



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

Sent via Email

May 18, 2022

Ed Blok
Blok Evergreen Dairy Inc.
7768 Beebe Road
Lynden WA 98264
ejblok@aol.com

RE: APPROVED Seasonal Change Authorization for Surface Water Certificate 6921,
Whatcom County, Water Resources Inventory Area 1

Dear Ed Blok:

The Department of Ecology (Ecology) received your application for a seasonal change of Surface Water Certificate (SWC) on May 3, 2022. The subject change application has been assigned control number **CS1-SWC6921@4**. Please refer to this number when corresponding with us about this authorization.

BACKGROUND INFORMATION

SWC 6921 authorizes the diversion of 0.40 cubic feet per second (cfs), 80 acre-feet per year (afy), from the Nooksack River for the irrigation of 40 acres. The certificate was issued to G. J. Polinder, with a priority date of August 22, 1956.

The authorized point of diversion is described as within Government Lot 4, Section 29, Township 40 North, Range 3 East, Willamette Meridian.

SWC 6921 describes the place of use as within Section 29, Township 40 North, Range 3 East, Willamette Meridian:

Lot 4 – west 24 of south 72 rods of SE¹/₄ NW¹/₄ or commencing 56 rods west of center of sec. 29, thence north 72 rods thence west 24 rods, thence south 782 rods, thence east 24 rods to beginning; also commencing 80 rods west of center of sec. 29, thence west 55 rods; thence north 307 feet, thence west to Nooksack River; thence northeasterly along said river to 80 rods line; thence south to beginning, containing in all 49.68 acres less River Wash Road, sec. 29, T. 40 N., R. 3 E. W.M.

The authorized place of use for SWC 6921 is within parcel 4003291113330000. Metsker Maps indicate that G. J. Polinder owned the place of use in 1960. G. J. Polinder sold the property to J. Dykstra by 1971. By 1983, J. Dykstra had sold the property to Peter Dykstra. In 2018, the property was transferred to Johanna Dykstra. Johanna Dykstra currently owns the property.

Based on aerial photography from 1998-2015, this parcel appears to be part of an actively irrigated farm. You have previously submitted substantially similar seasonal change applications for the 2016, 2018, and 2021 irrigation seasons.

It appears that as many as 40 acres may have been irrigated. The place of use will not change during this season.

Under the subject application, you are requesting to add a diversion point to SWC 6921. The requested changes are as follows:

- To **add** a point of diversion to a location on the Nooksack River, within the South ½ of the Southwest ¼ of Section 30, Township 40N, Range 3E, in parcel 400330194044. You wish to maintain the right to continue to use water from the original point of diversion located on Government Lot 4 Section 29, Township 40N, Range 3E, within parcel 403329111333
- To irrigate 40 acres
- The place of use will remain the same.

On January 14, 2015, Jim Bucknell, Andy Dunn of RH2 Engineering, and Kasey Cykler of Ecology conducted a site visit on your farm, and met with you for a new surface water application you filed, S1-28775. The point of diversion identified in that application and during the investigation is the same as the diversion you are requesting to use in this subject application. The details of the point of diversion and the irrigation system are taken from the Report of Examination (ROE):

“There is one pumping plant located on the bank of the Nooksack River. The pumping plant is electrically powered and consists of two pumps in series. The first centrifugal pump (50 HP Berkeley B4GPH) draws water from the river through an 8-inch diameter intake pipe. The water then passes through the second pump (60 HP Berkeley B3ZPBHS) before entering the buried mainline system, which consists of 8- and 6-inch diameter pipe, for distribution across the farm. Occasionally, Mr. Blok anticipates having to install a booster pump on the fields farther from the point of diversion to maintain the appropriate system pressure.”

You indicated during the site visit that the crops to be irrigated are grass and corn to be used as feed for your dairy operation.

The requested point of diversion is roughly a mile downstream of the legal description of the certificated point of diversion, so there will be no impairment of existing water uses. The subject certificate pre-dates WAC 173-501, so minimum instream flows will not be impaired.

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

DEPARTMENT OF ECOLOGY DECISION – INCLUDING TERMS & CONDITIONS

Your request for a seasonal change in point of diversion for the 2022 irrigation season is hereby **APPROVED** under the terms and conditions listed below.

- This seasonal change does not authorize an enlargement of water use or total irrigated acres as described in SWC 6921.
- **The certificated instantaneous rate (0.4 cfs, or 179.5 gpm) cannot be exceeded at any time.**
- **The total volume diverted shall not exceed 80 acre-feet.**
- 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, 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.
- Water use shall be recorded weekly. Recorded water use data shall be submitted via the Internet by January 31, 2023. To set up an Internet reporting account, contact the Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Regional Office for forms to submit your water use data.
- **This seasonal change 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 enlargement of the rate of water use or the number of irrigated acres, this authorization should have no greater impact on tribal rights than the original authorization.**
- If it can be shown that water use authorized by this seasonal change is causing impairment of existing rights or is being used illegally, then this authorization will be immediately canceled.
- This seasonal change 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 you and the owner of the land.
- Violation of any of the terms and conditions of this seasonal change will result in this authorization being immediately canceled, issuance of administrative orders to cease and desist, and may also subject the violator to civil penalties.
- Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, point of diversion, measuring device, and associated distribution systems for compliance with water law.
- The diversion intakes shall be screened in accordance with Washington Department of Fish and Wildlife screening criteria. See: <http://wdfw.wa.gov/about/contact/>
- **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 shall be in effect through October 1, 2022** (unless canceled sooner); at which time the subject right will revert back to the original attributes described in SWC 6921.
- All conditions and provisions of the original right will be complied with.

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

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>.

Signed at Shoreline, Washington, this 18th day of May, 2022.



Kasey Cykler
Section Manager
Water Resources Program

Enclosure: Your Right to be Heard

cc: Johanna Dykstra, 514 Polinder Rd, Lynden, WA 98264

ecc: Andrea Lauden, Department of Ecology