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Application for Extension of Time for a Water Right Permit

(Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

I, Donald & Patricia Wells

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

the holder of: Application Number G-17041 Permit Number G-16426 [OAR 690-315-0020(3)(b)]

****A separate application must be submitted for each permit as per OAR 690-315-0020(2). ****

72023 Crane-Buchanan Rd
MAILING ADDRESS

Burns, OR 97720
CITY, STATE, ZIP

541-589-4984
PHONE

RunningDeerPat@yahoo.com
E-MAIL ADDRESS

X **do hereby request that** the time to apply water to full beneficial use under the terms and conditions of the permit, which now expires on Month 01 Day 8 Year 2014, be extended to October 30, Year 2021.

Please Note. If the permit **does** specify a date when **construction** must be **completed**, you should request to extend both the time to apply water to full beneficial use **and** to complete construction. These dates are typically found on the permit above the signature of the Director.

and

☒ **do hereby request that** the time to complete construction of the water system, which now expires on Month 01 Day 8 Year 2014, be extended to October 30, Year 2021

I am the permit holder, or have attached to this application written authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension. I have completed the entire application.

Signature

Date

Printed Name/Title

DONALD & PATRICIA WELLS OWNER

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT
***A separate extension application must be submitted for each permit as per
OAR 690-315-0020(2).***

I, Donald & Patricia Wells

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

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the permit holder of:

Application Number G-17041

Permit Number G-16426

[OAR 690-315-0020(3)(b)]

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do hereby request that the time in which to:

☒ complete construction (of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water), which time now expires on **Month: 01 Day: 8 Year: 2014**, be extended to October 1, 2021, [OAR 690-315-0020(3)(i)]

☒ N/A (Check this box if the permit does not specify a date by when construction must be completed.)

and/or the time in which to:

☒ apply water to full beneficial use under the terms and conditions of the permit, which time now expires on **Month: 01 Day: 8 Year: 2014**, be extended to October 1, 2021.
[OAR 690-315-0020(3)(i)]

I am the permit holder, or have written authorization from the permit holder (attached to this Application for Extension of Time), to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Signature

Date

Printed Name

Title

Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of \$575.
- Signature page (Second page of this Application for Extension of Time).
- All supporting documentation and/or evidence referenced in the Application for Extension of Time.

**MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence**

\$575 STATUTORY FEE TO:

**Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301**

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GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS, available at the following link:
http://www.oregon.gov/owrd/PUBS/docs/forms/fillable_muni_quasi_ext_app_form_2014.doc
- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).
- An instruction sheet, INSTRUCTIONS FOR COMPLETING AN APPLICATION FOR EXTENSION OF TIME FOR A WATER RIGHT PERMIT (Attachment A), provides details that will help you answer each question on the application. Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at:
http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_690/690_315.html
- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.
- An Application for an Extension of Time will be reviewed for completeness. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website at <http://apps.wrd.state.or.us/apps/wr/wrinfo/> (using the link to the Water Rights Information System (WRIS). Or, a copy of the permit (or other documents) may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).
- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time

Please see the instruction sheet to help you answer these questions.

1. Beginning Construction within required deadlines. OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun?

☒ Yes ☐ No NA

Date construction began Month: Day: Year: 2009

Details of construction and attach documentation: Well ID applied earlier this year

For Surface/Reservoir Permit

Has construction of the water system begun? ☐ Yes ☐ No

Date construction began Month: Day: Year:

Details of construction and attach documentation: _____

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OAR 690-315-0020(3)(A)(e)(A)

2. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☒	Installation of a meter/totalizing flow meter	☐ Yes ☒ No	10/1/2021
☒	Submittal of annual water usage report	☒ Yes ☐ No	2009 to current
☒	Submittal of initial static water level measurement	☐ Yes ☒ No	10/1/2021
☒	Submittal of annual static water level measurements in the month required	☐ Yes ☒ No	10/1/2021
☐	Submittal of Seven consecutive static water level measurements in the month required	☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☒	Other (Specify): Pump Test	☐ Yes ☒ No	10/1/2021
☒	Other (Specify): Well Tag ID's	☐ Yes ☒ No	10/1/2021
☒	Other (Specify): COBU	☐ Yes ☒ No	10/1/2022
Surface Water or Reservoir			
☐	Installation of a meter/ totalizing flow meter/ in-line meter	☐ Yes ☐ No	
☐	Installation a staff gauge	☐ Yes ☐ No	
☐	Installation of a fish screen	☐ Yes ☐ No	
☐	Installation of a fish by-pass device	☐ Yes ☐ No	
☐	Installation of a fish passage	☐ Yes ☐ No	
☐	Installation of an outlet gate/pipe/ conduit	☐ Yes ☐ No	
☐	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☐ Yes ☐ No	
☐	Submit as-built plans and specification	☐ Yes ☐ No	
☐	Submittal of a letter from an engineer prior to storage	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	

If you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

Totalizing flow meter will be installed on each well (will be installed as system is plumbed to sprinklers)
Initial & annual static measurements. Wells 1 & 2 will be measured this year and every March thereafter
Well TAG ID's will be affixed to all producing wells. TAG ID applications have been turned in for wells 1 & 2.
Pump Test will be completed after adequate water is developed.
Possible construction of additional well to meet irrigation demand for water. Once adequate water is found the system will be completed.
Final Proof & COBU report by CWRD will be completed after all the conditions are met

[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. Use *chronological order*. (this does NOT include planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued – eg. well drilled.</i>	COST*
UNK	Construction of two wells → <i>Not authorized under permit</i>	\$30,000
DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER <i>List work/actions done during the permitted time period.</i>	COST*
01/08/09	Date the permit was signed - find date above signature on last page of permit.	
01/05/12	Applicant acquired subject property 3 years after Permit issuance (Seller did not disclose Permit upon sale nor assign Permit until 9/25/15, as explained below) RECEIVED BY OWRD	
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1/8/2014	Date the permit specified complete application of water to the use shall be made- all permits contain this date.	

DATE	WORK ACCOMPLISHED AFTER the date the permit specified complete application of water <i>COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
6/26/13	Retained Hydrologist/Geologist to locate an adequate source of water, beat brush & stake potential well location under related Permit G-16606	\$2,200
2014-2015	Retained All Points Engr to consult with regarding water rights	\$500
9/29/15	Assignment of Application and Permit from 9L Farms, LLC to Donald E. and Patricia L. Wells	
Total Cost for Chart-B		\$32,700

* If exact cost is not known, you must provide your best estimate.

4. If this is not your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. Use *chronological order*.

CHART-C

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD <i>List all work done during the last authorized extension period.</i>	COST*
	"Extended From" date for complete application of water used in the 1 st (or the most recent) Application for Extension of Time.	
NA		
	"Extended To" date for complete application of water resulting from the 1 st (or the most recent) Application for Extension of Time.	
DATE	WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED <i>List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
NA		
Total Cost of Chart-C		

* If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]

5. Cost of project to date: ~~\$32,700~~ 0
(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

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[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____ cfs (cubic feet per second) or,

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Maximum rate used to date = _____ gpm (gallons per minute) or,

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Acre-feet stored to date = _____ AF

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7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as Identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment? (See 8 below)	Maximum Instantaneous rate used to date from this well -- under <u>this permit</u> only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
Well #1	#1	Yes ☒ No ☐			Yes ☐ No ☒	100 gpm	Yes ☒ No ☐	G-16606
Well #2	#2	Yes ☒ No ☐			Yes ☐ No ☒	100 gpm	Yes ☒ No ☐	G-16606
Well #3	#3	Yes ☐ No ☒			Yes ☐ No ☐	800 gpm	Yes ☒ No ☐	G16606
Total instantaneous rate from all wells utilized under this permit						1000 gpm		

8. If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location.

Has or will a Permit Amendment Application been/be filed? Yes ☒ No ☐

→ Not filed on this permit prior to C-date

If a Permit Amendment Application has been filed: Transfer No. T-_____

Well #: #1 Actual location: : 43 35' 39.3" N 118 38' 25.3" W
43 35' 39.3" N 118 38' 25.3" W

Well #2 Actual location:

*these wells are within 10 feet of one another

[OAR 690-315-0020(3)(e)(C)]

9. Provide the total number of acres irrigated to date under this permit (if applicable). List by year, the number of acres irrigated each year since permit issuance, and provide a copy of the application map identifying the acres irrigated. 0

Total acres irrigated to date: 0

Ground Water Permits: Please specify which wells are being utilized for this irrigation.

Well #1 Acres0

Well #2 Acres0

[OAR 690-315-0020(3)(i)(j)]

10. Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2016 - 2021	Improve/construct well(s) to provide more water	\$100,000
2016 - 2021	Plumb closed pipe system to center pivot sprinkler	\$300,000
2016 - 2021	Water Use & static level reporting	\$3,000
2016 - 2021	Final Proof & Pump test	\$2,000
Year: 2021	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		\$405,000 <u>400,000</u>

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: \$405,000
(The total cost from CHART-E)

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[OAR 690-315-0020(3)(h)]

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12. Describe the reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. Provide supporting information for the reason(s) that best fits your circumstances. Include any additional unforeseen events and/or other governmental regulation or requirements.

12-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit? If yes, describe.

Yes: Applicant was developing neighboring property under Permit G-15481, then later acquired the property to which the Permit is appurtenant. More specifically: On or about March 27, 2008, Donald E Wells ("Applicant") conveyed to 9L Farms, LLC ("9L Farms") land generally described as the Southwest Quarter of Section 10, Township 23 South, Range 33 East, W.M. The property at that time had no water rights. On or about April 16, 2008, 9L Farms filed this application to appropriate 1.5 cfs. of water for primary irrigation of 125.2 acres. Approximately 6 months later on or about October 30, 2008, 9L Farms filed a second application for an additional 0.06 cfs to satisfy irrigation demands of the same land (Application 17135).

A number of years later, 9L Farms had failed to develop the water, and the Wells were able to acquire the property. Specifically, the Wells purchased the property back from 9L Farms ("Seller") on January 5, 2012. By that time, however, the Wells were diligently developing neighboring property that they owned and they had committed resources to full development of water on those lands under Permit G-15481, which they had applied for in August 2002. When the Wells re-acquired the 9L Farm property, they were not immediately aware of the status of the water rights. In 2012, 9L farms assigned to the Wells Permit G-16606, but not this Permit G-16426. Because the Wells did not own the property for the entire permit period, they did not have adequate control over development of the wells, nor adequate time following assignment, especially given related pending projects. Practically speaking, the Wells had just over half the statutory time period to develop the well, or under three years.

The Wells view their property, along with the 9L land, as a whole, and they view their water system as a whole. Economically and practically it was not possible for them to drill all wells simultaneously. Ideally, water appropriated under Permit G-15481, along with Permits G-16606 & G-16426, would have been covered under one permit. Because of the later re-acquisition of the 9L land (and some confusion by 9L Farms and the Department regarding the amount of water needed to water the the 9L land) the permit applications were staggered and development of the permits is necessarily staggered also.

Since acquiring filing for an extension of Permit G-16606, the Wells have determined existing wells will suit the project's purpose better than the well locations proposed by the original applicant. The Wells stand ready to improve the existing wells and/or complete any additional well construction as necessary.

The Wells have not been idle in developing their water system; rather they pursued a rational approach of completing the well they started before moving onto perfection of the after-acquired permits.

Approval of this extension will allow the Wells to complete development of not only the property in which they invested from 9L Farms, but the whole of their agricultural operation.

12-B) Did the financial resources needed to develop the project preclude completion of the project within authorized time frames? If yes, describe.

Yes. The cost of finding & drilling a well while developing other parts of the Applicants' has been difficult. As discussed above, The Wells have been developing adjacent property and are now able to commit resources to development of the later-acquired 9L lands appurtenant to this permit.

12-C) Did good faith attempts to comply with other agency permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delay completion of the project? If yes, describe.

Yes. When applicant acquired the subject property, the seller only disclosed Permit G-16606. Applicant applied for an Extension of Time to develop that permit, and in the process learned of this Permit G-16426. Development of this Permit G-16426 was put on hold pending processing of the extension of Permit G-16606 and the concurrent Permit Amendments to move the authorized points of appropriation to the existing wells.

12-D) Have other unforeseen events delayed full development of the water system and use of water within the authorized time frames? If yes, describe.

Yes Applicant initially had difficulty finding a qualified and available well driller because well drillers are very busy and difficult to schedule in this area. Applicant contacted well drillers in the local area and as far as Redmond, John Day and Christmas Valley. A well driller was finally retained, and equipment is on the Wells property waiting for approval of the extension before proceeding. Partly because of the difficulty in finding a qualified well driller, Applicant investigated the option of using the existing wells and determined those wells will suit the project best for practical, locational, and economical (power cost) reasons.

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[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

The amount of time is requested to accommodate for the time needed to process the concurrent Permit Amendment, and Applicant is hopeful that five additional years will be

adequate to satisfy good faith attempts to improve the existing wells and to develop any additional well, if needed. Once the water source is available the remaining system & plowing & clearing the field should only take a month or two. Time after adequate water is found will be needed to report use & well static levels.

The amount of time is requested to accommodate for the time needed to process the concurrent Permit Amendment, and Applicant is hopeful that five additional years will be adequate to satisfy good faith attempts to improve the existing wells and to develop any additional well, if needed. Once the water source is available the remaining system & plowing & clearing the field should only take a month or two. Time after adequate water is found will be needed to report use & well static levels.

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[OAR 690-315-0020(3)(m)(n)]

14. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

Good cause exists to approve this Application for Extension fo Time:

Applicants have demonstrated good faith and reasonable diligence in previous performance under related permits (i.e., Permit G-15481), and it is reasonable bthat they have staged and staggered development of wells under this later-acquired permit as compared to the earlier permits;

Applicants have invested significantly to develop their water system and in the 9L Farms property;

The market value of the property acquired by Applicants depends upon the property having developed water rights;

Applicants will realize an income and require this water use to provide a reasonable return on their investment in the former 9L lands and the whole of their property;

Delay in development of Permit G-16426 in part was due to confusion over the two permits relating to the 9L farm land: Applicants just learned of Permit G-16426 in the fall of 2015 when they were processing an extension under related Permit G-16606. (Permit G-16606 was acquired to cure a deficiency in the amount of water approved under Permit G-16426, and the Department has approved an Extension of Time for that permit). Until that time, Applicants were unaware of

any other permit related to the 9L Farms lands. Subsequently, they requested, acquired and submitted to the Department on or about September 24th, 2015, an Assignment of Permit G-16426 from 9L Farms to the Wells. The Department recorded the assignment on September 29, 2015.

Applicants had no control over development of water for almost the first 3 years of the permit period. Once they acquired the 9L Farms land, they had committed resources to other portions of their water system. Difficulty in obtaining well drillers under Permit G-16606 and challenges encountered developing wells under the prior Permit G-15481 were unforeseen when they acquired the additional property, and so this requested extension became necessary;

Denial of this extension will result in undue hardship to the Applicants because the purchased the 9L Farms lands with the expectation of farming it along with their existing lands, and there are no reasonable alternatives for meeting water needs on that property. Approving the extension and allowing Applicants to move forward with development of the well and application of the water to beneficial use is the most reasonable alternative;

This extension application represents the Applicants' first request under this permit. Applicants are now able to complete construction within the time period requested under this extension.

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Attach permit, and documentation to the application.