

October 29, 2010

AgReserves Inc dba AgriNorthwest
Farmland Reserve Inc dba K2H Farms
c/o R Thomas MacKay
7404 W Hood Pl
Kennewick WA 99336-6718

RE: Seasonal Change Authorization No. CS4-01351(L)C – change point of diversion and place of use

On December 16, 2009, AgReserves, Inc., dba AgriNorthwest, subsidiary of Farmland Reserve, Inc., dba K2H Farms (K2H Farms) submitted an application seeking a Seasonal Change Authorization to change the point of diversion and a portion of the place of use for Certificate No. S4-01351(L)C. This water right, having a priority date of February 4, 1971, authorizes the right to divert 1.05 cubic feet per second (cfs) and 185 acre-feet per year (ac-ft/yr) for the purpose of irrigation of 63 acres.

There are six points of diversion authorized from the Columbia River under this Seasonal Change Authorization, including a point of diversion located 500 feet south and 100 feet east of the northwest corner of Section 15, T. 5 N., R. 27 E.W.M., being within the NW¹/₄NW¹/₄ of said Section 15. The applicant has requested a seasonal change of point of diversion from the Snake River to a place located in SW¹/₄SW¹/₄ of Section 36, T. 10 N., R. 32 E.W.M.

In addition to this permit, K2H Farms has applied for four other Seasonal Change Authorizations for 2010. The change applications filed with the Washington Department of Ecology, Water Resources, Central Region Office, for the applicant's 2010 irrigation plan are:

- CS4-01337(B)C@2 (309 acres)
- CS4-01351(L)C (63 acres)
- CS4-16571(E)P (969 acres)
- CS4-13134(B)P@1 (435 acres)
- CS4-CV1-4P246@2 (51 acres)

Approximately 1,827 acres irrigated within the place of use authorized in the above five water rights will not be watered during the 2010 irrigation season. A complete description of lands not irrigated during the 2010 irrigation season is described in a letter from AgriNorthwest to Department of Ecology, dated December 14, 2009. This letter can be found in the application file for this seasonal change.

The applicant has also applied with the Department of Ecology, Water Resources Program, in the Eastern Region Office (ERO) to seasonally transfer 995 acres. There will be a total of 2,837 acres left fallow in the authorized locations by the applicant. The combined land to be irrigated in the new locations totals 2,791 acres. By doing this, there will be a total of 46 extra acres left fallow.

Approximately 63 acres of the existing place of use for Water Right No. S4-01351(L)C is proposed for transfer. Water will come from 63 acres within the NW $\frac{1}{4}$, Section 12, T. 6 N., R. 27 E.W.M. The land that will not be irrigated within this section during the 2010 irrigation season, is identified on irrigation maps supplied by the applicant, located in this application file and is identified as the north half of Field No. 446.

The proposed places of use of all combined seasonal changes applied for within Central Region Office total approximately 1,870 acres, and are in the following locations in Water Resource Inventory Area (WRIA) 33, Walla Walla County, Washington:

- Sections 4, 5, 11, 17, 18, 20, 28, 30 32 in T. 9 N., R. 33 E.W.M.
- Section 31, T. 10 N., R. 34 E.W.M.

The existing point of diversion and place of use are located within WRIA 31, in Benton County, Washington. The proposed point of diversion and place of use are located within SW $\frac{1}{4}$ of Section 36, T. 10 N., R. 32 E.W.M.

This SEASONAL CHANGE AUTHORIZATION is subject to the following conditions:

- 1) Violation of any of the terms and/or conditions of this Seasonal Change Authorization will result in immediate termination, issuance of Administrative Orders to Cease and Desist may also subject the violator to civil penalties.
- 2) The applicant will divert up to 1.05 cubic feet per second thru October 31, 2010. This Seasonal Change Authorization will expire on October 31, 2010.
- 3) The point of diversion will be located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T. 10 N., R. 32 E.W.M.
- 4) The seasonal place of use under this Seasonal Change Authorization will be used to irrigate 63 acres; located within Section 28, T. 9 N., R. 33 E.W.M.
- 5) The maximum annual volume of water allowed for seasonal change is 185 acre-feet per year.
- 6) Irrigation of any lands in excess of 63 acres under this Seasonal Change Authorization for the 2010 irrigation season will constitute an enlargement of the right and this authorization shall be immediately terminated.

- 7) The Department of Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this Seasonal Change Authorization. Applicants for seasonal change should not construe that this change will result in the granting of a permanent change of water right.
- 8) The issuance of this Seasonal Change Authorization 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 the applicant and owner of that land.
- 9) The applicant and operator of the system under this Seasonal Change Authorization shall:
 - Have a copy of this Seasonal Change Authorization available on-site.
 - Be aware of the parameters and provisions and operate accordingly.
 - Provide said copy as evidence of this authorization upon request by Department of Ecology staff.
- 10) An approved measuring device shall be installed and maintained for the source(s) identified herein in accordance with the rule “Requirements for Measuring and Reporting Water Use”, Chapter 173-173 WAC. Water use data for each Court Claim on the place of use shall be recorded weekly and shall be submitted to Ecology by January 31, 2011.
- 11) The rule above 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 or available from Ecology as a document entitled “Water Measurement Device Installation and Operation Requirements”.
- 12) At a minimum, 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 or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, monthly meter readings including units, and peak flow including units for each month. In the future, the Department of Ecology may require additional parameters to be reported or more frequent reporting.
- 13) The Department of Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.
- 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, but only to the extent otherwise allowed by law.

15) This Seasonal Change Authorization is subject to Washington Department of Fish and Wildlife fish screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/hab/engineer/habeng.htm>

16) The intake shall be screened at all times in accordance with Department of Fish and Wildlife screening criteria. <http://wdfw.wa.gov/hab/engineer/habeng.htm>.

17) **No water right in perpetuity will result from this Seasonal Change Authorization.**

18) This Seasonal Change Authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.

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

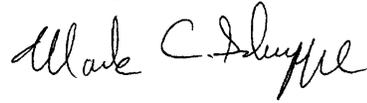
Street Addresses	Mailing Addresses
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel Road SW, Ste 301 Tumwater WA 98501</p>	<p>Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903</p>

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>

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If you have further questions or concerns, please call Breean Zimmerman, Department of Ecology, Water Resources Program at 509 454 7647.

Sincerely,



Mark C. Schuppe, Section Manager
Water Resources Program
Central Region Office

MCS:EH:gg/101018

Enclosures: Fish Screening Requirements
Water Measuring Requirements
Your Right To Be Heard

By Certified Mail: 7007 2560 0001 9535 8125

cc: Philip Rigdon, Deputy Director, Natural Resources Division, Yakama Nation
Kevin Brown, Department of Ecology, ERO (via email)
Chad Unland, Department of Natural Resources, Ellensburg