



# Oregon

John A. Kitzhaber, MD, 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**

WILLAMETTE EGG FARMS  
31348 S HWY 170  
CANBY, OR 97013

November 10, 2011

Reference: File G-17461

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 appropriation of 0.56 cubic foot per second (CFS) of water from Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 in Bear Creek Basin for year-round industrial uses and irrigation of 102.8 acres March 1 through October 31 of each year.

The application also proposed the storage of 115.0 acre feet (AF) of ground water in WEF Storage Lagoon for irrigation of 102.8 acres March 1 through October 31 of each year. The dam height is 14.0 feet and the area inundated is 5.0 acres.

2. The Department understands ground water will be used for industrial purposes, it will then be pumped to the lagoon for temporary storage, and ultimately it will be used for irrigation. Temporary storage in a reservoir that does not exceed 10 days during the irrigation season is considered a bulge-in-the-system and does not require a permit. The application materials are not clear about the length of time the temporary storage will occur. The information that was provided leads the Department to believe that storage will occur for more than 10 days during the irrigation season (March 1 through October 31) and/or storage will occur outside of the irrigation season (anytime between November 1 through February 28/29). Therefore the Department will consider storage of ground water as an additional use rather than as a bulge-in-the-system. If the Department has misinterpreted the proposal, please notify us by Thursday, December 15, 2011.
3. The Department interprets the "commercial/industrial" portion of the application as just "industrial". Industrial is defined as the use of water in the manufacture of a product and maintenance of industrial sites, facilities and buildings, and includes other related miscellaneous uses. If the Department has misinterpreted the proposal, please notify us by Thursday, December 15, 2011.

4. The proposed use is not prohibited by law or rule except where otherwise noted below.
5. The appropriation of ground water from Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 in Bear Creek Basin for year-round industrial use and irrigation March 1 through October 31 of each year is allowable under the Willamette Basin Program.

The storage of ground water in WEF Storage Lagoon for irrigation March 1 through October 31 of each year is allowable under the Willamette Basin Program.

6. Ground water will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will not have the potential for substantial interference with any surface water source.

7. The Department has determined a portion of the proposed place of use has underlying ground water rights evidenced by Certificates 42788 and 44577 (see attached map). Further review of the proposed source of water [Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3] under Application G-17461 and the authorized point of appropriation (a well assigned CLAC 2041) under Certificates 42788 and 44577 indicates that Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 will likely develop water from the same ground water aquifer as that of the well assigned CLAC 2041.

Because these wells develop water from the same ground water source, Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 under Application G-17461 may not be used as supplemental sources to the well assigned CLAC 2041.

In addition, because Certificates 42788 and 44577 allow the maximum rate of 1/80 CFS per acre of water, Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 under Application G-17461 may not be used to make up a deficiency in rate for the well assigned CLAC 2041.

**If you would like to use Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 under Application G-17461 to irrigate the lands that conflict with underlying certificates,** the Department must receive one of the following by Thursday, December 15, 2011:

- A completed form authorizing cancellation of the conflicting portions of the existing rights, along with maps describing those portions; or
- A transfer application addressing the conflicting portions of the existing rights; or
- Another means of dealing with the conflict between the existing rights and the use proposed under this application.

**If you would like to continue to use the well assigned CLAC 2041 under Certificates 42788 and 44577, and only use Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 under Application G-17461 to irrigate the lands that *do not conflict*,** the Department must receive a revised map for Application G-17461 indicating the place of use that does not have underlying rights by Thursday, December 15, 2011.

8. Please provide preliminary plans, specifications and supporting information for the dam and impoundment area including dam height, width, crest width and surface area by Thursday, December 15, 2011.

Please also be aware that prior to issuance of a permit and construction of the project, final dam designs and specifications must be submitted to the Department and approved by the Department's dam-safety engineer.

9. Please provide a map that shows the location of WEF Storage Lagoon by reference to a recognized public land survey corner by Thursday, December 15, 2011.
10. Please provide an application map prepared and stamped/signed by a Certified Water Right Examiner (as required by Oregon Administrative Rules 690-310-0040(1)(c)(D)).
11. If you are unable to submit the requested/required information noted in Determinations 2, 3, 7, 8, 9, and 10 by Thursday, December 15, 2011, you may send a written request for an administrative hold for up to 180 days.

### Summary of Initial Determinations

**The appropriation of 0.56 CFS from Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 in Bear Creek Basin for year-round industrial uses may be allowed.**

**Because not all items above are favorable, the appropriation of 0.56 CFS from Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 in Bear Creek Basin and the storage of 115.0 AF of ground water in WEF Storage Lagoon for irrigation of 102.8 acres March 1 through October 31 of each year is not allowable, and it appears unlikely that you will be issued a permit for irrigation unless the conflict with the underlying certificates is resolved.**

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 #7 above, your application will likely be limited accordingly.

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 **Thursday, November 24, 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. 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.
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.

- 4. Well 1 (CLAC 2430), Well 2 (CLAC 2431), and Well 3 shall allow ground water only from the alluvial ground water reservoir.
- 5. Well 3 shall allow ground water from no shallower than 100 feet below land surface.
- 6. 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.

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 503-986-0859 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: Jeana Eastman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

A handwritten signature in cursive script, appearing to read 'J. Eastman'.

Jeana Eastman  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17461  
WAB 2-  
POU 2-  
GW

# APPLICATION FACT SHEET

Application File Number: G-17461

Applicant: WILLAMETTE EGG FARMS

County: Clackamas

Watermaster: 16

Priority Date: April 19, 2011

Source: WELL 1 (CLAC 2430), WELL 2 (CLAC 2431), AND WELL 3 IN BEAR CREEK BASIN

Use: INDUSTRIAL USES AND IRRIGATION OF 102.8 ACRES

Quantity: 0.56 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 15A BEAR CR

Point of Diversion or Well Location(s):

WELL 1 (CLAC 2430): SWNW, SECTION 10, T5S, R1E, W.M.;1890 FEET SOUTH AND 380 FEET EAST FROM NW CORNER, SECTION 10

WELL 2 (CLAC 2431): SWNW, SECTION 10, T5S, R1E, W.M.;1780 FEET SOUTH AND 280 FEET EAST FROM NW CORNER, SECTION 10

WELL 3: SWNW, SECTION 10, T5S, R1E, W.M.;1380 FEET SOUTH AND 1230 FEET EAST FROM NW CORNER, SECTION 10

Place of Use:	<u>QQ</u>	<u>IRRIGATION</u>	<u>INDUSTRIAL</u>
	NE ¼ NE ¼	12.8 ACRES IRRIGATION	
	SE ¼ NE ¼	17.6 ACRES IRRIGATION	X
		SECTION 9	
	NW ¼ NW ¼	29.3 ACRES IRRIGATION	X
	SW ¼ NW ¼	19.4 ACRES IRRIGATION	X
	SE ¼ NW ¼	23.7 ACRES IRRIGATION	X
		SECTION 10	
		TOWNSHIP 5 SOUTH, RANGE 1 EAST, W.M.	

**14 DAY STOP PROCESSING DEADLINE DATE: Thursday, November 24, 2011**

**PUBLIC NOTICE DATE: Tuesday, November 15, 2011**

**30 DAY COMMENT DEADLINE DATE: Thursday, December 15, 2011**

# Mailing List for IR Copies

Application #G-17461

IR Date : November 10, 2011

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## Original mailed to applicant:

WILLAMETTE EGG FARMS, 31348 S HWY 170, CANBY, OR 97013  
**\*\*\*including final proof survey map with highlighted features**

## Copies sent to:

1. WRD - File # G-17461
2. WRD - Water Availability: Ken Stahr

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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## IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 16

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

4. Williams Pipeline Northwest, Eugene District Office, Attn: Larry Ferguson  
89861 Game Farm Rd, Eugene OR 97408

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

5. Bruce, Steven, CWRE #439

Skookum Water Associates, Inc., P.O. Box 80174, Portland, OR 97280

**\*\*\*including final proof survey map with highlighted features**

COPYSHT.IR

Caseworker: Jeana Eastman