



# 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

TOYO TANSO USA, INC.  
ATTN: ROBERT FOWLER  
2575 NW GRAHAM CIRCLE  
TROUTDALE, OR 97060

May 20, 2011

Reference: File G-17416

Dear Applicant:

### **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 150 gallons per minute of water, being 0.33 cubic foot per second (CFS), from Well 1 (proposed) in Arata Creek Basin (Columbia River Sub-basin), tributary to Columbia River, for year-round industrial/manufacturing use, and for irrigation of 2.35 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. 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 Arata Creek and Salmon Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is available in the amount and for the full period requested.

4. The Department has determined, based upon OAR 690-009, that Well 1(proposed) will produce ground water from **unconfined alluvium within a quarter mile of the banks of surface water and is presumed to be hydraulically connected to the surface water**. Such hydraulically connected ground water is classified the same as the surface source under OAR 690-502-0240. The use of water from the applicant's Well 1 in Arata Creek Basin for industrial/manufacturing and irrigation use **is not allowed** under OAR 690-502-0150(4), the Willamette Basin Program.
5. The application is subject to Section 4(d) of the Endangered Species Act.

6. The Land Use form submitted with the application indicates that Well 1 (proposed) is less than 1,000 feet from the Reynolds Metals Superfund site (*EPA ID# ORD009412677*). According to EPA documents, “contaminated groundwater migration is under control,” and The Port of Portland continues to operate a focused extraction/production well system onsite related to groundwater contamination.

### Summary of Initial Determinations

**Because not all items above are favorable, the use of 0.33 CFS of water from a well in Arata Creek Basin for industrial/manufacturing use and irrigation of 2.35 acres is not allowable, and it appears unlikely that you will be issued a permit unless you pursue a Basin Program Exception under ORS 536.295. At this time, you must decide whether to proceed or to withdraw your application as described below.**

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, June 3, 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. 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.

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](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-17416  
WAB 2- no WAB/Columbia River Sub-basin  
POU 2-no WAB/Columbia River Sub-basin  
GW

# APPLICATION FACT SHEET

Application File Number: G-17416

Applicant: TOYO TANSO USA, INC., ATTN: ROBERT FOWLER

County: Multnomah

Watermaster: 20

Priority Date: August 23, 2010

Source: A WELL IN ARATA CREEK BASIN

Use: INDUSTRIAL/MANUFACTURING USES AND IRRIGATION OF 2.35 ACRES

Quantity: 0.33 cubic foot per second (CFS)

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 26 COLUMBIA R & MISC WWM

Well Location(s): NWSW, SECTION 23, T1N, R3E, W.M.; 510 FEET NORTH AND 390 FEET EAST FROM SW CORNER, NWSW, SECTION 23

Place of Use:

NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  INDUSTRIAL/MANUFACTURING USES AND 2.35 ACRES IRRIGATION  
SECTION 23  
TOWNSHIP 1 NORTH, RANGE 3 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 3, 2011**

**PUBLIC NOTICE DATE: Tuesday, May 24, 2011**

**30 DAY COMMENT DEADLINE DATE: Thursday, June 23, 2011**

# Mailing List for IR Copies

Application #G-17416

IR Date: May 20, 2011

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**Original mailed to applicant:**

TOYO TANSO USA, INC., ATTN: ROBERT FOWLER, 2575 NW GRAHAM CIRCLE,  
TROUTDALE, OR 97060

Copies sent to:

1. WRD - File # G-17416
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent VIA E-MAIL to:

3. WRD - Watermaster # 20 (include Division 33 form)
4. ODFW: Todd Alsbury (include Division 33 form)
5. DEQ: Greg Geist (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, 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. Ted Ressler, GSI Water Solutions, Inc., 55 SW Yamhill Street, Suite 400, Portland, OR 97204

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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Caseworker: Michele McAleer

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