



# 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

August 9, 2013

LYN AND TRACY ROBERTSON  
25906 LLEWELLYN RD  
CORVALLIS, OR 97333

Reference: File G-17605

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 an 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 0.33 cubic foot per second (CFS) from South Well (BENT 6242) in Muddy Creek Basin for irrigation of 26.48 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from South Well (BENT 6242) in Muddy Creek Basin for irrigation is allowable under the Willamette Basin Program.
4. 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 have the potential for substantial interference with Muddy Creek at the proposed rate of 0.33 CFS. 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 June 1 through November 30.

However, by providing additional information you may be able to pursue a limited permit. Please refer to the **Additional Information Opportunity** section below for details.

### Summary of Allowable Water Use

**Because not all items above are favorable, the appropriation of 0.33 CFS of water from South Well (BENT 6242) in Muddy Creek Basin for irrigation of 26.48 acres March 1 through October 31 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.**

### Additional Information Opportunity

The Department determined, based upon OAR 690-09, that the proposed groundwater use will have the potential for substantial interference with the nearest surface water source, namely Muddy Creek.

An assessment of groundwater availability has been completed by the Department's Groundwater/Hydrology Section. This assessment determined that groundwater is available for further appropriation. However, because the well has the potential for substantial interference with surface water an assessment of surface water availability has also been completed. This assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. Copies of both assessments are available in the file. The surface water assessment determined water **is not** available for further appropriation (at an 80 percent exceedance probability) during the period June 1 through November 30.

If the proposed rate is reduced to no more than 0.06 CFS, which is less than 1 percent of 80 percent natural flow for the pertinent Water Availability Basin, the potential for substantial interference may be avoided. However, 0.06 CFS does not appear to be sufficient to provide a beneficial use without waste. The application proposes to irrigate 26.48 acres. The standard duty for the application of water for irrigation in the Willamette Basin is 1/80 CFS per acre, being 0.33 CFS for 26.48 acres. Please explain how you can make beneficial use without waste of 0.06 CFS on 26.48 acres.

If you choose to continue to pursue this application at a rate of 0.06 CFS as described above, please respond in writing by September 12, 2013 or request an administrative hold. **Please submit this information no later than Thursday, September 12, 2013.** If you are unable to submit the information listed above, 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 items requested above 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.

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, August 23, 2013**. 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 at each point of appropriation. The permittee shall maintain the meter 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; provided however, where any meter 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 surface water or 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**

Reference Water Level Determination

Following the first year of water use, the user shall report one static water level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The Director may require the user to obtain and report additional water levels after the reference level has been determined. 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.

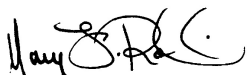
4. Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, 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: Mary Rohling, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Mary Rohling  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17605  
WAB 2-30200320  
POU 2-30200320  
GW

# APPLICATION FACT SHEET

Application File Number: G-17605

Applicant: LYN AND TRACY ROBERTSON

County: Benton

Watermaster: 16

Priority Date: December 12, 2012

Source: SOUTH WELL (BENT 6242) IN MUDDY CREEK BASIN

Use: IRRIGATION OF 26.48 ACRES

Quantity: 0.33 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 4A MUDDY CR

Well Location: SWNE, SECTION 6, T13S, R5W, W.M.; 2000 FEET SOUTH AND 1400 FEET WEST FROM NE CORNER, SECTION 6

Place of Use:

NE $\frac{1}{4}$	NE $\frac{1}{4}$	1.26 ACRES
NW $\frac{1}{4}$	NE $\frac{1}{4}$	2.14 ACRES
SW $\frac{1}{4}$	NE $\frac{1}{4}$	15.40 ACRES
SE $\frac{1}{4}$	NE $\frac{1}{4}$	7.68 ACRES
SECTION 6		
TOWNSHIP 13 SOUTH, RANGE 5 WEST, W.M.		

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 23, 2013**

**PUBLIC NOTICE DATE: Tuesday, August 13, 2013**

**30 DAY COMMENT DEADLINE DATE: Thursday, September 12, 2013**

# Mailing List for IR Copies

Application #G-17605

IR Date: August 9, 2013

---

Original **emailed** to applicant:

~~LYN AND TRACY ROBERTSON  
25906 LLEWELLYN RD  
CORVALLIS, OR 97333~~

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
--

**SENT VIA EMAIL:**

1. Applicant - lyn.robertson@gmail.com
2. WRD - Watermaster # 16
1. ODFW
2. DEQ

Copies sent to:

3. WRD - File # G-17605
4. WRD - Water Availability: Shawn Turner

Caseworker: Mary Rohling

\\COPYSHT.IR

# APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to take and use the waters of Oregon, a citizen must first obtain a permit from the Water Resources Department. The water must be used for beneficial purpose - without waste. To become well-informed about water right topics, weekly public notice, forms and fees please visit our web site at [www.wrd.state.or.us](http://www.wrd.state.or.us)

## 1. Pre-application considerations

- follow instructions in the application packet
- if you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Information Group (WRIG) at 503-986-0801

## 2. Application filing

- application with fee is received by the Department
- Department determines completeness of application
- if use is not allowed by statute (ORS 538), the application and fees are returned to the applicant
- incomplete application and fees are returned to the applicant
- only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing

## 3. Initial Review (IR)

- caseworker reviews application by considering basin plans, water availability, statutory restrictions and all other appropriate factors
- caseworker sends IR report to applicant
- contact the caseworker if you have questions about the IR
- seven days after date of the IR, it is included in Department's weekly Public Notice
- public comments must be submitted within 30 days after the Public Notice
- **administrative hold** may be requested in writing by applicant

## 4. Proposed Final Order (PFO)

- caseworker evaluates application against required criteria and develops draft permit, if appropriate
- PFO includes instructions for filing of protests
- caseworker considers public comments and mails PFO to applicant
- the PFO is included in Department's weekly Public Notice
- public protests to the PFO must be submitted within 45 days after the Public Notice

**Stop Processing deadline is within 14 days of Initial Review - use the form below**

- applicant may request no further action and fee refund of all but \$200

## STOP PROCESSING REQUEST FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

Applicant notification to withdraw Water Right Application # \_\_\_\_\_

After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$200 examination fee.) I understand that without a valid permit I may not legally use the water as requested in my application

Signature \_\_\_\_\_ date \_\_\_\_\_

Signature \_\_\_\_\_ date \_\_\_\_\_

*Under ORS 537.150 (5) and 537.620 (5) timely submission of this request authorizes that the water right application process be stopped and all filing fees (except \$200 examination fee) be returned.*

This notice must be received at Water Resources Department by \_\_\_\_\_

Return the notice to: OWRD, Water Rights Division

STOP PROCESSING

725 Summer Street, NE - Suite A

Salem OR 97301-1271



## **5. Final Order (FO)**

- if no protest is filed, Final Order is issued

### ***The protest process***

If one or more protests are filed, permit process consists of:

- settlement discussion
- contested case hearing
- proposed order
- period of time to file exceptions
- possible hearing by Water Resources Commission
- final order issued

### ***Permit holder responsibilities***

- comply with all water use conditions of the permit
- advise Department of address change or assignment to new permit holder
- if need arises, request extension of time or authorize cancellation of permit
- submit timely claim of beneficial use (COBU) to Department
- most permits require COBU to be prepared by a Certified Water Right Examiner
- permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions