



file

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

4601 N. Monroe, Suite 202 • Spokane, Washington 99205-1295 • (509) 456-2926

April 16, 2001

CERTIFIED MAIL 7000 1670 0009 9552 6898

COPY

Mr. Kim Dirks, EE
IBP, Inc.
Permits and Compliance
800 Stevens Port Drive, Suite 710
Dakota Dunes, South Dakota 57049-8710

Dear Mr. Dirks:

Re: Emergency transfer of a water right - Surface Water Permit No. S3-24704P
(Walla Walla County - WRIA 32)

The emergency transfer of water right you have requested pursuant to chapter 173-166 WAC has been received. This decision is based upon information provided in your application and subsequent supplemental information provided to this office, and on information obtained through a field visit by Bill Neve of Ecology with Mr. Chep Gaunett in 1997. Your request is granted conditionally as follows:

Surface Water Term Permit No. S3-24704P

This term surface water permit authorizes the diversion of water from the Columbia River (Lake Wallula) in the amount of 225 cubic feet per second, 43,704 acre-feet per year, from January 1 to December 31, each year, for the irrigation of 10,926 acres. This right was issued as a renewable 50-year term permit. The lands authorized for irrigation under this permit have been fully developed, and are currently owned by IBP and Simplot Corp. Permit No. S3-24704P was explicitly provisioned to allow for changes and transfers consistent with the requirements of RCW 90.03.380.

The 149.2 acres approved for transfer will come from that land previously irrigated by pivot end guns within the NW $\frac{1}{4}$ of Sec. 4, all of Sec. 5, and the N $\frac{1}{2}$ of Sec. 6, T. 6 N., R. 32 E.W.M., and Sec. 32 T. 8 N., R. 32 E.W.M. The circles with end guns removed are identified as 6A 1 and 2; 5A 1-5; and 32A 2-4.

The land these acres will transfer to for the 2001 irrigation season are 149.2 acres within the N½ of Sec. 26, T 8 N., R. 31 E.W.M. Existing rights within this subdivision (S3-27901C) are subject to possible curtailment in favor of minimum flows on the Columbia River to which the subject right was provisioned. (WAC 173-563-040 and WAC 173-563-050).

As a condition of this change, all end guns from the subject pivots (Circle No.'s 5A 1-5; 6A 1 & 2; 32A 2-4) shall be physically removed prior to any use of water for the 2001 irrigation season, and shall remain off for the duration of the 2001 irrigation season. The physical presence of any end gun or "corner catcher" on any of the pivots within this project for the 2001 irrigation season shall constitute a violation of the terms of this authorization, and will result in the immediate termination of this authorization.

This change does not authorize an enlargement of those quantities in cubic feet per second, acre-feet per year, or total irrigated acres as described under Surface Water Permit No. S3-24704P.

Irrigation of any lands removed from irrigation under this authorization for the 2001 season will constitute an enlargement of the right and this authorization shall be immediately terminated.

The diversion used under this authorization shall be metered for instantaneous and/or for cumulative quantities as per conditions under the original water right. With proper consent, Ecology officials shall have right of access to the meter(s) at all times. In the event the meter(s) or measuring device(s) should become damaged or inoperable, all diversion of water under this authorization should cease until such time as the meter or measuring device is restored to proper working order.

You are advised that the issuance of this seasonal change by the Department 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 the owner of the land.

This seasonal change is granted in accordance with RCW 90.03.390 and shall expire at the end of the 2001 irrigation season, being December 31, 2001, at which time the place of use shall automatically revert back to that described under Surface Water Permit No. S3-24704P.

Information to be included with your seasonal change application includes information to document historic water use, and maps which specifically identify what land is to be removed from irrigation and what land the right is requested to be transferred to. The application for seasonal change is to be submitted to Ecology no later than 90 days prior to the first date of anticipated use – and in any case no later than January 31 for the upcoming irrigation season. Applications that do not include this information and are not submitted within this time frame will be returned.

The Department 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 a seasonal change will result in the granting of a permanent change of water right.**

Dale G. Van Schoiack, P.E., M Consultants, Inc.

2001 Seasonal Change

Page 3

April 16, 2001

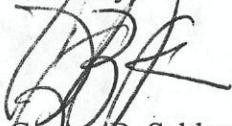
Violation of any of the terms and/or conditions of this seasonal change will result in this authorization being immediately terminated, issuance of administrative orders to Cease and Desist, and may also subject the violator to civil penalties.

The Department may field-verify this seasonal change at any time for compliance with the terms and/or conditions of this authorization.

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances or regulations.

This Action may be appealed. **Your appeal must be filed with the Pollution Control Hearings Board, P.O. Box 40903, Olympia, Washington 98504-0903 within thirty (30) days of the date of mailing of this Action.** At the same time, your appeal must also be sent to the Department of Ecology c/o the Appeals Coordinator, P.O. Box 47600, Olympia, Washington 98504-7600. Your appeal alone will not stay the effectiveness of this Action. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Chapter 43.21B RCW.

Sincerely,



George B. Schlender

Section Manager

Water Resource Program-ERO

GBS:BN:kay

w:Drouhgt/Neve/2001/IBP Drought Change S3-24704P 4-16-2001.doc

Enclosures

I certify that I mailed this letter or an identical copy thereof, postage prepaid, to the above addressee(s) this 16th day of April, 2001. Office Assistant-Water Resources Program, ERO.

Katherine A. Yerbich 

Postage	\$	Postmark Here KAYerbich April 18, 2001 16
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees		\$ 3.74
Sent To Mr. Kim Dirks, EE Permits & Comp. IBP Street, Apt. No.; or PO Box No. 800 Stevens Port Drive No. 710 City, State, ZIP+4 Dakota Dunes, South Dakota 57049-8710		
PS Form 3800, May 2000		

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR KIM DIRKS EE
IBP INC
PERMITS & COMPLIANCE
800 STEVENS PORT DR NO 710
DAKOTA DUNES SD 57049-8710

4a. Article Number
70001670000995526898

4b. Service Type

Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery
APR 18 2001
USPS

5. Received By: (Print Name)
Michelle Roper

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)
Michelle Roper

Thank you for using Return Receipt Service.