



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

Sent via Email

May 19, 2022

Ravinder P. & Jaspreet K. Sandhu
Gurjant & Rajinder Sandhu
536 West Hemmi Road
Bellingham, WA 98226

RE: APPROVED Seasonal Change Authorization for Ground Water Certificate 5028,
Whatcom County, Water Resources Inventory Area 1

Dear Ravinder P. & Jaspreet K. Sandhu and Gurjant & Rajinder Sandhu:

The Department of Ecology (Ecology) received your application for a seasonal change of Ground Water Certificate (GWC) 5028 on April 20, 2022. Your application has been assigned control number CG1-GWC5028(A)@1. Please refer to this number when corresponding with us about this seasonal change request.

BACKGROUND INFORMATION

GWC 5028 was originally issued to William Raymond with a priority date of January 7, 1963. It authorized the withdrawal of up to 250 gallons per minute (gpm), 90 acre-feet per year (afy), from a well, for the irrigation of 45 acres. The authorized point of withdrawal is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, Township 39 North, Range 2 East. The authorized place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, Township 39 North, Range 2 East.

A request for an administrative confirmation of division of a water right was also submitted around the same time as your 2020 seasonal change application. The request was to divide the water right among property owners as follows:

Property owners	Share of Rate	Share of Volume	Share of Acreage
Pandora Wilder and Theodore Brown	74.4 gpm	26.784 afy	13.392 acres
Malwa Farms Ltd, Manjit/Jasbir Dhaliwal, Dilpreet Samra and Shamsher Brar	133.45 gpm	48.042 afy	24.021 acres
Gary Dolin and Martha Vernier-Dolin	42.15 gpm	15.174 afy	7.587 acres

The (A) portion was issued to Pandora Wilder and Theodore Brown and is the subject of this seasonal change proposal. Under Ecology's Policy 1070, no determination on a water right's validity and extent is made when processing an administrative division of a water right.

You requested a change in the point of withdrawal and the place of use for a portion of the (A) portion of the water right for up to 74.4 gpm, 25.784 afy and 12.392 acres of the original right. Pandora Wilder and Theodore Brown would like to retain 7.5 gpm, 1 afy and 1 acre of irrigation of the original right. You have requested the ability to use this 7.5 gpm on days when it is not being used on the original property. You did not request to change the purpose of use or the period of use.

On May 22, 2014, Buck Smith, a Water Resources Program Senior Hydrogeologist, conducted a site examination of your property for an earlier seasonal change request. He confirmed the existence of your point of withdrawal and Gurjant Sandhu explained to him the proposed beneficial use (drip irrigation of berries) to occur within the new (seasonal) place of use. Mr. Smith also visited the neighboring certificated place of use owned by Pandora Wilder.

Your request is to seasonally change the original point of withdrawal to three points of withdrawal located within the SE $\frac{1}{4}$ of Section 15, Township 39 North, Range 2 East (parcel 390215386124). The original (Raymond) point of withdrawal is described in Ecology records as being a jetted well, 36 inches in diameter, 33 feet deep, with a static water level measured at 6 feet on August 15, 1964. It is located within the Wiser Lake/Cougar Creek subbasin and completed in the Sumas Aquifer. All three proposed seasonal points of withdrawal, BBF094, BBF095, and BBF096, are 36 inches in diameter. These wells do not have original well log reports, however, Associated Earth Sciences, Inc. (AESI) was able to provide the following well depths:

Well	Ecology Tag	Latitude	Longitude	Well Depth (ft)	Groundwater Elevation (ft) 3/10/2020
Well 1	BBF094	48.86671	-122.53879	25	60.1
Well 2	BBF095	48.86681	-122.53820	17	58.5
Well 3	BBF096	48.86738	-122.53757	25	60.4

The three proposed wells appear to be at a similar depth as the original well, have similar static water levels, and are completed within the Sumas Aquifer. Therefore, they are likely within the same body of public groundwater.

You also requested to seasonally change the place of use for up to 12.392 acres (from within parcel #390215299334) from G1-GWC5028(A) to:

- Parcel #390215386124 located within the SE $\frac{1}{4}$ of Section 15, Township 39 North, Range 2 East, W.M. More specifically, 13.392 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, Township 39 North, Range 2 East, W.M.

Your application packet included aerial photos from 1951, 1961, 1975, 1986, 1991, 1995, and 2010 to substantiate your claim that the original place of use has consistently been used for agricultural purposes.

Your application states you are the owners of the proposed place of use and additional points of withdrawal. The portion of the certificated place of use (parcel #390215299334) that is the subject of your application for change is owned by Pandora Wilder.

Three notarized affidavits were submitted with this application. Two from Pandora Wilder dated February 17, 2014 and May 24, 2019, and one from Loren Sweitzer dated March 18, 2020. All three attested to water use on the Wilder property.

Based upon Ecology's review of available aerial photography, the site visit, the three affidavits attesting to water use on the property, and a calculation using USDA's Washington Irrigation Guide data with an efficiency factor for big gun irrigation, Ecology makes the tentative determination that the water right appears to be valid to the extent as proposed for change.

The three proposed wells appear to tap the same aquifer and are located further away than the original well to other, neighboring wells. No enlargement of the water right is proposed or authorized. This is the seventh such seasonal transfer of this water right, and Ecology has not received any reports of impairment. As such, no impairment is expected.

Your application was protested by the Lummi Nation. Their protest is based on concerns over impacts on instream flows within the WRIA 1 watershed. However, your request is a seasonal change application and not an application for new (consumptive) water use. Because the quantities of water involved will remain unchanged, there will be no increase in consumptive use associated with your request. However, a provision has been added to this authorization that specifically identifies this right is subject to senior tribal water rights.

You received Ecology approval for substantially similar requests for seasonal change in 2014, 2015, 2016, 2017, 2018, and 2020.

DEPARTMENT OF ECOLOGY DECISION - INCLUDING TERMS & CONDITIONS

Your request for a seasonal change in place of use and for additional points of withdrawal for GWC 5028 (Record A) is hereby **APPROVED** under the terms and conditions listed below:

- The Sandhu's and their staff shall abide by all provisions set forth here and in all other Orders, enforcement documents, and settlements issued by Ecology related to water use on Whatcom County parcel #390215386124. This includes but is not limited to Docket #9573, #10893, and the Settlement Agreement of PCHB No. 13-119 (Notice of Penalty Docket #10089). Failure to abide by these terms will result in cancellation of this authorization.
- The authorized instantaneous rate and annual volume of GWC 5028 (Record A) cannot be exceeded at any time. **Pumping from all authorized points of withdrawal shall not exceed 74.4 gallons per minute and 26.784 acre-feet per year.** You are required to work with Pandora Wilder and Theodore Brown in order to stay within these limits at all times. You are required to monitor all pumping to ensure compliance with this condition. Failure to do so will result in cancellation of this authorization.
- **Irrigation under this seasonal change shall not exceed 13.392 acres total.** One acre will be retained on the original POU and 12.392 acres is seasonally changed to the location described above. You are required to monitor all irrigated lands to ensure compliance with this condition. Failure to do so will result in cancellation of this authorization.

- This seasonal change does not authorize an enlargement of total irrigated acres as described in GWC 5028 (Record A). Irrigation of any lands removed from irrigation within the original place of use (Ms. Wilder's portion) will constitute an enlargement of the right and will result in immediate cancellation of this authorization.
- **This seasonal change authorization 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 greater use of water than authorized under the existing certificate, this seasonal change authorization should have no greater impact on tribal rights than the original authorization.**
- An approved measuring device shall be installed and maintained on the authorized points of withdrawal in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which 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 for modifications to some of the requirements.
- The approved metering devices must be equipped to transmit raw data directly and remotely, via telemetry, to Ecology via a web-based system. The water right user meet the following requirements:
 1. At a minimum, the metering data shall include instantaneous (Q_i) and total volumes (Q_a).
 2. At a minimum, meter data must be recorded hourly.
 3. At a minimum, meter data must be transmitted at least daily.
 4. The water right holder is solely responsible for all troubleshooting and technical assistance required to setup and maintain the metering and telemetry requirements. At any time, Ecology staff can request the water right holder to provide technical assistance, as necessary, to fix and/or troubleshoot the metering data or telemetry system.
 5. All points of withdrawal must be metered and configured such that all water use data are automatically transmitted to Ecology via telemetry.
 6. Data from the meters shall be transmitted via telemetry to a web-based system and Ecology shall have full access to the raw data via web access.
 7. The water right owner must notify Ecology when a system is selected so that Ecology may ensure that the telemetry system is configured properly by the manufacturer to meet the requirements of these provisions.
- If it can be shown that water use authorized by this seasonal change is causing impairment of existing rights, then this authorization will be immediately canceled.
- Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this seasonal change authorization.
- Department of Ecology personnel, with proper credentials, will have access to the project location to inspect records of water use, wells, measuring devices, and associated distribution systems for compliance with water law at all times.

- All conditions and provisions in the original water right and this seasonal change authorization must be complied with. Failure to abide by these conditions and provisions may result in additional enforcement actions, possibly including civil or criminal penalties, and/or immediate cancellation of this seasonal water right change.
- **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.**
- **This seasonal change authorization shall be in effect through October 1, 2022**, unless canceled sooner; at which time the subject right will automatically revert back to the original attributes described in GWC 5028 (Record A).

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. 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 the Order:

- File your appeal and a copy of this Order 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 Order to 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.

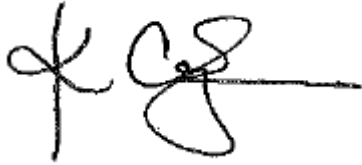
Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Ste 301 Tumwater, WA 98501	Pollution 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://www1.leg.wa.gov/CodeReviser>.

Ravinder P. & Jaspreet K. Sandhu
Gurjant & Rajinder Sandhu
CG1-GWC5028(A)@1
Page 6

If you have any questions or concerns regarding this authorization, please call Kelly Hamilton at (360) 255-4385 or email her at kelly.hamilton@ecy.wa.gov.

Signed at Shoreline, Washington, this 19th day of May, 2022.

A handwritten signature in black ink, appearing to read 'Kasey Cykler', with a horizontal line extending to the right from the end of the signature.

Kasey Cykler
Section Manager
Water Resources Program

Enclosure: *Your Right to be Heard*

cc: Pandora Wilder, 6360 Northwest Drive, Ferndale, WA 98248

ecc: Lesa Starkenburg-Kroontje
Kara Kuhlman, Water Resources Manager, Lummi Natural Resources Department