



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**

TELLY AND AMORITA WIRTH
WIRTH FARMS, INC.
31595 DRIVER RD
TANGENT, OR 97389

April 29, 2011

Reference: File G-17313

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 1.0 cubic foot per second (CFS) of water from Well 1 (proposed) and Well 2 (proposed), in Calapooia River Basin, for irrigation of 46.4 acres from March 1 through October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Well 1 (proposed) and Well 2 (proposed) in Calapooia River Basin for irrigation 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 Calapooia River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available during the period August 1 through September 30.

5. The application is subject to Section 4(d) of the Endangered Species Act.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

7. The application form described the irrigation of 46.36 acres, while the application map indicated 46.4 acres. The Department will consider the acres proposed for irrigation to be 46.4 acres, as represented on the map, unless you provide a revised map describing the 46.36 acres.
8. The standard allowable rate for irrigation use from ground water is 1/80 CFS per acre. The application requested 1.0 CFS for 46.4 acres. If the application is approved, the rate allowed will be limited to 0.58 CFS.
9. The ground water review noted that the two proposed wells are within 200 feet of each other, and that pumping from wells so close together could result in mutual interference.
10. Due to #4, it is unlikely that the Department will issue a permit. However, by amending the amount of water requested to 0.21 CFS, the Department would likely proceed with a favorable decision, though you may wish to consider reducing the acreage irrigated accordingly, or providing a plan for rotation of the acres to be irrigated each year.
11. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application, **if you decide to continue processing the application.**

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.58 CFS of water from Well 1 (proposed) and Well 2 (proposed) in Calapooia River Basin for irrigation of 46.4 acres is not allowable, and it appears unlikely that you will be issued a permit unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order.

However, it may be allowable to request a reduced rate of 0.21 CFS, if you can make beneficial use of the limited amount of water. If you are interested in pursuing a limited permit, you may amend the rate requested to 0.21 CFS, and consider reducing the acreage to be irrigated each year, or a rotation schedule, and the Department will likely proceed favorably. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Required:

Although it is unlikely that a permit will be issued as currently proposed, if the Department's findings change, additional information will be required prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following item:

1. The map submitted does not meet the requirements of OAR 690-310-0050(4)(a). Please provide a map that shows the correct location of the 2.5 acres of proposed irrigation that is currently labeled as being in the SENE quarter-quarter, which should be labeled as being in the SWNE quarter-quarter.

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.

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, May 13, 2011**. 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 diverted each month, and shall submit a report which includes the recorded report 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. The wells shall be constructed to allow ground water production only from the alluvial ground water reservoir.
4. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

5. The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

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. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of 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 restricted use shall continue until the water level rises above the decline level which triggered the action or 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 causing substantial interference with senior water rights. The water user shall not 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 503-986-0853 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: Michele McAleer, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Michele McAleer
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17313
WAB 2-(76/priority 14173500)
POU 2-(76/priority 14173500)
GW

APPLICATION FACT SHEET

Application File Number: G-17313

Applicant: TELLY AND AMORITA WIRTH, WIRTH FARMS, INC.

County: Linn

Watermaster: 2

Priority Date: FEBRUARY 22, 2010

Source: WELL 1 (PROPOSED) AND WELL 2 (PROPOSED) IN CALAPOOIA RIVER BASIN

Use: IRRIGATION OF 46.4 ACRES

Quantity: 1.0 CUBIC FOOT PER SECOND (CFS)

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 5 CALAPOOYA R

Well Location(s):

WELL 1 (PROPOSED): SENE, SECTION 6, T13S, R3W, W.M.; 1736 FEET SOUTH AND 1120 FEET WEST FROM NE CORNER, SECTION 6

WELL 2 (PROPOSED): SWNE, SECTION 6, T13S, R3W, W.M.; 1719 FEET SOUTH AND 1348 FEET WEST FROM NE CORNER, SECTION 6

Place of Use:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 24.5 ACRES

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 4.1 ACRES

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 2.5 ACRES

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 15.3 ACRES

SECTION 6

TOWNSHIP 13 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 13, 2011

PUBLIC NOTICE DATE: Tuesday, May 3, 2011

30 DAY COMMENT DEADLINE DATE: Thursday, June 2, 2011

Mailing List for IR Copies

Application #G-17313

IR Date: April 29, 2011

Original mailed to applicant:

TELLY AND AMORITA WIRTH, WIRTH FARMS, INC., 31595 DRIVER RD, TANGENT, OR 97389

Copies sent to:

1. WRD - File # G-17313
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent via e-mail to:

3. WRD - Watermaster # 2 (include Division 33 form)
4. ODFW: Karen Hans (include Division 33 form)
5. DEQ: Nancy Gramlich (include Division 33 form)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. Kim Kratz, Northwest Fisheries Science Center, NOAA Fisheries, 2725 Montlake Blvd E, Seattle, WA 98112
8. Paul Henson, USFWS State Supervisor, Oregon Fish & Wildlife Office, 2600 S.E. 98th Ave, Ste 100, Portland, OR 97266

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

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

9. John D. McGee, CWRE #58902, PO Box 1472, Philomath, OR 97370.

Caseworker: Michele McAleer

VCOPYSHT.IR

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
