



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

Click or tap to enter a date.

Zirkle Fruit Company
Attn: Phil Hull
PO Box 190
Selah, WA 98942

Email: philh@zirklefruit.com

Re: **AMENDED** Emergency Drought Authorization No. G4-33226-23

Dear Zirkle Fruit Company:

In accordance with the provisions of RCW 43.83B.405, on July 24, 2023, the Director of the Department of Ecology (Ecology) ordered and determined that the Yakima River Basin is under drought conditions. Pursuant to WAC 173-166-070, Ecology is issuing this EMERGENCY DROUGHT AUTHORIZATION. The intent of this authorization is to alleviate hardships and reduce the burdens on water users arising from the drought conditions by getting them to 75% of a normal year's water supply.

In a normal year, the Kittitas Reclamation District (KRD) delivers 4.96 acre-feet of water per acre. 75% of 4.96 acre-feet is 3.57 acre-feet. At the United States Bureau of Reclamation's (USBR) adopted July forecast prorationing level of 72%, KRD is expected to deliver approximately 3.72 acre-feet of water. This authorization will allow an additional 0.1488 acre-feet of water per acre for irrigation.

The original authorization, issued on August 15, 2023, allowed for the irrigation 999 acres using 148.7 acre-feet of water. An amended authorization, issued on September 6, 2023, included the requirement that the proposed well drilling should be completed by October 31, 2023. This new amended authorization is being made to recognize the additional 50 acre-feet of water leased through Kittitas County to the applicant.

THIS AUTHORIZATION SHALL IN NO MANNER BE CONSTRUED TO GUARANTEE OR IMPLY THAT A FINAL (REGULAR) PERMIT WILL ISSUE FOR THE FUTURE USE OF WATER HEREIN AUTHORIZED.

The terms of your authorization are as follows:

Total Quantity in gpm:		431.2 (combined maximum withdrawal rate for all five authorized wells)	
Total Quantity in acre-feet:		198.7 (148.7 from Ecology Cost Share Program, 50 from Kittitas County Lease)	
Total Acres		999	
Place of Use:		999 acres within Kittitas County: Sections 1, 3, 4, and 12, Township 16 N., Range 19 E.W.M. Sections 33, 34, and 35, Township 17 N., Range 19 E.W.M.	
Ranch Name:	Well Tag I.D.	Location of Well:	Place of use Parcels:
Badger Pocket	BLR 173 (previously BUI 817)	The NE ¼ NW ¼ of Section 12, Township 16 N., Range 19 E.W.M.	533036, 573036, 523036, 714433, 513036, 10182, 704433
Denmark	BLR 174 (previously BUI 818)	The SW ¼ SW ¼ of Section 35, Township 17 N., Range 19 E.W.M.	240433, 949877, 949879, 954362, 954363, 954360, 954361
West Wildcat	BLG 409	The SW ¼ SE ¼ of Section 33, Township 17 N., Range 19 E.W.M.	390433, 054433, 14801
East Wildcat	BLG 410	The NE ¼ NE ¼ of Section 4, Township 16 N., Range 19 E.W.M.	880433, 084433, 870433, 244433, 850433, 184433
Blackhawk (proposed)	N/A	The SE ¼ NE ¼ of Section 3, township 16 N., Range 19 E.W.M.	135636, 951516, 174433

This Temporary Emergency Drought Authorization expires October 31, 2023; Therefore, well drilling must be completed and water put to beneficial use by October 31, 2023.

Provisions:

1. Use of water under this authorization must be mitigated. Prior to using water, the applicant must obtain temporary interest in 148.7 ac-ft of consumptive mitigation held in trust. The Selah Moxee Irrigation District (SMID) Water Bank is partnering with Ecology to provide mitigation through cost share. The mitigation is \$300 per ac-ft, of which the applicant pays 75%. **The cost share fee for 148.7 ac-ft equals \$33,457.50.** The applicant must send payment to the address below, or provide proof of mitigation from another source:

Selah-Moxee Irrigation District
PO Box 166
Moxee, WA 98936

2. The applicant has obtained temporary interest in 50 ac-ft of consumptive mitigation held in trust through Kittitas County. This water authorization will expire on October 31, 2023, or when the temporary interest expires, whichever comes first.
3. All wells constructed in the state shall meet the "Minimum Standards for the Construction and Maintenance of Wells" (WAC 173-160) and "Water Well Construction" (RCW 18.104). In general, wells shall be located at least 100 feet from sources of contamination and at least 1,000 feet of the boundary of a solid waste landfill. Any well which is unusable, abandoned, or is an environmental, safety, or public health hazard shall be decommissioned.
4. An approved measuring device must be installed and maintained for each of the sources identified by this authorization 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. Existing wells may rely on manual read meters. New wells must install telemetered meters (see provision below).
5. An Initial reading, final reading, and weekly readings of the flow meter shall be recorded and maintained by the applicant. These readings shall be documented by time, date, withdrawal rate, and cumulative amount withdrawn. Copies of these records shall be submitted to Ecology by November 15, 2023. Recorded water use data may also be submitted via the Internet. To set up an Internet reporting account, contact the Central Region Office at (509) 575-2597.
6. A site visit shall be scheduled with Department of Ecology personnel to ensure each measuring device is installed properly and in good working order within two (2) weeks from the date of this authorization for the point of withdrawal.
7. 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, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

8. All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.
9. Water may be used under this authorization only in relation to previously established activity as defined by Chapter 173.166 WAC. This authorization only authorizes a supplemental water supply to the applicant's normal source of water. The total amount withdrawn under this authorization cannot exceed 198.7 acre-feet.
10. This authorization may be terminated, in whole or in part, whenever withdrawals conflict with the flows protected by RCW 43.83B.410(1)(a)(iii), or whenever the provisions of this authorization are violated.
11. The proposed Blackhawk well must comply with the following construction requirements and restrictions:
 - a. Unperforated casing shall be set or placed (not driven) twenty (20) feet into the Wanapum Formation (i.e., the first competent basalt encountered).
 - b. The well annulus shall be sealed with neat cement or neat cement grout. The sealing material shall be placed in the annulus by pumping to seal the entire annulus from the bottom of the casing to the land surface.
 - c. The well annulus shall be at least four (4) inches greater in diameter than the permanent casing.
 - d. The well depth shall terminate at or above a depth corresponding to the top of the Grande Ronde Formation. It is expected that the Wanapum Formation in this area is approximately 200-300 feet thick; therefore, the depth drilled after basalt is first encountered should be less than 300 feet. If the basalt unit is unknown or unidentifiable during drilling, XRF sampling and analysis is required to identify the basalt formation and completion zone of the well.
 - e. Installation of an airline or minimum 1-inch diameter sounding tube and an access port for water level measurement is required.
 - f. When flowing artesian conditions are known or suspected, the operator shall have a written sealing plan prepared prior to initiation of construction. Flowing wells shall be so constructed and equipped with valves to ensure that the flow of water can be completely stopped when not being used. Likewise, the well shall be so maintained as to prevent the waste of water through leaky casings, pipes, fittings, valves, or pumps - either above or below land surface.
12. To ensure compliance with this authorization and the mitigation agreement, water use from the proposed Blackhawk well must be recorded by an automated system and reported to Ecology via cellular-based telemetry. Ecology shall have full access to this data via the Internet. Data shall, at a minimum, record peak instantaneous (Qi) and total (Qa) diversions on a daily basis, and at a minimum, transmit data daily. Refer to

Ecology's publication 19-11-083: "Telemetered Metering Options" for meter selection:
<https://apps.ecology.wa.gov/publications/documents/1911083.pdf>

- a. If the telemetry system is installed after Ecology's initial site visit is conducted, the water user shall arrange for Ecology staff to inspect the telemetered metering device.

Contact information

Please direct all questions about this letter to:

Anthony DeJesus
Permit Writer
Water Resources Program
Central Region Office

Phone: (509) 406-4873

Email: Anthony.DeJesus@ecy.wa.gov

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. The appeal process is governed by RCW 43.21B and WAC 371-08. "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 notice of appeal and a copy of this decision with the PCHB (see filing information below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this decision on the Department of Ecology by mail, in person, or by email (see addresses below).

You must also comply with other applicable requirements in RCW 43.21B and WAC 371-08.

Filing an appeal

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://eluh0.wa.gov/> or call: 360-664-9160.

Service on Ecology



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

E-Mail Address:

ecologyappeals@ecy.wa.gov

More information

- **Pollution Control Hearings Board Website**
<https://eluh0.wa.gov/>
- **Chapter 43.21B RCW – Environmental Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Ecology's Laws, Rules & Rulemaking**
<https://www.ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking#ws>

Americans with Disabilities Act information

Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Signature

Sincerely,

Zirkle Fruit Company

[Date]

Page 7 of 7

Heather Simmons
Section Manager
Water Resources Program
Central Region Office

HS:AD:

CC: Philip Rigdon, Yakama Nation