



Sandy

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

September 4, 2019

Tim & Lorillee Jefferson  
18060 Highway 410  
Naches, WA 98937-9409

RE: 2019 Seasonal Change Authorization for CS4-83465-J

Dear Tim & Lorillee Jefferson:

**Background**

A drought was declared in the Naches watershed on May 13, 2019. Additionally, on July 3, 2019, the United States Bureau of Reclamation (USBR) reduced their water supply forecast to 67 percent. A 2005 Yakima County Superior Court Order stated that when the USBR's forecast is below 100% all surface water rights in the Yakima River Basin with a priority date after May 10, 1905, are curtailed. The applicants, Tim & Lorillee Jefferson, irrigate their property under Adjudicated Certificate Number S4-83404-J, with a priority date of October 10, 1906. The Jefferson's contacted Dianna Woods to transfer a portion of her water right to their property. Dianna Woods irrigates 3.05 acres under S4-83465-J, receiving water from the Nile Ditch Association's ditch, with a priority date of August 26, 1889.

On August 7, 2019, the Jefferson's submitted an application to temporarily add a Point of Diversion (POD) and transfer a portion of the place of use (POU) under Certificate Number S4-83465-J. The attributes requested in the seasonal change application are as follows:

	Original	2019 Seasonal Use
<b>Water Right File No.</b>	S4-83465-J, Court Claim No. 01397	CS4-83465-J
<b>Source</b>	Naches River	Same
<b>Purpose</b>	Irrigation of 3.05 acres and Stockwater	Irrigation of 2.5 acres
<b>Period of Use</b>	April 15 to October 15	Date of this Authorization to October 15, 2019
<b>Wes Gibbons Diversion Quantities</b>	0.11 cubic feet per second (cfs), 10.15 ac-ft/yr	0.05 cfs, 7.5 ac-ft
<b>Priority Date</b>	August 26, 1889	Same
<b>Point of Diversion</b>	<u>Nile Ditch Diversion:</u> 450 feet north and 350 feet east from the south quarter corner of Section 21, within the SW¼SW¼SE¼ of Section 21, T. 16 N., R. 15 E.W.M.	The Nile Ditch Diversion and The NE¼ of the NE¼ of Section 35, T. 17 N., R. 14 E.W.M. (Yakima County Parcel No. 141601-22008)





	Original	2019 Seasonal Use
Place of Use	The north 215 feet of the following described property: That part of the E½ of Section 28, T. 16 N., R. 15 E.W.M. bounded as follows: Commencing at the southwest corner of Nile Elk Ridge Addition, recorded in Volume S of Plats, page 42, records of Yakima County, Washington, said point being 30 feet S 86°13' W of the southwest corner of Lot 34 of said plat; thence N 86°13' E along the south line of said plat 630.0 feet; thence S 14°01' E 1202.6 feet; thence S 80°48' W 700 feet to the center line of the Nile Valley Road; thence northwesterly along said center line to the point of beginning.	The original place of use and Yakima County Parcel No. 141601-22008 being within the NW¼ of the NW¼ of Section 1, T. 16 N., R. 14 E.W.M.
Limitations of Use	None	Same

### **Impairment**

The proposed change is an upstream move. There are two water right (S4-83398-J and S4-84663-J) with four diversions between the original and proposed PODs that are able to divert at this time. Similar change requests were submitted and authorized in greater quantities by Yakima County Superior Court in two previous drought years (2005 and 2015). Flows were sufficient in the Naches River enough in 2005 and 2015 to result in no assertions of impairment.

### **Public Notice**

Under RCW 43.83B.410, public notice for temporary changes is not required when the change is necessary to respond to drought conditions.

However, Ecology must give notice to the Department of Fish and Wildlife (WDFW) of application to divert, withdraw, or store water RCW 90.03.280. WDFW is a part of the Yakima River Basin Water Transfer Work Group (WTWG), and a project form was emailed to the WTWG on August 21, 2019. Ecology asked for comments by August 23, 2019 and indicated no comments received would be counted as “thumbs up.” The group gave their “thumbs up”.

### **Conclusions**

Based on the investigation and as provisioned, approval to temporarily change the POD and POU will not cause impairment.

### **Recommendations**

Based on the information presented above, the author recommends approval of the Applicant’s requested change in POD and POU for the quantities and diversion point below:

- Instantaneous quantity: 0.05 cfs.
- Annual Quantity: 3.75 ac-ft/yr, reduced in consideration of the time remaining for the 2019 irrigation season.
- Point of Diversion: The NE¼ of the NE¼ of Section 35, T. 17 N., R. 14 E.W.M. (Yakima County Parcel No. 141601-22008.)



- Place of Use: Yakima County Parcel No. 141601-22008 being within the NW¼ of the NW¼ of Section 1, T. 16 N., R. 14 E.W.M.
- Purpose of Use: Irrigation of 2.5 acres.

Your application for seasonal change is approved, subject to the following provisions:

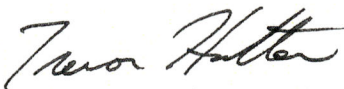
- 1) Violation of any of the terms and/or conditions of this authorization may result in immediate termination of this authorization and may be subject to formal enforcement actions.
- 2) This water right holder may only initiate a priority call on junior rights between the original and new PODs when the amount of water at the original authorized POD is insufficient to exercise the right.
- 3) In order to prevent enlargement of the water right, water may not be diverted from the seasonally authorized POD during any time when water would not normally be available for diversion at the original POD.
- 4) The Department of Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this Temporary Change Authorization. Applicants for temporary change should not construe that a temporary change will result in the granting of a permanent change of water right.
- 5) Where the water source and/or water transmission facilities are not wholly located upon land owned by the applicant, issuance of a water right change authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.
- 6) The applicant and operator of the system under this Temporary Change Authorization shall:
  - Have a copy of this Temporary 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.
- 7) Withdrawal or diversion of water under other rights appurtenant to the POU may be, or will continue to be, limited or otherwise regulated in favor of senior rights.
- 8) An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use" WAC 173-173.
- 9) WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology (Ecology) for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.
- 10) 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 modification 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".

- 11) 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.
- 12) The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). If you have questions about screening criteria contact the Department of Fish and Wildlife, or to obtain technical assistance for your project call the Yakima Construction Shop at (509) 575-2104.  
  
Department of Fish and Wildlife      Phone: (360) 902-2534  
Attention: Habitat Program      Email: [habitatprogram@dfw.wa.gov](mailto:habitatprogram@dfw.wa.gov)  
600 Capitol Way N.  
Olympia, WA 98501-1091  
Website: <http://wdfw.wa.gov/conservation/habitat/planning/screening/>
- 13) This Temporary 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.
- 14) Irrigation on Yakima County Parcel No. 151628-14003 shall be reduced by two and a half (2.5) acres.
- 15) The Nile Ditch Company shall reduce their diversion by 0.05 cfs.
- 16) Within two week of this authorization the water right holder must submit to Ecology a map showing which two and a half (2.5) acres in Yakima County Parcel No. 151628-14003 are being fallowed.

If you have any questions, please contact Christopher Kossik by phone at (509) 454-7872 or via email at [Christopher.Kossik@ecy.wa.gov](mailto:Christopher.Kossik@ecy.wa.gov).

Sincerely,



Trevor Hutton, Section Manager  
Water Resources Program  
Central Regional Office

TH:CK:aa (190910)  
WRTS No. 6802351

Enclosures: Your Right to be Heard  
Water Measuring Requirements  
Form 1 - Measuring Device Information  
Form 2 – Water Use Data Collection Reporting  
Fish Screening Requirements

By certified mail: 91 7199 9991 7037 9086 9665

cc: Philip Rigdon, Director Natural Resources Division Yakama Nation  
Larry Martin, Halverson Northwest Law Group



### YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearings 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503  <b>Pollution Control Hearings Board</b> 1111 Israel Road SW, Suite 301 Tumwater WA 98501	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608  <b>Pollution Control Hearings Board</b> 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>



190910

# REPORT OF EXAMINATION & POSTING ROUTER

☐ ROE ☒ ROE for Change  
☐ AMENDED ROE/ROE for Change

☐ TW Donation  
☐ TW Extension  
☐ TW Rejection

☐ TW Temporary Donation  
☐ TW Short-term Lease

WR Doc ID: 6802351

File No.: CS4-83465-J

Author/Date: Christopher Kossik / 8/23/19

QA/QC Review Group: \_\_\_\_\_  
(Date)

SharePoint> \_\_\_\_\_

Y:\Staff\Kossik\Change Apps\Seasonal change\CS4-83465-J seasonal change 2019.doc

Unit Supervisor: \_\_\_\_\_  
(Initial & date - Begin routing.)

Dates drafted/edited (Admin): \_\_\_\_\_

Reviewer/Date: OK 8/26/19  
(Reviewer please comment on back of page)

GWIS Mapping Review (review changes BEFORE final)  
GWIS initials/date: NM 8/27/19  
GWIS remarks & edits (if more room is needed use back of page):

Trust Water (TW) to Chris Anderson: \_\_\_\_\_  
HQ to Post to Net TW Donation/Extension posted for 2 weeks  
TW Temp D./Short-term Lease posted for 44 days

Permit Writer: \_\_\_\_\_  
(Initial & date - ROE DRAFT ready for 30-day posting to Web.)

Unit Supervisor: \_\_\_\_\_  
(Initial & date - ROE DRAFT ready for 30-day posting to Web.)

Section Manager: \_\_\_\_\_  
(Initial & date: ROE DRAFT is ready for 30-day posting to Web.)

DRAFT ROE \_\_\_\_\_  
post 30-days to Web initial & date (Admin):

Permit Writer \_\_\_\_\_  
(Initial & date - FINAL ROE ready for mail/posting.)

Unit Sup (Consider Comments): 8-30-19  
(Initial & date - FINAL ROE ready for mail/posting.)

Section Manager: 7074 9/4/19  
(Initial & date: FINAL ROE is ready for mail/posting.)

FINAL ROE  
Admin date & initial:

Mailed Out: \_\_\_\_\_

Post 60-days to Web: \_\_\_\_\_

Circle appropriate WRIA. County: Yakima

TRIBE	WRIA
Colville Confederated Tribes	49 50 51 52 53 58 60 61
Yakama Nation	29 30 31 32 33 37 38 39 40
Both Tribes	45 46 47 48

PROTESTS? ☐ Yes ☐ No  
~~PTO 17?~~ ☐ Yes ☐ No

Certified CCs: (Check application signatures)

CCs to anyone else? Please list cc's & protestants - more room on back

☐ Yakama Nation ☐ Colville Confederated Tribes

Minimum Flow River List? (Y:\Adm\Rivers)

Name of River \_\_\_\_\_

Add name to the appropriate River Data Source: ☐

Attachments:

- ☐ Your Right to Be Heard  
☒ PTO appeal? No Your Right to Be Heard  
☐ BC, CC, PA forms  
☐ Water Measurement Requirements  
☐ Form 1 - Measuring Device Information  
☐ Form 2 - Water Use Data Collection Reporting  
☐ Fish Screening Criteria  
☐ Focus on Water Right Relinquishment (98-1812-WR)  
☐ Other: \_\_\_\_\_

Remarks or Related Files (More space on back of page):



This image shows a single sheet of white paper with horizontal blue lines, resembling notebook paper. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.

This image shows a full page of a notebook or ledger. It features ten horizontal blue lines spaced evenly across the page, providing a guide for writing. The background is a solid light blue color. There are no margins, text, or other markings present.

[illegible]

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.





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FILE COPY





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Limitations of Use	None	Same

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Department of Fish and Wildlife      Phone: (360) 902-2534  
Attention: Habitat Program      Email: [habitatprogram@dfw.wa.gov](mailto:habitatprogram@dfw.wa.gov)  
600 Capitol Way N.  
Olympia, WA 98501-1091  
Website: <http://wdfw.wa.gov/conservation/habitat/planning/screening/>
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Sincerely,



Trevor Hutton, Section Manager  
Water Resources Program  
Central Regional Office

TH:CK:aa (190910)  
WRTS No. 6802351

Enclosures: Your Right to be Heard  
Water Measuring Requirements  
Form 1 - Measuring Device Information  
Form 2 - Water Use Data Collection Reporting  
Fish Screening Requirements

By certified mail: 91 7199 9991 7037 9086 9665

cc: Philip Rigdon, Director Natural Resources Division Yakama Nation  
Larry Martin, Halverson Northwest Law Group



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ADDRESS AND LOCATION INFORMATION	
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<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503  <b>Pollution Control Hearings Board</b> 1111 Israel Road SW, Suite 301 Tumwater WA 98501	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608  <b>Pollution Control Hearings Board</b> 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>

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		<b>A. Signature</b>  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
		<b>B. Received by (Printed Name)</b> Tim Jefferson	<b>C. Date of Delivery</b> 9-9-2019
<b>TIM JEFFERSON</b> <b>18060 HWY 410</b> <b>NACHES WA 98837-9409</b>		Address different from item 1? <input type="checkbox"/> Yes delivery address below: <input type="checkbox"/> No	
 9590 9402 4740 8344 3758 43		<b>3. Service Type</b> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
<b>2. Article Number (Transfer from service label)</b> 91 7199 9991 7037 9086 9665 (over \$500) Restricted Delivery			

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt



**WATER TRANSFER WORKING GROUP PROJECT DESCRIPTION**

APPLICATION NO. <b>CS4-83465-J</b>		
APPLICANT NAME <b>Tim and Lorillee Jefferson</b>	CONTACT <b>Larry Martin</b>	CONTACT'S TELEPHONE NO <b>509-248-6030</b>
WATER RIGHT HOLDER'S NAME (if different) <b>Nile Ditch Association Dianna Woods</b>		CONTACT'S EMAIL <b>lmartin@hnw.law</b>

DATE OF APPLICATION <b>8/7/2019</b>
--

WATER SOURCE: <b>Surface Water Diversion on the Naches River</b>	CROP: <b>Pasture/Turf</b>
INSTANTANEOUS QUANTITY: <b>0.05 cfs</b>	ANNUAL QUANTITY: <b>7.5 ac-ft/yr</b>
PERIOD OF USE: <b>Until October 15, 2019.</b>	
PLACE OF USE: <b>Yakima County Parcel No. 141601-22008</b>	PURPOSE OF USE: <b>Irrigation of 2.5 acres</b>

NARRATIVE DESCRIPTION OF PROJECT:
<p>This is a seasonal change application to change a portion of the place of use and point of diversion of S4-83465-J upstream to the applicant's property. The applicant's property is also served water from S4-83404-J that has a priority date of October 10, 1906, which is currently curtailed. This seasonal change will allow the applicant to continue to irrigate a portion of his property while S4-83404-J is curtailed. Yakima County Superior Court approved Orders Pendente Lite moving water from the Nile Ditch Company to the applicants property in 2005 and 2015. There are only two consumptive surface water rights, S4-83398-J and S4-84663-J, in the reach between the current and proposed place of use. No regulator history exists for S4-83398-J not being fulfilled. The claimant name for S4-84663-J is the United States Bureau of Reclamation on behalf of the United States Forest Service, and has a priority date of May 10, 1905. Ecology believes that this transfer will not impair any existing rights.</p>



# Location of CS4-83465-J

