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

July 22, 2009
CERTIFIED MAIL
[7007 2560 0001 9534 6078]

Troy Grimes – VP Finance
Watts Brothers Farms
PO Box 1900
Pasco WA 99302

Re: Seasonal Change Authorization for 2009 for "Colbert" portion of Suface Water Certificate No. S4-01228C as modified by Okanogan County Superior Court Cause No. 91-2-0022706, dated 19 July 1994 (now assigned to Lake Wallula Vineyards, LLC)

DECISION: This SEASONAL CHANGE AUTHORIZATION to change the point of diversion to Government Lot 1 of Section 4 of T. 4 N., R. 24 E.W.M., the place of use to the S½S½ Section 27 and N½N½ of Section 34 of T. 5 N., R. 24 E.W.M., the number of irrigated acres to 145 acres, the season of use to March 1 to November 30, and add instream flow as a purpose of use to Lake Wallula Vineyard LLC's portion of S4-01228C at a maximum instantaneous diversion rate of 0.67cubic feet per second (cfs) and a maximum quantity of 114 acre-feet is granted subject to the following provisions and conditions:

Measurements, Monitoring, Metering and Reporting

1. An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC.

2. The diversion used under this authorization shall be metered for instantaneous and for cumulative quantities. Water use data shall be recorded weekly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of 2010.

3. The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Temporary Authorization No., source name, monthly meter readings which include annual quantity used and maximum rate of withdrawal, purpose of use, and period of use.

Department of Fish and Wildlife

4. No dam or weir shall be constructed in connection with this diversion.

5. The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria. http://www.wdfw.wa.gov/reg/regions.htm

Quantity Limits, Flow and Regulation

6. This change does not authorize an enlargement of those quantities in cubic feet per second or acre-feet per year as described under Lake Wallula Vineyards LLC's portion of S4-01228C.

7. Water use at the new point of diversion on the Columbia River is subject to availability at the original point of diversion on the Okanogan River. The expanded period of use is subject to instream flows on both the Okanogan and Columbia Rivers as such: For the Okanogan River, measured at the gaging station near Tonasket, WA (USGS Gaging Station No. 12445000, http://waterdata.usgs.gov/nwis/uv?12445000), from March 1 to March 31, the minimum instream flow to be met is 800 cfs. For October 1 to October 14, the minimum instream flow to be met is 730 cfs, and for October 15 to November 30, the minimum instream flow to be met is 900 cfs. For the Columbia River, measured at John Day Dam, for the periods from March 1 to March 31 and from October 1 to November 30, the minimum instream flow to be met is 50,000 cfs.

The original place of use of Lake Wallula Vineyards, LLC, portion of Surface Water Certificate No. S4-01228C and the place of use under Change Authorization No. CS4-01228C(A) shall be fallowed for the duration of the 2009 irrigation season. Irrigation occuring during the 2009 irrigation season (defined as April 1 to September 30) under the two water rights above shall constitute a violation of the terms of this authorization, and will result in its immediate termination. Other enforcement actions, including but not limited to fines and/or penalties, may also follow as a result of a violation.

Schedule and Inspections

8. This seasonal change shall expire at the end of the 2009 irrigation season, being November 30, 2009, at which time the place of use shall automatically revert back to that described under Certificate of Water Right No. S4-01228C.

9. In accordance with RCW 90.42.080(9), the full quantity of water conveyed into the trust water rights program shall revert to Lake Wallula Vineyards, LLC, on November 30, 2009.

10. Department of Ecology personnel may field-verify this seasonal change at any time for compliance with the terms and/or conditions of this authorization.

11. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

General Conditions

12. You are advised that the issuance of this seasonal change by Ecology does not convey a right of access to, or other right to use land, which you do not legally possess. Obtainment of such a right is a private matter between the applicant and the owner of the land.

13. Use of water under this authorization shall be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

14. Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances or regulations.

15. Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this seasonal change authorization. Applicants for seasonal change should not construe that a seasonal change will result in the granting of a permanent change of water right.

16. The quantities authorized through this seasonal change do not represent a full tentative determination as to the extent and validity of the subject water right. A full tentative determination would take place at the time a permanent change application is acted upon, and may result in the quantities authorized under the water right being reduced to reflect actual historic beneficial use of water under the right.

You have a right to appeal this decision. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Mark Schuppe, Acting Section Manager
Department of Ecology
Central Region Office
15 W. Yakima Ave., Ste. 200
Yakima, WA 98902

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

Please refer to the enclosed Analysis.

For questions or concerns, please contact Tom Perkow at 509.662.0512.

Mark C. Schuppe

Mark Schuppe, Acting Section Manager
Water Resources Program
Central Region Office

MCS:TP:gg/090736

cc: Philip Rigdon, Director, Natural Resources Division, Yakama Nation

Enclosure: Analysis
Your Right To Be Heard