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

September 21, 2010

Pacific Excavation LLC
c/o Randy Dyche
PO Box 1387
3044 S King St
Goldendale WA 98620

Re: Temporary Authorization of Water Right Application No. S4-35376
For Dust Abatement and Compaction

THIS TEMPORARY AUTHORIZATION SHALL IN NO MANNER BE CONSTRUED TO GUARANTEE OR IMPLY THAT A PERMANENT WATER RIGHT WILL ISSUE FOR THE WATER USE HEREIN AUTHORIZED.

Background
On July 19, 2010, Pacific Excavation LLC of Goldendale, Washington, filed an application to temporarily divert water from a pond, a tributary to the Little Klickitat River. The purpose of use is dust abatement and ground compactions. The period of use is proposed to be April 1through October 31 from 2010 through 2014. The water is to be used for road construction projects and emergency water for fire tenders throughout Klickitat County, Washington, as they arise.

The pond that is proposed for the diversion is located in the center of Section 26, T. 5 N., R. 16 E.W.M. The pond is 16 acres with an average depth of 10 feet deep. Therefore, the pond would hold approximately 160 acre-feet of water. The pond is located on land held by Cozy Nook LLC of Vancouver, Washington.

Public Notice
Public notice of the application was published in the Goldendale Sentinel on July 28, 2010 and August 4, 2010. No letters of protest or comments were received during the 30-day protest period.

Water Quantities Requested
The applicant is requesting to divert water in the amount of 300 gallons a minute (gpm) to fill a 3000 gallon water truck up to 25 times each day up to 75 days each year. If the applicant diverts the maximum of 25 times per day and 75 days each year the annual quantity that would be diverted are;

Year	Acre Feet
2010	4.6 (20 days at 25 tanks a day)
2011	17.26
2012	17.26
2013	17.26
2014	17.26

The number of day that the applicant diverts water each year may vary. This amount will depend on Klickitat County's road Departments projects that go out for bid and the applicant becoming the successful bidder.

Availability and Impairment
The pond that is proposed for the diversion has an Adjudicated Water Right associated with it. Reservoir Adjudicated Water Right No. R4-79089 was granted a right to store 72 acre-feet of water from December 1 through April 1 each year for irrigation of 146 acres. As the pond could hold approximately 160 acre feet of water this would leave 88 acre-feet of water within the pond.

There are two water rights that share Reservoir Water Right No. R4-79089JC. These rights are confirmed to irrigate 90 acres under Certificate of Water Right No. S4-79034JC, with a priority date of November 25, 1907, and; 56 acres under Certificate of Water Right No. S4-79034JC, with a priority date of April 23, 1968, for a total of 146 acres.

By having the applicant divert up to 17.26 ac-ft/yr the pond should be able to meet and maintain current water uses.

Conclusions and Decision
The water proposed for this temporary use is available for the proposed project and can take place on a temporary basis without impairing existing water rights.

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

1. The priority date of this water right is July 19, 2010.

2. This Temporary Authorization is subject to all senior water rights being satisfied.

3. The point of diversion will be from a pond located in the center of Section 26, T. 5 N., R. 16 E.W.M.

4. The place of use is located within Klickitat County, Washington.

5. The period of use for 2010 will be September 21, 2010 through October 31, 2010.

6. The period of use for the following years, 2011-2014, will be April 1 through October 31.

7. This Temporary Authorization will expire October 31, 2014, unless sooner revoked for cause.

8. The diversion shall not exceed 0.66 cubic feet per second (300 gpm) not to exceed 17.26 acre-feet per year.

9. The purpose of use is for dust abatement and compaction and emergency water for fire tenders.

10. The diversion intake shall be tightly screened at all times with wire mesh having openings with dimensions not greater that 0.125 (1/8) inch.

11. 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.

12. 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, number of truck loads, and the person conducting the measurements. Copies of these records shall be submitted to the Department of Ecology by January 31 of each year.

13. 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, annual quantity used (acre-feet) and maximum instantaneous rate of diversion (cubic feet per second). Copies of these records shall be submitted to the Department of Ecology by January 31 of each year.

14. 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.

15. 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.

16. The water source 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.

17. 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 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 4224 – 6th Avenue SE Rowe Six Building 2 Lacey WA 98503	**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://www.leg.wa.gov/CodeReviser .

Sincerely,

Mark C. Schuppe, Section Manager
Water Resources Program

MCS:EH:gg/100909

Enclosures: Water Measuring Requirements
Your Right To Be Heard

By Certified Mail: 7007 2560 0001 9535 1744

cc: Philip Rigdon, Director, Natural Resources Division, Yakama Nation