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Pacific Region  
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September 20, 2012

DFO File: 11-00788

Mike Squire  
Program Manager  
Englishman River Water Service  
1116 Herring Gull Way  
Parksville, BC  
V9P 1R2

Dear Mr. Squire:

**Subject: Proposed Relocation of the Englishman River Water Intake**

Please refer to your June 12, 2012 letter to Fisheries and Oceans Canada (DFO) regarding the Englishman River Water Service's (ERWS) proposed amendment to Conditional Water License #110050. The proposed amendment would change the location of the Englishman River water intake to a new position approximately 2.3 km upstream of its current location.

Your June 12, 2012 letter outlines valid points and recommendations which we've had opportunity to discuss in greater detail during the June 27<sup>th</sup> and July 10<sup>th</sup> meetings. However, one issue in particular which we have yet to resolve is the request by DFO for the ERWS to undertake instream flow studies as outlined in our September 7, 2011 letter. DFO's position regarding this request is that moving of the intake signifies a new project with the potential of impacting on fish and fish habitat. The ERWS's position is that the existing intake location downstream of the Water Survey Canada Hydrometric gauge was only intended as an interim measure until such time as a permanent location was constructed somewhere downstream of the confluence between the Englishman and South Englishman rivers.

As requested, DFO undertook a review of our position to request additional instream flow studies to ensure that it was consistent with previous advice provided to ERWS by DFO and if the request was consistent with the regulatory operating policies which guide Habitat Management. In reviewing our position, DFO consulted with the Department of Justice (DOJ) and interviewed Mr. Richard Eliassen and Mr. Bob Hurst. Messrs Eliassen and Hurst (both now retired from DFO) were the DFO staff engaged in the review of the original conditional water license issued to the Regional District of Nanaimo, City of Parksville and Town of Qualicum Beach on March 4<sup>th</sup>, 1997 to divert flows away from the Englishman River.

In discussions with both Mr. Eliassen and Mr. Hurst, both gentlemen confirmed that from a DFO point of view, it was their understanding that the recommendations they provided to BC Water Management was based on the intake being permanently located downstream of the Water Survey Canada hydrometric gauge (the existing location). The

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applicant (RDN, Parksville, and Qualicum) may have indicated in their application that it was their intent to move this intake location at some other time. However, from a DFO point of view, the advice they provided was for the current location, and not another location to be determined at a later time. As indicated by both gentlemen, the advice provided for placement of the intake in the lower river was to minimize the risk to fish and fish habitat. Moving the intake further upstream would have resulted in a high risk to migrating and rearing salmon species downstream of the intake.

Based on the information collected in the interviews and a review of the conditional water license, it remains DFO's position that the proposed intake location represents a new project application. As a new application, potential impacts to fish and fish habitat must be identified in order to ensure that the project complies with the habitat provisions of the Fisheries Act. Should the new intake location result in impacts to fish and fish habitat, these impacts will then require to be mitigated and/or compensated.

In order to ensure compliance with the Fisheries Act, DFO outlined the necessary instream flow studies required to be undertaken in the September 7, 2012 letter. These studies would now have a dual purpose in determining potential impacts associated with moving of the intake upstream, and supporting a change to the Provisional Operation Rule as proposed in your letter.

In 2010, DFO received a proposal by Ecofish Research to undertake an instream flow study of the middle and lower Englishman River (copy previously provided to ERWS). The proposal may include works which the ERWS may not require to undertake, however, it could serve as a good starting point in determining what studies are required. As a next step, DFO is willing to meet with the ERWS to review the existing proposal and adapt the terms of reference to better reflect the studies required by ERWS to ensure that it would satisfy DFO's regulatory requirements.

DFO remains committed in continuing to work cooperatively and effectively with the Englishman River Water Service. Should you have any questions regarding the contents of this letter, or to arrange for a meeting, please feel free to call me at 250-754-0357.

Sincerely yours,



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Resource Restoration Biologist

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