STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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July 28, 2015

Ed Blok
7327 Heisman Place
Lynden WA 98264

RE: APPROVED Drought Seasonal Change Authorization for Surface Water Certificate (SWC) 11027, Whatcom County, Water Resources Inventory Area 1

Dear Mr. Blok:

In accordance with the provisions of RCW 43.83B.405, on May 21, 2015, it was determined and ordered by Director Maia Bellon of the Department of Ecology (Ecology) and Governor Jay Inslee that the entire State of Washington is under drought conditions. In accordance with the provisions of WAC 173-166-080, the Department of Ecology is, under the terms of this Order, issuing a **DROUGHT SEASONAL CHANGE AUTHORIZATION** for SWC 11027. The intent of this Authorization is to reduce your hardship from the current drought conditions.

THIS AUTHORIZATION SHALL IN NO MANNER BE CONSTRUED TO GUARANTEE OR IMPLY THAT A FINAL (REGULAR) CHANGE AUTHORIZATION WILL ISSUE FOR THE FUTURE USE OF THE WATER HEREIN AUTHORIZED.

Ecology received your application for a drought seasonal change on July 21, 2015. The subject drought change application was assigned control number **CS1-*21208CWRIS**. Please refer to this number when corresponding with us about this Authorization.

BACKGROUND INFORMATION

SWC 11027 authorizes the diversion of 0.60 cubic feet per second (cfs), 120 acre-feet per year (AFY), from the Nooksack River, each year, from May 1 through October 1, for the irrigation of 60 acres. The certificate was issued to Thomas Gibson, with a priority date of September 3, 1968.

The authorized place of use is in Section 31, Township 40 North, Range 3 East, Willamette Meridian: that part of Government Lot 4 lying southerly of the Nooksack River; AND Government Lot 6; LESS roads and easements.

The authorized point of diversion is described as within Government Lot 4, Section 31, Township 40 North, Range 3 East, Willamette Meridian.

The authorized place of use for SWC 11027 is part of parcel 4003310684040000. While the current legal description of the parcel is larger than the place of use, the parcel has not been subdivided. Metsker Maps indicate that Thomas Gibson owned the place of use in 1968, he sold the property to Lloyd E Winterberg by 1983, and in 1989, Whatcom County record 891628822 indicates that Lloyd E Winterberg conveyed this property to Lloyd A Winterberg. Lloyd A Winterberg is the current owner of the property. A search of county auditor's records, county assessor's maps, and Metsker all indicate that this property has remained intact, undivided since 1962.

Based on aerial photography from 1998-2013, this parcel has been part of an actively irrigated farm. It appears that as many as 60 acres may have been irrigated. The subject parcel will not be irrigated this season.

Under the subject application, you are requesting to change SWC 11027 to your up-gradient parcels you (Ed Blok) Farm. The requested changes are as follows:

- To change the point of diversion to a location on the Nooksack River, within the South ½ of the Northwest ¼ of section 30, Township 40N, Range 3 E, in parcel 400330194044
- To irrigate 60 acres
- To change the place of use to:
    - The E 2092 feet of the NE 1/4 of Section 31, Township 40 N, Range 03 E, W.M., lying North of Scott Ditch, LESS ROADS.
    - The E 2080 ft of the S 672 ft of the SE 1/4 of Section 30, Township 40 N, Range 03 E, W.M., LESS ROADS.

On January 14, 2015, Jim Bucknell, Andy Dunn of RH2 Engineering, and Kasey Cykler of the Ecology conducted a site visit on your proposed place of use, and met with you for a new surface water application you filed, S1-28775. The point of diversion identified in that application and during the investigation is the same as the diversion you are requesting to use in this subject application. The details of the point of diversion and the irrigation system are taken from the Report of Examination (ROE):

> "There is one pumping plant located on the bank of the Nooksack River. The pumping plant is electrically powered and consists of two pumps in series. The first centrifugal pump (50 HP Berkeley B4GPH) draws water from the river through an 8-inch diameter intake pipe. The water then passes through the second pump (60 HP Berkeley B3ZPBHS) before entering the buried mainline system, which consists of 8- and 6-inch diameter pipe, for distribution across the farm. Occasionally, Mr. Blok anticipates having to install a booster

pump on the fields farther from the point of diversion to maintain the appropriate system pressure."

You indicated during the site visit that the crops to be irrigated are grass and corn to be used as feed for your dairy operation. The ROE indicates that the proposed works do not include any storage.

The requested point of diversion is located 300 feet upstream from the Northeast corner of the described legal description of the certificated point of diversion, so the following is a list of water right documents potentially down-gradient of the requested point of diversion, and up gradient of the certificated point of diversion:

WR Doc File Number	Type	Document Name	Qi	Qa (AFY)	Acres Irrigated	Purpose	Source	Impairment considerations
S1-*13039CWRIS	Certificate	J D Parcher	0.5 cfs		50	Irrigation	Nooksack River	Impairment isn't an issue. The certificated point(s) of diversion are broadly stated as Government Lots 8, 10, and 11 of Sec 30, T 40 N, R 3 E. The points of diversion may be upstream or downstream of the requested diversion for this subject application. However, Ecology called Leonard and Greg Ebe, the current owners of the POU, on 7/22/2015, and left a voicemail message informing them of this subject application.
G1-162963CL	Long Form Claim	Lloyd E Winterberg	Not legible	Not legible	60	Irrigation	Well	The current owner of the POU, Lloyd A Winterberg, has agreed to the proposed change in this subject application, CS1-*21208CWRIS.
G1-153561CL	Long Form Claim	David C Hickey	3.5 gpm	2	N/A	Domestic	Well	The current owner of the POU, Lloyd A Winterberg, has agreed to the proposed change in this subject application, CS1-*21208CWRIS.
S1-27234	Application	Jacob Blok	1500 GPM	2	230	Irrigation	Nooksack River	This application hasn't been processed, so it cannot be impaired. Ed Blok, who runs a dairy on S1-27234's Proposed POU, is seeking our approval of this subject application, CS1-*21208CWRIS.
S1-28775	Application	Ed and Dale Blok	2.451 CFS	743.8	500	Irrigation	Nooksack River	This water right application is currently being processed as an interruptible water right, subject to WAC 173-501. Ed Blok, who runs a dairy on S1-28775's POU, is seeking our approval of this subject application, CS1-*21208CWRIS.

In summary, senior water right holders have the ability to divert water further upstream than the requested Point of Diversion, or they have agreed to the proposed change by signing this subject application. There will be no impairment of existing water uses. The subject certificate pre-dates WAC 173-501, so minimum instream flows will not be impaired.

DEPARTMENT OF ECOLOGY DECISION – INCLUDING TERMS AND CONDITIONS

Your request for a drought seasonal change in the place of use and point of diversion for the 2015 irrigation season is hereby **APPROVED** under the terms and conditions listed below.

- This drought seasonal change does not authorize an enlargement of water use or total irrigated acres as described in SWC 11027.
- The certificated (original) point of diversion shall not be used during the 2015 irrigation season.
- The certificated instantaneous rate (0.6 cfs, or 269.3 gpm) cannot be exceeded at any time.
- The total volume used under this Authorization shall not exceed 120 acre-feet.
- An approved measuring device shall be installed and maintained on the authorized point of diversion in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. In order to ensure compliance with the terms of this Authorization, 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". See http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html
- This drought seasonal change 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 enlargement of the rate of water use or the number of irrigated acres, this 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 or is being used illegally, then this Authorization will be immediately canceled.
- This seasonal change 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 you and the owner of the land.

- 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.

- 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, point of diversion, measuring device, and associated distribution systems for compliance with water law.

- The diversion intake shall be screened in accordance with Washington Department of Fish and Wildlife screening criteria. See: http://wdfw.wa.gov/about/contact/

- This drought seasonal change shall be in effect through October 1, 2015 (unless canceled sooner); at which time the subject right will revert back to the original attributes described in SWC 11456.

If you have any questions or concerns regarding this Authorization, please contact Kellie Arthur at kellie.arthur@ecy.wa.gov or (425) 649-7186.

OPPORTUNITY TO APPEAL

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

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

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

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 Pollution Control Hearings Board Environmental Hearings Office 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	Department of Ecology Attn: Appeals Processing Desk P.O. Box 47608 Olympia, WA 98504-7608 Pollution Control Hearings Board P.O. 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

Signed at Bellevue, Washington, this 28th day of July, 2015.

Thomas Buroker
Section Manager
Water Resources Program

tb:ka:mc

Enclosure: Your Right to be Heard

By Certified Mail: 9171 9690 0935 0107 0030 17