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

August 13, 2012

Craig Boesel
Barkley Irrigating Company
14 Bear Creek Road
Winthrop, WA 98862

RE: Short Term Authorization CS4-129470CL@2 to Change the Point Of Diversion for Claim No. 129470.

On July 11, 2012, Barkley Irrigation Company (BIC) of Winthrop, Washington, filed a Temporary Application to a point of diversion (POD) for 20 cubic-feet per second (cfs) located from the Methow River within the NW¼NW¼ of Section 13 T. 34 N., R. 21 E.W.M., adjacent to Okanogan County parcel No. 3421240066

BIC filed Surface Water Right Claim No. 129470 to divert 58.95 cfs up to 42,446 acre-feet per year (ac-ft/yr) to irrigate 851 acres on June 25, 1974. The place of use for the irrigation is described as:

- Parts of Sections 13, 24 and 25 T. 34N., R. 21 E.W.M.
- Parts of Sections 19, 30 and 31 T 34N., R. 22 E.W.M.
- Parts of Sections 5, 6 and 8 T. 33N., R. 22 E.W.M.
- All lying east of the Methow River in Okanogan County.

BIC diverts water from a side channel of the Methow River. When flows in the Methow River decrease in the late summer BIC uses a pushup dam in the main-stem Methow River to increase the flow in the side channel. By changing the POD to a downstream location they will be able to pump directly into the BIC canal and will avoid using heavy equipment within the stream channel.

The proposed POD for this project is downstream on the Methow River located within:

- POD 1 Parcel No. 3421240066, within the NE¼NW¼ of Section 24, T. 34N., R. 21 E.W.M. located in Okanogan County.

Beneficial Use

The POD may be changed for a water right claim under RCW 90.03.380. The portion of the water that is to be changed must have been put to beneficial use without a five year continuous period of nonuse.

A brief investigation of this water right was conducted by Eric Hartwig of the Department of Ecology. This investigation is not a full Tentative Determination of the Extent and Validity of this Claim. Should any further Change Authorizations be requested, a more thorough Tentative Determination of the Extent and Validity of Surface Water Right Claim No. 129470 shall be conducted.

Review of the 2006, 2009 and 2012 aerial photos show that irrigation has occurred within the boundaries of the BIC.

Comments Received

Paul La Riviere of the Washington Department of Fish and Wildlife (WDFW) submitted a letter of support for the proposed point of diversion (POD) move on August 10, 2012. By moving the POD downstream it will increase the flow in the Methow River through the effected reach.

Dale Bambrick of NOAA fisheries sent an email on August 10, 2012 echoing WDFWs' support of the proposed POD change.

Impairment

The Methow River Creek is a tributary to the Colombia River. The requested period of use for this Temporary Permit is during August 15 through October 31, 2012. As this is a downstream move there will be more water within the effected reach of the Methow River and will not impair exiting water rights.

Conclusions and Decision

There is water available for the project and can take place on a seasonal basis without impairing existing water rights.

This Short Term Authorization is subject to the following limitations and provisions:

1. The priority date of this water right is June 1, 1900.
2. The point of diversion will be located within parcel No. 3421240066, within the NE¼NW¼ of Section 24, T. 34 N., R. 21 E.W.M. located in Okanogan County.
3. The place of use will be located within
   - Parts of Sections 13, 14 and 25 T. 34N., R. 21 E.W.M.
   - Parts of Sections 19, 30 and 31 T 34N., R. 22 E.W.M.
   - Parts of Sections 5, 6 and 8 T. 33N., R. 22 E.W.M.
4. The period of use will be from August 15, 2012 through October 31, 2012.
5. This Authorization will expire November 1, 2012, unless sooner revoked for cause.
6. The diversion shall not exceed 20 cfs and 3622.5 ac-ft/yr.
7. The purpose of use is for Irrigation of 851acres.

8. The diversion intake shall be tightly screened at all times with wire mesh having openings with dimensions not greater that 0.125 (⅛) inch.
9. The operator of the system under this authorization shall:
   - Be aware of the parameters and provisions and operate accordingly.
   - Have a copy of this Short Term Authorization.
   - Provide said copy of this Short Term Authorization upon request of Department of Ecology staff.
10. Under RCW 90.03.360, measuring is required for all surface water diversions, and all withdrawals of ground water in fish-critical basins. Whenever water is being diverted, volume of water shall be recorded and maintained by the permittee. These readings shall be documented by time, date, and the person conducting the measurements. Copies of these records shall be submitted to the Department of Ecology by January 31, 2013.
11. The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit No., source name and maximum instantaneous rate of diversion (cfs).
12. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.
13. This Short Term Authorization shall in no way excuse the applicant from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.
14. The water source and place of use may not be located entirely upon land owned by the applicant. Therefore, the applicant is advised that issuance of a permit by the Department of Ecology for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess.
15. No water right in perpetuity shall result from this Short Term Authorization.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. 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 all of the following within 30 days of the date of receipt of this Decision:

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

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

ADDRESS AND LOCATION INFORMATION

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 PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater WA 98501	**Pollution Control Hearings Board** PO 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

Sincerely,

Mark Kemner, LHG, Section Manager
Water Resources Program/CRO

MK:EH:ss/120810

Enclosures: Your Right To Be Heard
Water Measuring Requirements and Form 1

By Certified Mail: 7009 2250 0004 4952 1804

cc: Aaron Penvose (Trout Unlimited Washington Water Project)
Paul La Riviere (WDFW)
Philip Rigdon, Director Natural Resources Division Yakama Nation
Lois Trevino, Water Administrator, Colville Confederated Tribes