



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

Sent via Email

June 22, 2022

Rod Tjoelker
2225 West Badger Road
Custer, WA 98240
rstjoelker81@hotmail.com

RE: APPROVED Seasonal Change Authorization for Ground Water Certificate G1-
*08594CWRIS, Whatcom County, Water Resources Inventory Area 1

Dear Rod Tjoelker:

The Department of Ecology (Ecology) received your application for a seasonal change of Ground Water Certificate G1-*08594CWRIS on May 19, 2022. The application has been assigned control number CG1-GWC6441. Please refer to this number when corresponding with us about this seasonal change request.

BACKGROUND INFORMATION

G1-*08594CWRIS originally issued to Thor Stakkestad with a priority date of March 10, 1967. It authorized the withdrawal of up to 130 gallons per minute (gpm), 50 acre-feet per year (afy), from an infiltration trench, for the irrigation of 25 acres from June 1 through September 30. The original authorized point of withdrawal is within the S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 40 North, Range 2 East. The original authorized place of use (POU) is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 40 North, Range 2 East.

The subject seasonal change application requests a change in the place of use located within NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 40 North, Range 2 East including portions of Whatcom County Parcels 400218174274 and 400218290474. See Attachment 1. The point of withdrawal is not proposed to change and will remain within the S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 40 North, Range 2 East.

Public notice of the proposed change was made in the Lynden Tribune on May 25 and June 1, 2022. The Lummi Nation protested the change, citing concerns over current and future potential impacts on instream flows and/or groundwater availability. 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. A provision has been added to this authorization that specifically identifies this right is subject to senior, tribal water rights.

Historical aerial photographs appear to show the existing POU has been consistently been in agriculture (pasture) since at least 1943. According to the applicant's consultant AESI, Mr.

Tjoelker and his family have owned and farmed the existing POU since 1996. During that time, the Tjoelker family irrigated the POU to grow pasture grass and corn to support their dairy operations.

Based upon Ecology's review of the above information, and calculations using USDA's Washington Irrigation Guide 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.

DEPARTMENT OF ECOLOGY DECISION - INCLUDING TERMS & CONDITIONS

The request for a seasonal change in place of use under application CG1-GWC6441 is hereby **APPROVED** under the terms and conditions listed below:

- The authorized instantaneous rate and annual volume of G1-*08594CWRIS shall not be exceeded at any time. **Pumping from the authorized point of withdrawal shall not exceed 130 gallons per minute and 50 acre-feet per year.** All pumping shall be monitored 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 25 acres.** All irrigated lands shall be monitored to ensure compliance with this condition. Failure to do so will result in cancellation of this authorization.
- Irrigation of any lands at the original place of use under G1-*08594CWRIS 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 point of withdrawal in accordance with the rule "Requirements for Measuring and Reporting Water Use", chapter 173-173 WAC, 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 during the irrigation season. Recorded water use data shall be submitted via the Internet by January 31, 2023.** To set up an internet reporting account, please contact Andrea Lauden (425) 495-5964 or at andrea.lauden@ecy.wa.gov. If you do not have Internet access, you can still submit hard copies. Contact the Shoreline Regional Office for forms to submit your water use data.
- 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 (PERMANENT) CHANGE AUTHORIZATION UNDER RCW 90.44.100 WILL ISSUE FOR THE FUTURE USE OF THE WATER HEREIN AUTHORIZED.**
- **This seasonal change authorization shall be in effect through September 30, 2022,** unless canceled sooner; at which time the subject right will automatically revert back to the original attributes described in G1-*08594CWRIS .

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.

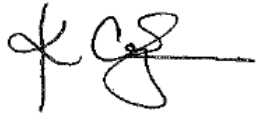
Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Ste 301 Tumwater, WA 98501	Pollution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

Rod Tjoelker
Seasonal Change Authorization
CG1-GWC6441
Page 4

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

Signed at Shoreline, Washington, on this 22nd day of June, 2022.



Kasey Cykler
Section Manager
Water Resources Program

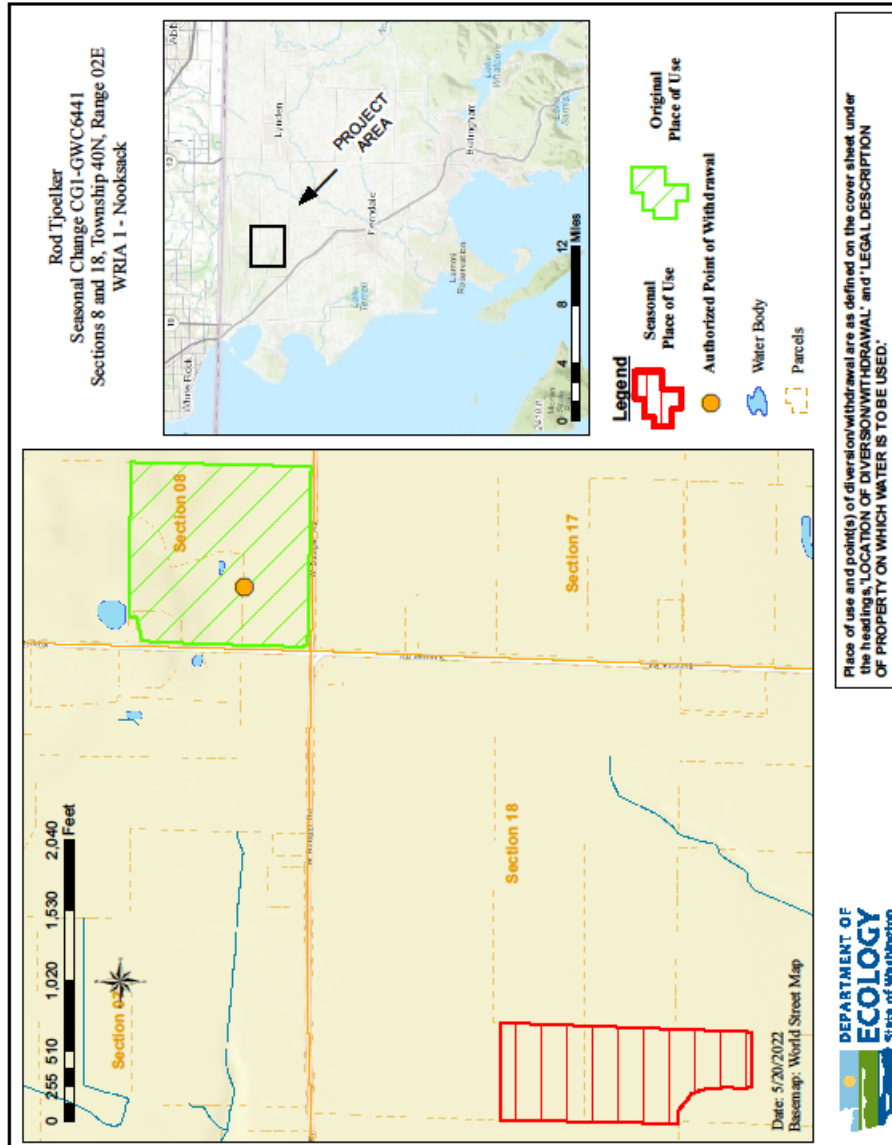
Enclosure: *Your Right to be Heard*
Attachment 1

cc: John M. and Anne M. Bowen, PO Box 595, Custer, WA 98240

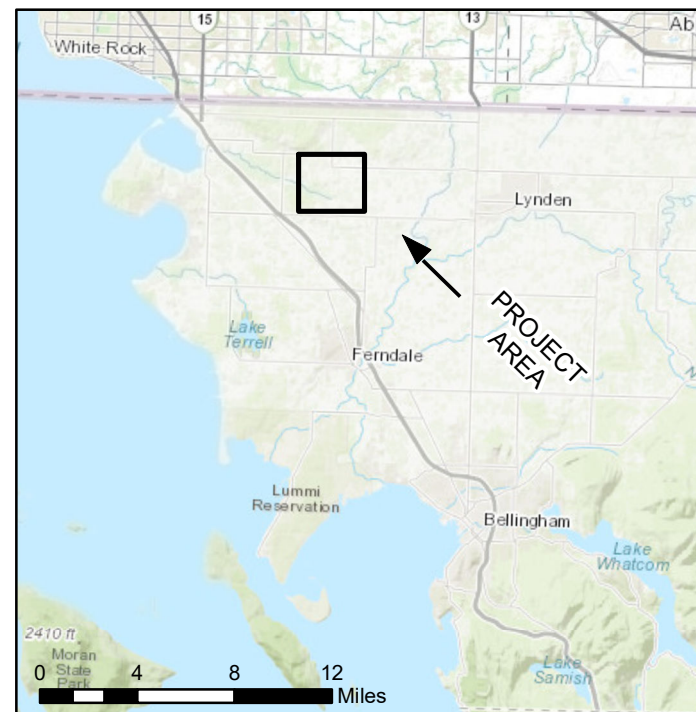
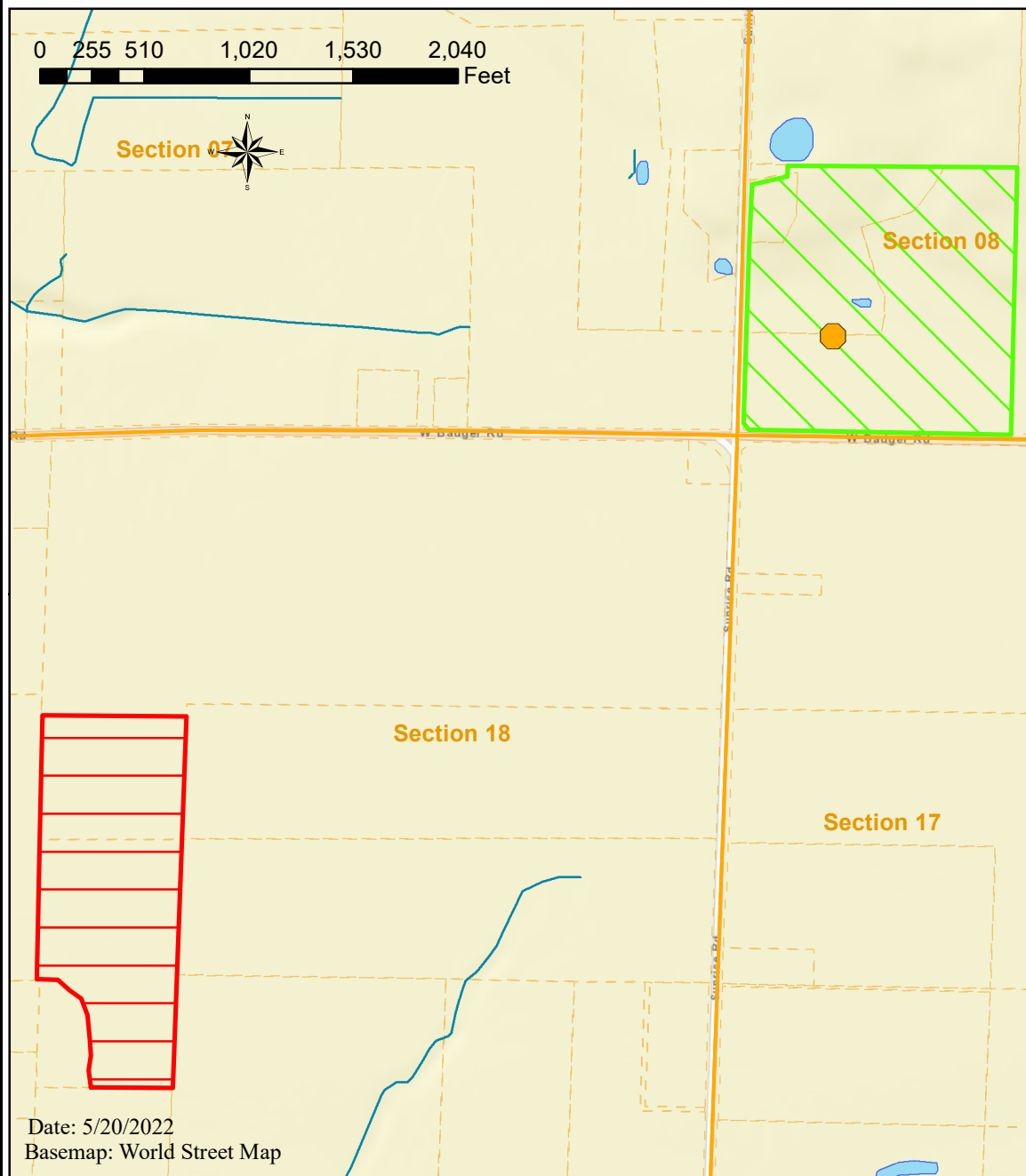
ecc: Kelly Hamilton, Water Master, Bellingham Field Office
 Jay Chennault, AESI
 Kara Kuhlman, Water Resources Manager, Lummi Natural Resources Department

Attachment 1

ATTACHMENT 1



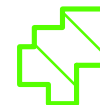
Rod Tjoelker
 Seasonal Change CG1-GWC6441
 Sections 8 and 18, Township 40N, Range 02E
 WRIA 1 - Nooksack



Legend



Seasonal
Place of Use



Original
Place of Use



Authorized Point of Withdrawal



Water Body



Parcels