water is exhausted.

Conclusions and Decision

The proposed change of point of diversion and place of use will not impair existing water rights and is not contrary to the public interest.

This **DROUGHT EMERGENCY CHANGE DECISION** authorizes the transfer of up to 25 cfs and 3955 ac-ft, from May 3, 2001 through the 2001 irrigation season s and 3265 acre-ft for the period from May 3, 2001 to September 30, 2001.

The authorized place of use is for irrigation of lands within the KRD.

The point of diversion shall be located within the SE¼NW¼ of Section 11, T. 20 N., R. 13 E.W.M.

The trust water under these claims shall remain as provided by the court's earlier order, except that the aforementioned quantities to be transferred to the KRD shall not be eligible for placement into trust on the mainstem of the river for the duration of this authorization. Also, the primary reach associated with each court claim extends no farther downstream than to the nearest point that return flow associated with the irrigated field enters into the tributary stream or the mainstem of the river.

If, at the time KRD ends deliveries of water to its water users, and the aforementioned amounts of water have not been exhausted, the remaining quantities may be diverted by the Roza Irrigation District at a point located within the NE¼NE¼ of Section 32, T.15N., R.19 E.W.M. for irrigation of lands within the Roza Irrigation District.

A measuring device as required by Order Pendente Lite Regarding Metering, Measurement, and Reporting Requirements, dated October 13, 1994 must be installed prior to use of the water.

This drought emergency authorization expires on September 30, 2001.

APPROVED BY: _____ DATE: 4/25/2001
Robert F. Barwin, Section Manager

PK:gg
010435