

June 11, 2009

CERTIFIED MAIL

7007 3020 0000 3068 5137

Mr. Rob Dhaliwal
Samson Farms, Inc
1861 Van Dyk Road
Everson WA 98247

Dear Mr. Dhaliwal:

Re: APPROVED Seasonal Change Authorization for Ground Water Certificate (GWC)
61-A, Whatcom County, Water Resources Inventory Area 1

APPLICATION INFORMATION

The Department of Ecology (Ecology) received your application for a seasonal change of Ground Water Certificate 61-A on May 18, 2009. You requested a change in place of use. The current certificated place of use (60 acres) is the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 40 North, Range 3 East. You requested to change the place of use to:

- The E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ (20 acres), Section 34, Township 40 North, Range 3 East
- The east 14.14 acres of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 40 North, Range 3 East
- Parcel #400334484146 within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ (1.86 acres), Section 34, Township 40 North, Range 3 East
- 24 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 35, Township 40 North, Range 3 East

You requested the total acreage of the place of use (see the attached map) remain at 60 acres. You did not request to change the points of withdrawal or any other attribute(s) of the existing certificate.

Your application states you (through your affiliated companies – Sam & Sons L.P. and Evergreen Farms, LLC) are now the owner of this certificate, the points of withdrawal, and the current and proposed place of use (with the exception of Parcel #400334484146 which is owned by John & Diane O'Flaherty).

Your application package included aerial photos from 1951, 1961, 1975, 1986, 1991, 1995, and 2008 to substantiate your claim that the original place of use has consistently been used for agricultural purposes.

CERTIFICATE BACKGROUND INFORMATION

GWC 61-A was issued to Arvil Chilton with a priority date of April 12, 1946. It authorizes the withdrawal of 175 gallons per minute, 90 acre-feet per year, from two wells, for the irrigation of 60 acres. The authorized points of withdrawal are located within the NE¹/₄ SE¹/₄, Section 34, Township 40 North, Range 3 East.

DEPARTMENT OF ECOLOGY DECISION - INCLUDING TERMS & CONDITIONS

Your request for a seasonal change in place of use is hereby APPROVED under the terms and conditions listed below:

- The authorized instantaneous rate and annual volume cannot be exceeded at any time. The total withdrawal from the authorized points of withdrawal shall not exceed 175 gallons per minute and/or 90 acre-feet per year. You are required to monitor pumping to ensure compliance with this condition.
- An approved measuring device shall be installed and maintained on each of the authorized sources in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. 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". <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
- This seasonal change authorization is subject to existing rights, including any rights held by the United States for the benefit of tribes under treaty or settlement. By ensuring no greater use of water than authorized under the existing certificate, this seasonal change authorization should have no 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, then this authorization will be immediately canceled.
- You requested a seasonal change authorization for two years. Seasonal changes are only available for a single irrigation season. If you would like to obtain a seasonal change authorization for next year's irrigation season, please apply as early as possible in 2010.
- This seasonal change authorization shall be in effect through October 1, 2009 (unless canceled sooner); at which time the subject right will automatically revert back to the original attributes described in GWC 61-A.

- Violation 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.
- Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this seasonal change authorization.
- Ecology staff may field verify this seasonal change at any time for compliance with the terms and conditions of this authorization.

OPPORTUNITY TO APPEAL

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:

OR Deliver your appeal in person to:

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

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:

OR Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
PO Box 47608
Olympia WA 98504-7608

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

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3. And send a copy of your appeal to:

Andrew B. Dunn
Department of Ecology
Northwest Regional Office
3190 160th Ave 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> .*

If you have any questions, please contact Buck Smith at 425-649-7147.

Sincerely,

Andrew B. Dunn, LG, LHG
Section Manager
Water Resources Program

AD:bs

Enclosures