



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

DAVID AND KATHRYN ROGERS
26366 GAP RD
BROWNSVILLE, OR 97327-9720

April 9, 2010

Reference: File G-17289

Dear Applicants:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the use of 1.34 cubic feet per second (CFS) of water from Well 400-1 (LINN 57626) and Well 600-1 (LINN 57386) in Courtney Creek Basin for irrigation use on 63.3 acres and pond maintenance of 24 reservoirs, March 1 through October 31. In addition, the application proposed storage of 174.3 acre-feet (AF) for year-round multiple purpose use of 24 reservoirs.

Storage of 174.3 AF is further limited by reservoir as follows:

Reservoir	Maximum Dam Height (feet)	Maximum Water Depth (feet)	Surface Area (acres)	Storage (acre-feet)
400-1	5.0	3.0	2.9	7.3
400-2	5.0	3.0	4.1	9.0
400-3	5.0	3.0	1.7	5.1
400-4	5.0	3.0	3.0	7.5
400-5	5.0	3.0	2.0	6.0
400-6	5.0	3.0	3.7	8.9

Reservoir	Maximum Dam Height (feet)	Maximum Water Depth (feet)	Surface Area (acres)	Storage (acre-feet)
400-7	5.0	3.0	2.7	6.8
400-8	5.0	3.0	8.6	17.2
400-9	5.0	3.0	9.2	18.4
400-10	5.0	3.0	3.5	8.8
600-1	5.0	3.0	3.1	7.8
600-2	5.0	3.0	1.7	4.3
600-3	5.0	3.0	2.4	6.0
600-4	5.0	3.0	3.2	8.0
600-5	5.0	3.0	2.7	6.8
600-6	5.0	3.0	1.8	4.5
600-7	5.0	3.0	3.9	9.0
600-8	5.0	3.0	2.8	7.0
600-9	5.0	3.0	0.9	2.3
600-10	5.0	3.0	1.3	3.3
600-11	5.0	3.0	1.7	4.3
600-12	5.0	3.0	3.7	8.9
600-13	5.0	3.0	1.3	3.3
600-14	5.0	3.0	1.5	3.8

2. The proposed uses are not prohibited by law or rule except where otherwise noted below.
3. The use of water from Well 400-1 and Well 600-1 in Courtney Creek Basin for irrigation, pond maintenance, and storage is allowable under the Willamette Basin Program.
4. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will have the potential for substantial interference with Courtney Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available August 1 through September 30. Therefore, unless additional information can be provided to demonstrate otherwise, the use of water for

irrigation use March 1 through October 31 is not allowable because it is unlikely water can be put to beneficial use for irrigation without the use of water August 1 through September 30. The use of water for pond maintenance and storage is limited to October 1 through July 31.

5. The proposed appropriation has the potential for substantial interference with a surface water source that falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
6. The standard allowable rate of water necessary for pond maintenance is 0.01 CFS for each acre foot of stored water. If the application is approved, the rate allowed for pond maintenance shall not exceed 1.34 CFS and is further limited by reservoir as follows:

Reservoir	Storage AF	Pond Maintenance CFS
400-1	7.3	0.07
400-2	9.0	0.09
400-3	5.1	0.05
400-4	7.5	0.08
400-5	6.0	0.06
400-6	8.9	0.09
400-7	6.8	0.07
400-8	17.2	0.17
400-9	18.4	0.18
400-10	8.8	0.09
600-1	7.8	0.08
600-2	4.3	0.04
600-3	6.0	0.06
600-4	8.0	0.08
600-5	6.8	0.07
600-6	4.5	0.05
600-7	9.0	0.09
600-8	7.0	0.07
600-9	2.3	0.02
600-10	3.3	0.03

Reservoir	Storage AF	Pond Maintenance CFS
600-11	4.3	0.04
600-12	8.9	0.09
600-13	3.3	0.03

7. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Initial Determinations

The use of 1.34 CFS of water from 400-1 (LINN 57626) and Well 600-1 (LINN 57386) in Courtney Creek Basin for pond maintenance and storage of 174.3 AF for multiple purpose use of 24 reservoirs is allowable October 1 through July 31. However, the use of 1.34 CFS for irrigation use on 63.3 acres March 1 through October 31 is not allowable.

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated. However, due to #4 above, your application will likely be limited accordingly.

Additional Information Required:

Additional exam fees are required prior to issuance of any Proposed Final Order that may recommend approval. The total exam fee is \$5205.00, and the Department has received a total of \$2250.00; please provide the additional examination fee of \$2955.00. Please note: recording fees in the amount of \$400.00 will be required prior to permit issuance, may be paid in advance, and are fully refundable if no permit is issued.

Fees to Appropriate Ground Water:

Item	Fee
Base	\$1000.00
First CFS or fraction thereof	\$250.00
Each additional CFS or fraction thereof	\$250.00
Each additional use, point of diversion, or well	\$250.00
Each acre-foot (AF) or fraction thereof up to 20 AF	\$25.00
Each AF or fraction thereof after the first 20	\$1.00
Each additional storage location after the first	\$100.00

Please submit required fees no later than May 9, 2010. If you are unable to submit the fees by that date, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the fees or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

At this time, you must decide whether to proceed or to withdraw your application as described below.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, April 23, 2010**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
 - C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.
3. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water level measurements reveal an average water level decline of three or more feet per year for five consecutive years; or
- B. Annual water level measurements reveal a water level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water level measurements reveal a water level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use

under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0808 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Brook Geffen, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Brook Geffen
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17289 * WAB 2-76 * POU 2- 76 * GW

APPLICATION FACT SHEET

Application File Number: G-17289

Applicant: DAVID AND KATHRYN ROGERS

County: LINN

Watermaster: 2

Priority Date: NOVEMBER 23, 2009

Source: WELL 400-1 (LINN 57626) AND WELL 600-1 (LINN 57386) IN COURTNEY CREEK BASIN

Use: IRRIGATION USE ON 63.3 ACRES, POND MAINTENANCE, AND STORAGE OF 174.3 ACRE-FEET (AF)

Quantity: 1.34 CUBIC FEET PER SECOND (CFS) AND 174.3 AF

Rate and Volume: NOT TO EXCEED 1.34 CFS OR 174.3 AF, FURTHER LIMITED AS FOLLOWS:

Reservoir	Storage AF	Pond Maintenance CFS
400-1	7.3	0.07
400-2	9.0	0.09
400-3	5.1	0.05
400-4	7.5	0.08
400-5	6.0	0.06
400-6	8.9	0.09
400-7	6.8	0.07
400-8	17.2	0.17
400-9	18.4	0.18
400-10	8.8	0.09
600-1	7.8	0.08
600-2	4.3	0.04
600-3	6.0	0.06
600-4	8.0	0.08
600-5	6.8	0.07

Reservoir	Storage AF	Pond Maintenance CFS
600-6	4.5	0.05
600-7	9.0	0.09
600-8	7.0	0.07
600-9	2.3	0.02
600-10	3.3	0.03
600-11	4.3	0.04
600-12	8.9	0.09
600-13	3.3	0.03
600-14	3.8	0.04

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 5 CALAPOOYA R MISC

Well Locations:

WELL 400-1: NWNW, SECTION 7, T14S, R2W, W.M.; 2860 FEET NORTH AND 1160 FEET WEST FROM NW CORNER, DLC 61

WELL 600-1: NWSE, SECTION 7, T14S, R2W, W.M.; 1090 FEET NORTH AND 530 FEET EAST FROM NW CORNER, DLC 61

Reservoir Locations:

400-1: NENW, SECTION 7, T14S, R2W, W.M.; 2800 FEET NORTH AND 600 FEET WEST FROM NW CORNER, DLC 61

400-2: SENW, SECTION 7, T14S, R2W, W.M.; 2600 FEET NORTH AND 100 FEET WEST FROM NW CORNER, DLC 61

400-3: SENW, SECTION 7, T14S, R2W, W.M.; 2350 FEET NORTH AND 630 FEET WEST FROM NW CORNER, DLC 61

400-4: SENW, SECTION 7, T14S, R2W, W.M.; 2300 FEET NORTH AND 1000 FEET WEST FROM NW CORNER, DLC 61

400-5: SWNE, SECTION 7, T14S, R2W, W.M.; 2100 FEET NORTH AND 600 FEET EAST FROM NW CORNER, DLC 61

400-6: SWNE, SECTION 7, T14S, R2W, W.M.; 2050 FEET NORTH AND 750 FEET EAST FROM NW CORNER, DLC 61

400-7: SWNE, SECTION 7, T14S, R2W, W.M.; 2050 FEET NORTH AND 950 FEET EAST FROM NW CORNER, DLC 61

400-8: SWNE, SECTION 7, T14S, R2W, W.M.; 1400 FEET NORTH AND 400 FEET EAST FROM NW CORNER, DLC 61

400-9: SWNE, SECTION 7, T14S, R2W, W.M.; 1400 FEET NORTH AND 1050 FEET EAST FROM NW CORNER, DLC 61

400-10: SWNE, SECTION 7, T14S, R2W, W.M.; 1900 FEET NORTH AND 1500 FEET EAST FROM NW CORNER, DLC 61

600-1: NWSW, SECTION 7, T14S, R2W, W.M.; 400 FEET NORTH AND 1600 FEET WEST FROM NW CORNER, DLC 61

600-2: NWSW, SECTION 7, T14S, R2W, W.M.; 300 FEET NORTH AND 1400 FEET WEST FROM NW CORNER, DLC 61

600-3: NWSW, SECTION 7, T14S, R2W, W.M.; 550 FEET NORTH AND 1550 FEET WEST FROM NW CORNER, DLC 61

Reservoir Locations (cont.):

600-4: NWSW, SECTION 7, T14S, R2W, W.M.; 750 FEET NORTH AND 1550 FEET WEST FROM NW CORNER, DLC 61

600-5: NWSW, SECTION 7, T14S, R2W, W.M.; 600 FEET NORTH AND 1140 FEET WEST FROM NW CORNER, DLC 61

600-6: NWSW, SECTION 7, T14S, R2W, W.M.; 330 FEET NORTH AND 1260 FEET WEST FROM NW CORNER, DLC 61

600-7: NESW, SECTION 7, T14S, R2W, W.M.; 500 FEET NORTH AND 600 FEET WEST FROM NW CORNER, DLC 61

600-8: NESW, SECTION 7, T14S, R2W, W.M.; 700 FEET NORTH AND 650 FEET WEST FROM NW CORNER, DLC 61

600-9: NESW, SECTION 7, T14S, R2W, W.M.; 750 FEET NORTH AND 850 FEET WEST FROM NW CORNER, DLC 61

600-10: NESW, SECTION 7, T14S, R2W, W.M.; 900 FEET NORTH AND 600 FEET WEST FROM NW CORNER, DLC 61

600-11: NESW, SECTION 7, T14S, R2W, W.M.; 900 FEET NORTH AND 400 FEET WEST FROM NW CORNER, DLC 61

600-12: NESW, SECTION 7, T14S, R2W, W.M.; 850 FEET NORTH AND 200 FEET WEST FROM NW CORNER, DLC 61

600-13: NESW, SECTION 7, T14S, R2W, W.M.; 950 FEET NORTH AND 200 FEET EAST FROM NW CORNER, DLC 61

600-14: NESW, SECTION 7, T14S, R2W, W.M.; 600 FEET NORTH AND 200 FEET EAST FROM NW CORNER, DLC 61

Place of Use:

IRRIGATION USE

NE $\frac{1}{4}$	NE $\frac{1}{4}$	1.0	ACRE
NW $\frac{1}{4}$	NE $\frac{1}{4}$	9.0	ACRES
SW $\frac{1}{4}$	NE $\frac{1}{4}$	16.1	ACRES
SE $\frac{1}{4}$	NE $\frac{1}{4}$	1.4	ACRES
NE $\frac{1}{4}$	NW $\frac{1}{4}$	6.0	ACRES
NW $\frac{1}{4}$	NW $\frac{1}{4}$	2.9	ACRES
SW $\frac{1}{4}$	NW $\frac{1}{4}$	2.0	ACRES
SE $\frac{1}{4}$	NW $\frac{1}{4}$	12.9	ACRES
NE $\frac{1}{4}$	SW $\frac{1}{4}$	7.2	ACRES
NW $\frac{1}{4}$	SW $\frac{1}{4}$	4.5	ACRES
NW $\frac{1}{4}$	SE $\frac{1}{4}$	0.3	ACRE

STORAGE AND POND MAINTENANCE

SW $\frac{1}{4}$ NE $\frac{1}{4}$
SE $\frac{1}{4}$ NE $\frac{1}{4}$

Place of Use (cont.):

NE $\frac{1}{4}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$ NW $\frac{1}{4}$

STORAGE AND POND MAINTENANCE

SW $\frac{1}{4}$ NW $\frac{1}{4}$
SE $\frac{1}{4}$ NW $\frac{1}{4}$
NE $\frac{1}{4}$ SW $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$
NW $\frac{1}{4}$ SE $\frac{1}{4}$

SECTION 7
TOWNSHIP 14 SOUTH, RANGE 2 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 23, 2010

PUBLIC NOTICE DATE: Tuesday, April 13, 2010

30 DAY COMMENT DEADLINE DATE: Thursday, May 13, 2010

Mailing List for IR Copies

Application #G-17289

IR Date : April 9, 2010

Original mailed to applicant:

DAVID AND KATHRYN ROGERS , 26366 GAP RD, BROWNSVILLE, OR 97327-9720

Copies sent to:

1. WRD - File # G-17289
2. WRD - Water Availability: Ken Stahr

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent VIA EMAIL to:

3. WRD - Watermaster # 2
4. ODFW:
5. DEQ:

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):
NW Farm Credit Services, PO Box 72300, Eugene, OR 97401

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

6. Department of Agriculture
7. Parks
8. Don Knauer

COPYSHT.IR

Caseworker: Brook Geffen

REMINDER: Copy all IR's for uses in the Klamath Basin to DEQ and ODFW contacts, regardless of whether they are subject to Division 33. (If they are not subject to Division 33, do not include Division 33 forms.)