



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 10 2015

Mr. Stan Nelson
Skagit County Consolidated Diking Improvement District #22
P.O. Box 535
Conway, WA 98238



Your address
is in the
**Lower Skagit-
Samish**
watershed

**Re: Your request for an INTERRUPTIBLE TEMPORARY PERMIT under Water
Right Application S1-28718**

Dear Mr. Nelson:

This letter serves as a **Temporary Permit** for operation and monitoring of up to eight new surface water diversions from the Skagit River for Skagit County Consolidated Diking Improvement District #22 (District) for irrigation on Fir Island.

Please read this letter carefully. In accordance with RCW 90.03.250, a temporary permit is granted for use during the pendency of an application for a permit, subject to minimum flows promulgated in WAC 173-503-040, **unless sooner revoked** (for lack of compliance with conditions).

The District's application requests surface water for supplemental irrigation supply, in the amounts of 4,800 gallons per minute (10.69 cubic feet per second) and 950 acre-feet per year, during the months of May through September. A map showing the proposed place of use and points of diversion is included as **Attachment 1**. A table describing the proposed points of diversion as located during a site visit is included as **Attachment 2**.

It should be noted that the District's original public notice did not accurately describe the legal description of all desired points of diversion. Before a final decision will be made on the application, the District must publish a public notice that adequately describes the points of diversion.

The requested place of use is the area served by Skagit County Consolidated Diking Improvement District No. 22 (commonly known as Fir Island). The purpose of use is to provide a supplemental source of irrigation water supply to the District's existing developed drainage system water source.



The District provides flood protection, drainage, and irrigation services to landowners on Fir Island. Fir Island is the delta area between the North and South Forks of the Skagit River and Skagit Bay. This area comprises about 7,000 acres and is the established service area of the District.

Presently, the District manages the waters developed by the drainage system and seasonally authorizes farmers to use the water for irrigation or other purposes pursuant to RCW 85.08.630. The district is proposing to develop the subject new sources of water supply to supplement existing irrigation water availability in the District's service area.

Agricultural production is the predominant land use within the District. Growers on Fir Island have explained that, in recent years, more acreage has been devoted to irrigation dependent crops. For example, acreage of potatoes has increased significantly. The farmers have expressed a need for obtaining additional supplemental sources of water to ensure the growth and health of their irrigated crops. In fact, several land owners have applied for new water rights to address this need. These applications (S1-27887, S1-27938, S1-27939, S1-27941, S1-27942, and S1-27943) have been assigned to the District. The District has agreed that these applications will no longer be needed and will be rejected by Ecology if S1-28718 is ultimately approved.

Today, nearly 6,300 acres on Fir Island are farmed annually, and of that, about 2,400 acres is seasonally irrigated. The primary crops grown within the District's boundaries are potatoes, corn silage, cereal grains, vegetables, vegetable seed, and various other specialty crops. Most of the crops are irrigated by use of moving big gun sprinklers, while some are irrigated with impact sprinklers on handlines or drip systems. Producers of irrigated crops depend on ready access to an adequate and reliable supply of water during the May through September growing season. Presently, growers on Fir Island withdraw water for irrigation purposes from a few small wells, but primarily depend on water from the District's existing drainage ditches. The District implements an Irrigation Water Use Management Program, and annually provides authorization to growers to use water from the ditch system for agricultural irrigation purposes. The District manages the placement and use of control structures in the ditch system to hold water within the ditches to effect higher groundwater levels for subsurface irrigation benefit, or to provide deeper water depth within the ditches to allow landowners to pump from the ditches for surface irrigation of fields.

However, the District cannot assure that ditch water levels are adequate at all times during the growing season to meet current irrigation water demands. Therefore, there is a need to develop an additional source of supply which will help ensure an adequate quantity of irrigation water will be available in the ditches to meet all seasonal crop irrigation demands within the District.

Under the authority of RCW 90.03.250, Ecology may issue a **Temporary Permit** to allow the use of water during the pendency of an application for a water right permit. The purpose of the **Temporary Permit** authorization is to allow the District to move forward with operation and monitoring in order to:

- Determine the effectiveness of adding water to the ditches during the summer months in order to sub-irrigate District lands

- Determine the effectiveness of adding water to the ditches during the summer months in order to provide District farmers with surface water for diversion purposes
- Determine the best method for measuring the instantaneous and annual quantities pumped from the river
- Determine how to best manage the interruptibility of the source

Ecology may require additional data collection, beyond the scope of this **Temporary Permit**, before a permanent decision can be made regarding the District's water right application.

The District is hereby granted a **Temporary Permit** to proceed with the construction, testing, operation, and monitoring of its Skagit River diversions and delivery system, subject to existing rights and the following conditions:

1. The **Temporary Permit** (the authority for using water) becomes effective immediately after the following are accomplished:
 - a. The District submits a written plan to Ecology containing the following:
 - i. The District must ensure this authorization will be used only when minimum instream flows are being met (see condition 2 below). The plan must contain detailed information on how the "on-off" system will work (i.e., float valve, computer program linked to the USGS real-time data website, operators notified by the U.S. Geological Survey WaterAlert service, continuous monitoring of the USGS real-time website, manual operation, etc.). In addition, the plan must contain information on how the data will be recorded and maintained.
 - ii. Within the written plan, the District will identify a way for interested parties to be able to know if a particular pump is operating, as viewed from a public right-of-way near the diversion location.
 - b. Ecology approves the written plan. Ecology shall approve or deny this plan within 14 days of receipt.
 - c. The "on-off" system (as detailed in the approved plan) is operable and ready to use.

The temporary permit will remain in effect throughout the pendency of the District's application, unless sooner revoked.

2. This authorization is an interruptible supply, subject to the following minimum flows as promulgated in WAC 173-503-040.

Instream flows as established at USGS monitoring station 12200500 (Mt. Vernon), at river mile 15.7, SE¼ SE¼ of Section 7, Township 34 North, Range 4 East, W.M., as presented in the table below, shall be protected by regulation of diversions. No diversion

of water under this authorization shall take place when the stream flow at this station is below the minimum instream flows (**Attachment 3**).

Minimum Instream Flows in the Lower Skagit - WRIA 3
 Instantaneous flow in cubic feet per second (cfs)

Month	Day	USGS Monitoring Station 12200500 Skagit River
May	1-31	12,000
June	1-30	12,000
July	1-31	10,000
August	1-31	10,000
September	1-30	10,000

Provisional data will be relied upon for regulation and any later revisions made to the data by the USGS will not be used as evidence of non-permitted water use by the water right holder.

3. All expenses, risks, and liabilities incurred during construction, testing, operation, and monitoring of the diversion and delivery system shall be borne by the District.
4. The granting of this authorization shall not be construed, by inference or otherwise, that the subject application will ultimately be approved.
5. This authorization to make use of public waters of the state is subject to existing rights, including any existing rights held by the United States for the benefit of Tribes under treaty or settlement. If impairment does occur, the District will be required to either diminish or cease pumping, or mitigate for this impairment.
6. Water Resources staff at the Department of Ecology Northwest Regional Office shall be notified 72 hours prior to the first startup for each irrigation season. In that notification, the District shall inform Ecology which diversion points will be utilized that irrigation season.
7. An approved measuring device shall be installed and maintained on each source authorized by this authorization in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. See <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
8. WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of 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>

9. Department of Ecology personnel, with proper credentials, will have access to the project location to inspect records of water use, diversions, measuring devices, and associated distribution systems for compliance with water law at all times.
10. Issuance of this authorization does not convey a right of access to or other right to use land which the District does not legally possess. Obtaining such a right is a private matter between the District and owner of that land.
11. The intakes shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Please contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 to receive information about screening criteria.
12. Use of water under this authorization shall be contingent upon the District's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

The District shall submit an annual letter report on the following conditions. This report shall be submitted by January 31st of each year to the Department of Ecology, Water Resources Program, Northwest Regional Office.

13. A summary of water use under the water right including identification of the points of diversion utilized, volume diverted from each point of diversion, peak pumping rate for each point of diversion, and any reasons for non-compliance and corrective action that will be taken to prevent that from happening in the future.
14. Ecology will provide a compliance spreadsheet that must be thoroughly filled out for each point of diversion throughout the irrigation season (sample in **Attachment 4**). The spreadsheet includes the following columns that must be filled in each time a pump is started: Date, military time, minimum instream flow for that date, actual Skagit River flow, water meter reading, pumping rate, and who recorded the data. The spreadsheet also includes the following columns that must be filled in each time a pump is stopped: Date, military time, actual Skagit River flow, water meter reading, and who recorded the data. In addition to noting the meter reading upon every pump startup and shutdown, if a pump runs continuously, water meter readings must be recorded at least weekly per WAC 173-173-060. An electronic version of the spreadsheet must be submitted to Ecology along with any hard-copy data sheets.
15. District leadership shall work with all growers within the District's boundaries to ensure they have a legal source of irrigation supply, either through this authorization, developed water, or through previously issued water rights. The District must report annually on progress made to eliminate all unauthorized irrigation water use within the District's boundaries.

In addition to addressing the above three conditions, the annual letter report shall also include a description of progress made toward resolving the bulleted items on pages 2 and 3 of this authorization. The outcome of the District's application for permanent water rights will be dependent on how these items are resolved.

You have a right to appeal this **Temporary Permit**. 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 and Application for Relief
Coordinator
PO Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals and Application for Relief
Coordinator
300 Desmond Dr SE
Lacey, WA 98503

*For additional information visit the Environmental Hearings Office
Website: <http://www.eho.wa.gov>.*

Stan Nelson
Skagit County Consolidated Diking Improvement District #22
Interruptible Temporary Permit G1-28718
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*To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>.*

Signed at Bellevue, Washington, this 10th day of June, 2015.



Tom Buroker
Section Manager
Water Resources Program

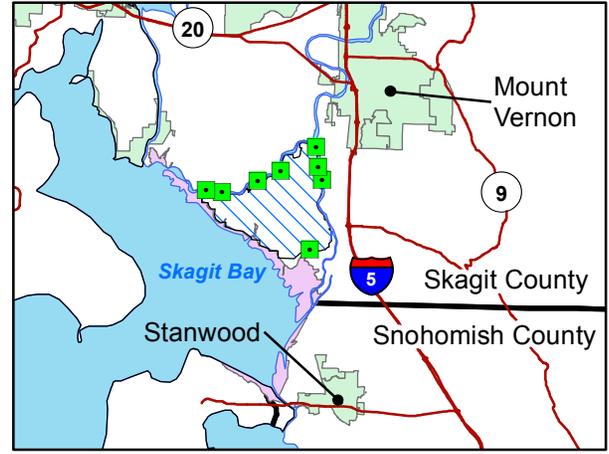
By Certified Mail: 9171 9690 0935 0088 4613 25

Attachments: Points of Diversion and Place of Use Map
Point of Diversion Details
Skagit River Historic Discharge at Mount Vernon vs Minimum Instream Flow
Compliance Spreadsheet

cc: Brandon Roozen
Larry Wasserman



Skagit County Consolidated
 Diking Improvement District No. 22
 Water Right Number S1-28718
 WRIA 3 - Skagit County



Site Map

Legend

- Point of Diversion
- Road
- Place of Use
- Sections
- Parcels
- County
- Streams and Ditches



Place of use and point(s) of diversion/withdrawal are as defined on the cover sheet under the headings, 'SOURCE LOCATION' and 'PLACE OF USE.'

Attachment 2 - Point of Diversion Details

Diversion Information		Location			Pump Type	Water Pumped Into	Ditch System Served
Ecology Name	District Name	TRS	Latitude	Longitude			
SF1	Lee's	SW 1/4 SE 1/4 S36, T34N, R3E	48.3850	-122.3646	High Volume	Ditch	1
SF2	Stuber's	SE 1/4 S1, T33N, R3E	48.3740	-122.3625	High Head	Individual Irrigation System	NA
SF3	Grant Nelson's	NE 1/4 S12, T33N, R3E	48.3666	-122.3590	High Head	Individual Irrigation System	NA
SF4	Lundeen's Cabins	SW 1/4 SE 1/4 S24, T33N, R3E	48.3274	-122.3678	High Volume or High Head	Ditch or Individual Irrigation System	1
NF1	Darcy's House	SE 1/4 SW 1/4 S2, T33N, R3E	48.3712	-122.3937	High Volume	Ditch	2
NF2	Garbage Dump or Old Bridge	SE 1/4 NW 1/4 S10, T33N, R3E	48.3651	-122.4129	High Volume	Ditch	3
NF3a	Short Road	SW 1/4 SW 1/4 S9, T33N, R3E	48.3583	-122.4427	High Volume	Ditch	4
NF3b	Billy Summers'	SE 1/4 SW 1/4 S8, T33N, R3E	48.3589	-122.4563	High Volume	Ditch	4
Ecology's name for the diversions is based on the fork that the diversion is located on with the numbers increasing downstream.							
North Fork No. 3a and 3b are alternate sources feeding Ditch System 4 and only one is operated at a time.							

Attachment 3. Instream Flows for Skagit River at Mount Vernon and % of Time flows are NOT met

