

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number 68132

Final Order
Extension of Time for Permit Number 48876

Application History

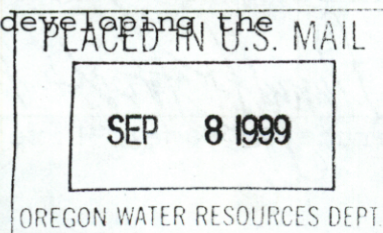
On March 1, 1999, Ice Fountain Water District submitted an application to the Department for an extension of time for permit number 48876. The Department issued Permit number 48876 on October 30, 1984. The permit called for completion of construction of the water development project by October 1, 1986 and complete application of water to the full beneficial use by October 1, 1987. In accordance with OAR 690-320-0010(8), on June 1, 1999, the Department issued a Proposed Final Order proposing to extend the time to complete development of the water development project to October 1, 1999, and the time to fully apply water to beneficial use to October 1, 2029. The protest period closed July 16, 1999. No protest was filed. On June 23, 1999 the applicant amended his request to allow until October 1, 2029 to complete construction of the project.

The Department's continuing evaluation reveals that the conclusions of the Proposed Final Order require modification to incorporate the June 23, 1999 application amendment.

The permittee must submit a written progress report to the Department by October 1, 2004, October 1, 2009, October 1, 2014, October 1, 2019 and October 1, 2024. The report must be received by the Department not sooner than 90 days prior to the due date. The permittee's report must describe in detail the work done each year since the last extension was granted or the last progress report submitted. The report shall include:

- a) The amount of construction completed;
- b) The amount of beneficial use of water being made, including the total volume of water used, water used relative to the specific authorizations (types of use, acres irrigated, etc.) contained in the permit, and the percent of the total allowable water use that this represents;
- c) A review of the permittee's compliance with terms and conditions of the permit and/or previous extension; and
- d) Financial investments made toward developing the beneficial water use.

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The Department will review the progress report to determine whether the permittee is exercising diligence towards completion of the project and complying with the terms and conditions of the permit and extension.

Failure to submit a progress report by the due date above will result in cancellation of the undeveloped portion of the permit by the Department pursuant to ORS 537.260 or 537.410 to 537.450. Within one year after cancellation, the permittee must submit a final proof survey pursuant to ORS 537.230 and 537.250.

If the Department finds that diligence is questionable, the Department may:

- a) request the permittee to submit additional information with which to evaluate diligence;
- b) apply additional conditions and performance criteria for perfection of the right; or
- c) cancel the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410 to 537.450. The Department will grant the permittee a hearing on the cancellation, if one is requested.

In determining whether the permittee has been diligent, the Department will consider information submitted to the Department by the permittee and any information submitted during the 30-day public comment period following public notice of submittal of the progress report.

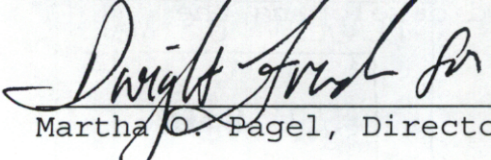
If information is received through the public notice process indicating that the applicant has not been diligent toward completing the project, and if the director determines there are significant disputes related to the use of water, the Department will conduct a hearing.

The factors shown by the applicant, together with the conditions imposed by the Department and the modifications made herein, establish good cause for the permit extension.

Order

The extension of time for Application 68132, Permit Number 48876, therefore, is approved as modified above. The extension is issued as limited by the conditions set forth in the permit and the conditions incorporated herein. The deadline for completing construction is extended to October 1, 2029. The deadline for applying water to full beneficial use is extended to October 1, 2029.

DATED August 30, 1999


Martha O. Pagel, Director

Appeal Rights

Under the provisions of ORS 536.075, the applicant may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served. ORS 183.484.