STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 17, 2011

Richard H. Wilson
President/CEO
Development Services of America, Inc.
16100 North 71st Street
Suite 520
Scottsdale, AZ 85254

RE: Our acceptance of your temporary trust water right donation of a portion of Water Right Certificates G1-23431C & S1-23432C. Per your request, this acceptance expires on June 1, 2026.

Dear Mr. Wilson:

The purpose of this letter is to acknowledge our acceptance of your donation to the Washington State Trust Water Right Program (TWRP). Your donation has been assigned the control numbers CG1-23431C@1 and CS1-23432C@1. Please refer to these numbers when corresponding with us about this trust donation. This donation is being made from Ground Water Certificate G1-23431C and Surface Water Certificate S1-23432C.

On August 12, 2011, the Department of Ecology (Ecology) received your offer of donation, in two separate applications for change, to temporarily place 90 acre-feet per year (afy) of G1-23431C and S1-23432C into the TWRP. In addition, you submitted a Trust Water Right Agreement to be entered into by Misty Isle Farms (corporately owned by Development Services of America) and Ecology. This agreement was signed by you (Richard H. Wilson) on August 11, 2011, as a legal representative of Misty Isle Farms. This agreement will be countersigned by me (Jerry L. Liszak) and returned to you as an enclosure to this letter.

Ground Water Certificate G1-23431C was issued to Misty Isle Farms with a priority date of July 10, 1979. It authorizes a ground water withdrawal of up to 250 gallons per minute, 112 afy for domestic use (2 afy) and irrigation supply for 68 acres (110 afy). The authorized point of withdrawal is listed as being within the SW¼ SE¼ of Section 12, Township 22 North, Range 2 East, W. M., in King County. The place of use is described as:

All of the NE¼ of Section 13, Township 22 North, Range 2 East, EXCEPT the NE¼ of the SW¼ of the NW¼ of the NE¼. The E½ of the NE¼ of the NW¼ of Section 13, Township 22 North, Range 2 East. All of the S½ of the SE¼ and the SE¼ of the SW¼ of Section 12 Township 22 North, Range 2 East. Tax parcels 033-1222029089 and 033-1222029026 in the SE¼ of the NE¼ of the SW¼ of Section 12, Township 22 North, Range 2 East. The W½ of the W½ of the SW¼ of the NW¼ of Section 18, Township 22 North, Range 3 East. Not including roads.

Surface Water Certificate S1-23432C was also issued to Misty Isle Farms with a priority date of July 10, 1979. It authorizes a surface water diversion of up to 0.44 cubic feet per second from an unnamed stream and pond, 112 afy for stockwatering (1.68 afy for 100 head of cattle of 2 afy allocated under G1-23431C for domestic purposes) and irrigation supply for 68 acres (110 afy). This right was issued as being totally supplemental (non-additive) in its annual quantity to G1-23431C. As such, the annual quantity used under S1-23432C and G1-23431C cannot exceed a total of 112 afy. The authorized point of diversion for S1-23432C is listed as being within the S½ SE¼ of Section 12, Township 22 North, Range 2 East, W. M., in King County. The place of use for S1-23432C is the same as described in G1-23431C.

Your donation from G1-23431C shall be for groundwater preservation purposes. Your donation from S1-23432C shall be for instream flow purposes (the unnamed stream and pond from which water has historically been diverted are tributary to Fisher Creek). The operators of Misty Isle Farms have claimed the entire 112 afy has been beneficially used during the past five years (pursuant to RCW 90.42.080(4)).

In the Trust Water Right Agreement you specified Misty Isle Farms donation terms as follows:

1. The temporary trust water right donation of 90 afy under G1-23421C and S1-23432C shall be for a period of 15 years starting with the 2011 irrigation season. The remaining 22 afy (and the existing instantaneous rates) under these two rights will continue to be beneficially used by Misty Isle Farms for irrigation and domestic purposes.

2. The 90 afy being placed in the TWRP is based on best estimates regarding the quantity of water that will be needed by Misty Isle Farms to fulfill foreseeable irrigation and domestic needs during the next few years. Misty Isle Farms reserves the right to place additional quantities of water in or remove quantities of water from the TWRP.

3. During the temporary trust water right donation period, the water rights will be held by and managed in trust by the State of Washington under Chapter 90.42 RCW (the TWRP). Ecology shall issue Misty Isle Farms a Trust Water Right

letter of acceptance (this letter) and a signed Trust Water Right Agreement (enclosed).

4. The temporary trust water rights donation may be terminated by Misty Isle Farms with 15 days written notice from Misty Isle Farms to Ecology's Northwest Regional Office. Upon expiration of the 15 day notice period, the water rights shall no longer be temporary trust water rights, and Misty Isle Farms is entitled to beneficial use under the limitations of G1-23421C and S1-23432C.

5. The temporary trust water right donation may be assigned by Misty Isle Farms upon the giving of written notice to Ecology.

6. Amendments to the Trust Water Right Agreement must be in writing and signed by an authorized representative of each of the parties. Any modifications proposed by Misty Isle Farms will be reviewed and accepted or rejected by Ecology within 15 days of written submission by Misty Isle Farms.

7. The Trust Water Right Agreement will be governed and enforced under the laws of the State of Washington. Venue for any action arising under or related to the Trust Water Right Agreement shall be in King County, Washington. (The appeal process for this letter of acceptance is a separate issue as explained below.)

Effective immediately (unless overturned by a court proceeding), the Department of Ecology, pursuant to RCW 90.42.080(1)(b), hereby accepts your donation in the amount of 90 acre-feet per year. When the period of trust ends on June 1, 2026, the water rights will revert back to the water right holder or landowner in the full quantity accepted into the trust water program and for the original purposes. Ecology's acceptance of the donated water rights into the trust water right program is not evidence of the validity or quantity of the rights.

Your water right is a Family Farm Water Act (FFWA) water right as defined under Chapter 90.66 RCW. The FFWA does not provide explicit authority for Ecology to accept water rights via the donation process as described under the trust water right statutes of Chapters 90.38 or 90.42 RCW. However, Ecology will accept a FFWA water right via donation into the TWRP with disclosure that certain legal risks to the future validity of your water right may exist. The primary risk could be relinquishment should a court proceeding determine that your water right was not legally able to qualify for trust status as defined under the FFWA or the trust water right statutes. Absent a court ruling to the contrary, Ecology will view FFWA water rights donated to the TWRP as beneficially used and not subject to relinquishment consistent with RCW 90.42.040(6), RCW 90.14.140(h), and RCW 90.14.215.

All existing water quality monitoring and reporting requirements specified in your water rights will continue to be under the supervision of Ecology's Water Quality Program. Farm practices shall continue to conform to Best Management Practices (BMP's) as

documented in a Farm Plan recommended by King Conservation District (Mirro, 2001) and as adjusted through agreement with or by order of Ecology's Water Quality Program.

If you have any questions or concerns, please call Buck Smith at (425) 649-7147 or email him at buck.smith@ecy.wa.gov.

You and/or other interested parties have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this letter. 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). If this letter of acceptance is overturned through a court proceeding, the Trust Water Right Agreement shall be considered null and void.

To appeal, you must do the following within 30 days of the date of receipt of this document:

- File your appeal and a copy of this document 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 document on Ecology in paper form - by mail or in person. (See addresses below.) Email is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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 P.O. Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board Environmental Hearings Office 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board P.O. Box 40903 Olympia, WA 98504-0903

Please also send a copy of your appeal to:

Jerry L. Liszak
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008

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://www1.leg.wa.gov/CodeReviser

Signed at Bellevue, Washington, this 17th day of August, 2011.

Jerry L. Liszak
Acting Section Manager
Water Resources Program

By certified mail: 7010 3090 0000 1910 0456

jl/bs/mc

Enclosures: Your Right To Be Heard
Trust Water Right Agreement

cc: Jay Cook, Department of Ecology, Water Quality Program

RECEIVED
AUG 12 2011
WATER RESOURCES - NWRO

Trust Water Right Agreement
Temporary Trust Water Right Donation

This Trust Water Right Agreement is made and entered into as of the 15th day of August, 2011, by and between the Washington Department of Ecology ("Ecology") and Misty Isle Farms.

Whereas, Misty Isle Farms is the owner of water rights G1-23431C and S1-23432C as described in the Trust Water Right Application that is attached to this agreement and incorporated herein;

Whereas, Ecology is the administrator and trustee of the state's Trust Water Rights Program under RCW Chapter 90.42, and is authorized to accept a portion of Misty Isle Farms' water rights in the trust water program as a temporary trust water right donation as described in this Agreement and the attached application;

Now, therefore, in consideration of the foregoing, the mutual covenants and undertakings as hereinafter set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. The purpose of this Agreement is to place into the Trust Water Program as a temporary trust water right donation 90 acre-feet of Misty Isle Farms water rights G1-23431C and S1-23432C for a period of 15 years starting with the 2011 irrigation season. The remaining 22 acre-feet under these water rights will continue to be beneficially used by Misty Isle Farms for irrigation and domestic purposes.

2. The 90 acre-foot quantity being placed in the Trust Water Program is based on best estimates regarding the quantity of water that will be needed by Misty Isle Farms to fulfill foreseeable irrigation and domestic needs during the next few years. Misty Isle Farms reserves the right to place additional quantities of water in or remove quantities of water from the Trust Water Program.

3. During the temporary trust water right donation period, the water rights will be held by and managed in trust by the State of Washington under Chapter 90.42 RCW, the Trust Water Program. Ecology shall issue Misty Isle Farms a Trust Water Right letter of acceptance as of the date of this Agreement.

4. This temporary trust water rights donation may be terminated by Misty Isle Farms with 15 days written notice from Misty Isle Farms to Ecology's Northwest Regional Office. Upon expiration of the 15 day notice period, the water rights shall no longer be temporary trust water right and Misty Isle Farms is entitled to beneficial use under the limitation of G1-23431C and S1-23432C.

5. This temporary trust water right donation may be assigned by Misty Isle Farms upon the giving of written notice to Ecology.

6. Amendments to this Agreement must be in writing and signed by an authorized representative of each of the parties. Any modifications proposed by Misty Isle Farms will be reviewed and accepted or rejected by Ecology within 15 days of written submission by Misty Isle Farms.

7. This Agreement will be governed and enforced under the laws of the State of Washington. Venue for any action arising under or relating to this Agreement shall be in King County, Washington.

8. Any communication by Misty Isle Farms or Ecology shall be given to the addresses below:

To Ecology:	Water Resources Section Manager Washington Department of Ecology Northwest Regional Office 3190 - 160th Ave. SE Bellevue, WA 98008-5452
To Misty Isle Farms:	Richard H. Wilson, President/CEO Development Services of America 16100 N. 71st Street Suite 520 Scottsdale, AZ 85254

This Agreement is executed as of the date first above written:

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Jim Lizak for

BY: JACQUE KLUG
Section Manager
Water Resources Program
Northwest Regional Office

Dated: August 17, 2011

MISTY ISLE FARMS

BY: RICHARD H. WILSON
Its: PRESIDENT OF ITS CORPORATE OWNER.

Dated: August 11, 2011

7010 3090 0000 1910 0456

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here
AUG 17 2011

Sent To
Street, Apt. No. or PO Box No.
City, State, ZIP

RICHARD H WILSON
PRESIDENT AND CEO
DEVELOPMENT SERVICES OF AMERICA INC
16100 NORTH 71ST STREET
SUITE 520
SCOTTSDALE AZ 85254

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. WR: BS

1. Article Addressed to: G1-23431C S1-23432C

RICHARD H WILSON
PRESIDENT AND CEO
DEVELOPMENT SERVICES OF AMERICA INC
16100 NORTH 71ST STREET
SUITE 520
SCOTTSDALE AZ 85254

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☒ Agent ☐ Addressee

B. Received by (*Printed Name*) Tammy Beaty
C. Date of Delivery 8/22

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Transfer from service label)* 7010 3090 0000 1910 0456

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540