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

February 6, 2013

Mid-Columbia Fisheries Enhancement Group
Attn: Rebecca Wassell
PO Box 1271
White Salmon, WA 98672-1271

RE: Temporary Authorization No. S4-33052 to divert surface water from Jack Creek, tributary to the Teanaway River.

On January 30, 2012, Mid-Columbia Fisheries Enhancement Group of White Salmon, WA filed an Application for Water Right to divert 0.07 acre-feet per year (ac-ft/yr) at a rate of 55 gallons per minute (gpm). The applicant requested a Temporary Permit to divert water seasonally between June 1 and October 31, for a period of 36 months (October 1, 2012 through September 30, 2015).

Water will be diverted from Jack Creek, a tributary to the Teanaway River, and used to irrigate native tree and shrub plantings which are part of an instream restoration project. The authorized point of diversion lies within the SE¼NE¼ of Section 08, T. 21 N., R. 16 E.W.M., Kittitas County Parcel No. 097535. The place of use is described as 15 acres within NE¼SE¼ of Section 08, T. 21 N., R. 16 E.W.M., Kittitas County Parcel No. 097535.

Mid-Columbia Fisheries Enhancement Group will divert water from Jack Creek by use of a pump. The pump will be equipped with a WDFW and NOAA fish compliant screen as specified below. Water will be piped from the pump to a water truck or tank trailer for conveyance to individual plantings. Water will be used initially to operate a boring device (waterjet stinger) to install live stake plantings. Water will then be diverted periodically throughout the growing season to establish and maintain plantings.

Beneficial Use

Water will be used for planting and seasonal irrigation of up to 1,200 rooted native trees and shrubs and up to 25,000 live stakes. Irrigation is a beneficial use.

Comments Received

A public notice of the application was published in The Daily Record on October 20, and October 27, 2012. No letters of protest or comments were received during the 30-day protest period.

Impairment

Jack Creek is a tributary to the Teanaway River. There are no intervening points of diversion between the authorized point of diversion on Jack Creek and the confluence with the Teanaway River. It is unlikely that the authorized diversion will impair downstream water rights on the Teanaway River because consumptive use will be minimal and return flow from the project is expected to be high. Water will return to Jack Creek and the Teanaway River at or very close to the confluence of the two streams. The priority date for this authorization will be the date of application, January 30, 2012. Diversion of water under this authorization may be limited or otherwise regulated in favor of senior rights.

Conclusions and Decision

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

This Temporary Authorization is subject to the following limitations and provisions:

1. The priority date of this authorization is January 30, 2012.
2. The point of diversion lies within the SE¼NE¼ of Section 08, T. 21 N., R. 16 E.W.M., Kittitas County Parcel No. 097535.
3. The place of use is described as 15 acres within NE¼SE¼ of Section 08, T. 21 N., R. 16 E.W.M., Kittitas County Parcel No. 097535.
4. The period of use for this authorization is June 1 through October 31.
5. This authorization will expire October 31, 2015, unless sooner revoked for cause.
6. The diversion shall not exceed 55 gpm and 0.07 ac-ft/yr.
7. The purpose of use is irrigation of 15 acres.
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 Temporary Authorization.
   - Provide said copy of this Temporary 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 Temporary 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 Temporary 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:gh
130205

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

By Certified Mail: 7009 2250 0004 4950 7341

cc: Paul La Riviere (WDFW)
Steve Boessow (WDFW)
William Ferry (USBR)
Philip Rigdon, Director Natural Resources Division Yakama Nation