



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
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JUN 04 2013

John Belisle
231 Ten Mile Road
Lynden, WA 98264

**Re: APPROVED Protested Seasonal Change Authorization for Surface Water
Certificate (SWC) 4046, Whatcom County, Water Resources Inventory Area 1**

Dear Mr. Belisle:

The Department of Ecology (Ecology) received your application for seasonal change on March 1, 2013. You published a legal notice in the Lynden Tribune on April 3, 2013 and April 10, 2013. The Lummi Nation filed a protest on your application due to the potential for adverse impacts on their rights. No other protests were received.

BACKGROUND INFORMATION

The above referenced certificate authorizes the diversion of 0.28 cubic feet per second (cfs) from Ten Mile Creek for the irrigation of 28 acres. This certificate was issued to Herbert S. Cole with a priority date of March 31, 1950. The authorized place of use is Whatcom County Parcels 390318162219, 390318183150, and 390318201262, located within the NE ¼ of the SW ¼ of Section 18, Township 39 North, Range 3 East. The authorized point of diversion is within the SE ¼ of the SW ¼ of Section 18, Township 39 North, Range 3 East.

SWC 4046 is currently owned by you and Allen & Denise Haak. You provided a letter with your application that indicated that historically your farm has irrigated 28.5 acres of the 30 acre place of use. With the Haak's agreement, you are requesting to add Whatcom County Parcel number 390318062103, and remove Whatcom County Parcel number 390318201262 from the existing place of use of SWC 4046 for the upcoming 2013 irrigation season. You are not requesting to increase the authorized number of irrigated acres. The total allowable irrigated acres will remain at 28.

You have also requested to seasonally add an authorized point of withdrawal within the SW ¼ of the SW ¼ of Section 18, Township 39 North, Range 3 East. This additional point of withdrawal (Well ID # BAT486) is shallow (20 feet deep), is in close proximity to the existing point of diversion, and is within the same subbasin (Ten Mile Creek



watershed) as the original point of diversion. Therefore, it is within the same source of supply.

There are no intervening rights between the original point of diversion and the proposed additional point of withdrawal, so there will be no impairment of existing water users.

DEPARTMENT OF ECOLOGY DECISION – INCLUDING TERMS & CONDITIONS

Your request for seasonal change in the place of use and for an additional point of withdrawal for the 2013 irrigation season is hereby **APPROVED** under the terms and conditions listed below.

- You are authorized to irrigate no more than 28 acres total within parcels 390318162219, 390318183150, and 390318062103, all within the SW ¼ of Section 18, Township 39 North, Range 3 East.
- This seasonal change does not authorize an enlargement of the water use or total irrigated acres as described in SWC 4046. Irrigation of any lands removed from irrigation within the original place of use will constitute an enlargement of the right and will result in immediate cancellation of this authorization.
- The original point of diversion and the additional point of withdrawal shall be located within the SW ¼ of Section 18, Township 39 North, Range 3 East.
- The authorized instantaneous rate cannot be exceeded at any time. The total rate of pumping from both points shall not exceed 0.28 cfs (125 gallons per minute).
- An approved measuring device shall be installed and maintained on the authorized point of diversion and the additional point of withdrawal in accordance with the rule “Requirements for Measuring and Reporting Water Use”, WAC 173-173. In order to ensure compliance with the terms of this authorization, water use data shall be recorded weekly and shall be promptly submitted to Ecology upon request.
- WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document titled “Water Measurement Device Installation and Operation Requirements”. See: <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
- This seasonal change is subject to existing rights, including any rights held by the United States for the benefit of tribes under treaty or settlement. In ensuring no enlargement of the rate of water use or the number of irrigated acres, this seasonal change authorization should have not greater impact on tribal rights than the original authorization.

- If it can be shown that water use authorized by this seasonal change is causing impairment of existing rights or is being used illegally, then this authorization will be immediately canceled.
- This seasonal change shall be in effect through October 1, 2013 (unless cancelled sooner); at which time the subject right will revert back to the original attributes described in SWC 4046.
- Violations of any of the terms and conditions of this seasonal change will result in this authorization being immediately canceled, issuance of administrative orders to cease and desist, and may also subject the violator to civil penalties.
- The Department of Ecology may field verify this seasonal change at any time for compliance with the terms and conditions of this authorization.

If you have any questions or concerns regarding this authorization, please call Tom Buroker at (360) 715-5223.

YOUR RIGHT TO BE HEARD

You have a right to appeal this action to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this document. 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 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.

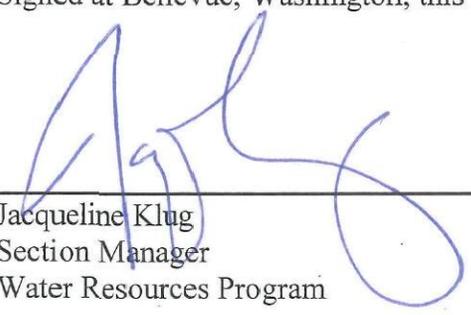
You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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

*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 4 Day of June, 2013.



Jacqueline Klug
Section Manager
Water Resources Program

jk/tb/mc

Enclosures: Map
Your Right to be Heard

By Certified Mail: 7012 3460 0000 2586 7704

cc: Lummi Indian Business Council

Seasonal Change SWC 4046 (CS1-*09498C)

