



June 23, 2017

TONY LANGDON
LANGDON FARMS
30600 DIAMOND HILL DR
HARRISBURG, OR 97446

Reference: File R-88393

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 the water-use permit application and to describe the 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 supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the diversion of 109.4 acre-feet (AF) of water from runoff and Little Muddy Creek, tributaries of Muddy Creek; and Bishop Creek, Putnam Creek, and an unnamed creek, tributaries of Little Muddy Creek, for storage in twenty-six (26) reservoirs for irrigation, wildlife, recreation, and aesthetics. The reservoirs are designated as follows:

Reservoir	Volume (AF)	Tributary
Pond 1	6.7	Bishop Creek
Pond 2	7.0	Bishop Creek
Pond 3	6.0	Bishop Creek
Pond 4	4.3	Muddy Creek
Pond 5	5.2	Putnam Creek
Pond 6	5.2	Putnam Creek
Pond 7	2.3	Putnam Creek
Pond 8	2.3	Putnam Creek
Pond 9	2.3	Putnam Creek
Pond 10	2.3	Muddy Creek
Pond 11	3.4	Muddy Creek
Pond 12	3.7	Unnamed Creek
Pond 13	4.6	Unnamed Creek

Reservoir	Volume (AF)	Tributary
Pond 14	5.5	Unnamed Creek
Pond 15	5.3	Unnamed Creek
Pond 16	5.7	Unnamed Creek
Pond 17	6.9	Unnamed Creek
Pond 18	6.2	Unnamed Creek
Pond 19	5.6	Unnamed Creek
Pond 20	3.2	Unnamed Creek
Pond 21	2.8	Unnamed Creek
Pond 22	3.7	Unnamed Creek
Pond 23	2.5	Unnamed Creek
Pond 24	2.9	Unnamed Creek
Pond 25	1.9	Unnamed Creek
Pond 26	1.9	Unnamed Creek

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of runoff and Little Muddy Creek, tributaries of Muddy Creek; and Bishop Creek, Putnam Creek, and an unnamed creek, tributaries of Little Muddy Creek, for storage for irrigation, wildlife, and recreation is allowable under the Willamette Basin Program from November 1 through June 30 of each year (OAR 690-502-0040(4)(a)).
4. Aesthetics is not an allowable use in the Willamette Basin Program (OAR 690-502-0040)(c) and therefore will not be considered further in this application.
5. Because this application will have an impact on surface water flows where the Oregon Department of Fish and Wildlife (ODFW) has identified that sensitive, threatened, or endangered fish are present, this application will be reviewed by at least ODFW and the Department of Environmental Quality in accordance with OAR 690-033 rules. This review could have an impact on the eventual outcome of your application. This review could cause your application to be proposed for denial, the season of use to be shortened or impacted in some other way when the Department issues a proposed final order at the next stage of processing.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
7. The proposed reservoir sites are subject to a wetland determination by the Department of State Lands.
8. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Initial Determinations

The diversion of 109.4 AF of water from runoff and Little Muddy Creek, tributaries of Muddy Creek; and Bishop Creek, Putnam Creek, and an unnamed creek, tributaries of Little Muddy Creek, for storage in twenty-six (26) reservoirs for irrigation, wildlife, and recreation is allowable November 1 through June 30 of each year, contingent upon the Department receiving an updated map per OAR 690-310-0050(4)(a).

Additional Information Required:

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following items:

- The map submitted does not meet the requirements of OAR 690-310-0050(4)(a). Please provide a map that clearly shows the location of each of the following Points of Diversion (POD) #6, #7, #8, #15, #16, #17, and # 20 relating to the submitted document "Point of Diversion Locations all from NE Corner Wilson DLC 60".
- The map submitted does not meet the requirements of OAR 690-310-0050(4)(a). Please provide a map that clearly shows the location of each of the twenty six (26) reservoirs.

Please submit this information no later than Thursday, July 27, 2017. 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 that POD locations #6, #7, #8, #15, #16, #17, and # 20 not be included in the application.

The Department can now move the application to the next phase of the water-rights application review process, where public interest factors will be evaluated.

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.

To Proceed With the Application:

If you choose to proceed with the application, you do not have to notify the Department. The 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.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw the application and receive a refund (minus a \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, July 7, 2017**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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

1. Measurement devices, and recording/reporting of annual water use conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. The permittee shall maintain the device in good working order.
 - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

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. Be aware

that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of the application.

The water source identified in the 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/programs/NaturalResources/Pages/AgWaterQuality.aspx> to learn more about the plans and how they may affect the proposed water use.

If you have any questions:

Feel free to contact me at Elisabeth.A.Graham@oregon.gov or 503-986-0808 if you have any questions regarding the contents of this letter or the application. Please have the 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: Lisa Graham, 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 blue ink, appearing to read 'L. Graham', with a long horizontal stroke extending to the right.

Lisa Graham
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-88393
WAB 2-30200303
POU 2-30200303
GW

APPLICATION FACT SHEET

Application File Number: R-88393

Applicant: TONY LANGDON/LANGDON FARMS

County: LINN

Watermaster: 2

Priority Date: APRIL 17, 2017

Source: RUNOFF AND LITTLE MUDDY CREEK, TRIBUTARIES OF MUDDY CREEK;
BISHOP CREEK, PUTNAM CREEK, AND AN UNNAMED CREEK, TRIBUTARIES OF
LITTLE MUDDY CREEK

Use: IRRIGATION, WILDLIFE, RECREATION, AESTHETICS

Quantity: 109.4 ACRE FEET

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 4 MUDDY CR & MISC (TO WILLA

Point of Diversion:

POD 1: SECTION 22, T15S, R3W, W.M.; 5 FEET SOUTH AND 2400 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 2: SECTION 22, T15S, R3W, W.M.; 5 FEET SOUTH AND 1900 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 3: SECTION 22, T15S, R3W, W.M.; 5 FEET SOUTH AND 1400 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 4: SECTION 22, T15S, R3W, W.M.; 1400 FEET SOUTH AND 1100 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 5: SECTION 22, T15S, R3W, W.M.; 1600 FEET SOUTH AND 1500 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 6: SECTION 22, T15S, R3W, W.M.; 1600 FEET SOUTH AND 2000 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 7: SECTION 22, T15S, R3W, W.M.; 1600 FEET SOUTH AND 2450 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 8: SECTION 22, T15S, R3W, W.M.; 1600 FEET SOUTH AND 2800 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 9: SECTION 22, T15S, R3W, W.M.; 1600 FEET SOUTH AND 3100 FEET EAST
FROM NE CORNER, JOHN R. WILSON DLC 60

POD 10: SECTION 22, T15S, R3W, W.M.; 2200 FEET SOUTH AND 1250 FEET
EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 11: SECTION 22, T15S, R3W, W.M.; 2800 FEET SOUTH AND 1250 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 12: SECTION 22, T15S, R3W, W.M.; 3300 FEET SOUTH AND 2250 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 13: SECTION 22, T15S, R3W, W.M.; 3300 FEET SOUTH AND 2600 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 14: SECTION 22, T15S, R3W, W.M.; 3300 FEET SOUTH AND 3100 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 15: SECTION 22, T15S, R3W, W.M.; 3400 FEET SOUTH AND 3600 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 16: SECTION 22, T15S, R3W, W.M.; 3400 FEET SOUTH AND 4000 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 17: SECTION 23, T15S, R3W, W.M.; 3400 FEET SOUTH AND 4500 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 18: SECTION 23, T15S, R3W, W.M.; 3200 FEET SOUTH AND 4900 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 19: SECTION 23, T15S, R3W, W.M.; 3600 FEET SOUTH AND 4450 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 20: SECTION 23, T15S, R3W, W.M.; 3600 FEET SOUTH AND 3900 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

POD 21: SECTION 22, T15S, R3W, W.M.; 3600 FEET SOUTH AND 3400 FEET EAST FROM NE CORNER, JOHN R. WILSON DLC 60

Place of Use:

NE $\frac{1}{4}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$ NE $\frac{1}{4}$
SW $\frac{1}{4}$ NE $\frac{1}{4}$
SE $\frac{1}{4}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$ NW $\frac{1}{4}$
SE $\frac{1}{4}$ NW $\frac{1}{4}$
NE $\frac{1}{4}$ SW $\frac{1}{4}$
NE $\frac{1}{4}$ SE $\frac{1}{4}$
NW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 22

TOWNSHIP 15 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 7, 2017

PUBLIC NOTICE DATE: Tuesday, June 27, 2017

30 DAY COMMENT DEADLINE DATE: Thursday, July 27, 2017

Mailing List for IR Copies

Application #R-88393

IR Date: June 23, 2017

Original and map mailed to applicant:

TONY LANGDON
LANGDON FARMS
30600 DIAMOND HILL DR
HARRISBURG, OR 97446

SENT VIA EMAIL:

1. WRD -Watermaster # 2
2. ODFW
3. DEQ

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

Copies sent to:

1. WRD - Hydrographics
2. Kim Kratz, Director, Oregon State Habitat Office, National Marine Fisheries Service
1201 NE Lloyd Blvd, Portland, OR 97232

IR, Map, and Fact Sheet Copies sent to:

3. WRD - File # R-88393
4. Department of Agriculture

Affected District (include "Notice of Initial Review--Affected District")

1. District: Muddy Creek Irrigation District; 32255 Bower Dr; Harrisburg OR 97446

Caseworker: Lisa Graham

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

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 \$225

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 \$225 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 \$225 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