

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of the Proposed Water) FINAL ORDER APPROVING A
Management and Conservation Plan for the) WATER MANAGEMENT AND
Medford Water Commission, Jackson) CONSERVATION PLAN
County

Authority

OAR Chapter 690, Division 086, establishes the process and criteria for approving water management and conservation plans required under the conditions of permits, permit extensions and other orders of the Department. An approved water management and conservation plan may authorize the diversion and use of water under a permit extended pursuant to OAR Chapter 690, Division 315.

Findings of Fact

1. The Medford Water Commission (Commission) submitted a Water Management and Conservation Plan (plan) to the Water Resources Department (Department) on November 17, 2016. The required statutory fee for review of the plan was received by the Department on November 17, 2016. The plan was required by a condition set forth under the Commission's previously approved plan (Sp. Or. Vol. 77, Pg. 753) issued on May 18, 2009. Additionally, the plan was required by a condition set forth in the final order approving permit amendment T-11916 issued on June 3, 2015 (Permit S-54935 was issued, superseding permit S-6884). Lastly, the plan was required by a condition set forth in the final order approving an Extension of Time for the following permits :
 - a. Permit S-23210, Extension of Time final order issued on November 22, 2013;
 - b. Permit S-6703, Extension of Time final order issued on November 22, 2013;
 - c. Permit S-20177, Extension of Time final order issued on May 19, 2017; and,
 - d. Permit R-1118, Extension of Time final order issued on May 19, 2017.
2. The Department published notice of receipt of the plan on November 22, 2016, as required under OAR Chapter 690, Division 086. No comments were received.
3. The Department provided written comments on the plan to the City on February 3, 2017. In response, the Commission submitted a revised plan to the Department on June 15, 2017.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. The Department reviewed the revised plan and finds that it contains all of the elements required under OAR 690-086-0125 and OAR 690-086-0130.
5. The projections of future water needs in the plan demonstrate a need for 7.5 cfs (*out of a permitted 39.15 cfs*) of water available under the unperfected portion of Permit S-23210 to help meet overall projected 20 year demands. These projections are reasonable and consistent with the City's land use plan.
6. The system is fully metered and the rate structure includes a base rate and volumetric charge. Unaccounted-for water is estimated at 8 percent.
7. The plan includes 5-year benchmarks for implementation of annual water audits; fully meter system; meter testing and maintenance; rate structure that includes a base rate and volumetric charge; leak detection and repair program, including line replacement; public education programs; technical and financial assistance programs; fixture retrofit and replacement; water reuse and recycling program; and encourage conservation in new construction.
8. The plan includes 5-year benchmarks for evaluation, development, and implementation of the following programs:
 - a. Water Audits
 - i. Refine documentation of unmetered water usage.
 - b. System Metering and Meter Testing
 - i. Continue to replace meters with AMI radio meters at a rate of 1,500 per year (started in 2016). In 2020, the Commission will consider increasing the rate to 2,000 per year.
 - ii. Add standard for test ports and bypasses to facilitate field testing of OMI T2 meters.
 - c. Rate Structure
 - i. Consider adding another tier to single family residential customer rates.
 - ii. Evaluate possible rate structure modifications for commercial, institutional and industrial customers and multi-family residential customers.
 - iii. Evaluate establishing a separate rate category for all irrigation accounts.
 - d. Leak Detection and Repair
 - i. Investigate improving documentation of excess BBS water overflowed at Capital Reservoirs during winter months.
 - ii. Add documentation of leaks including descriptions, photos, and locations to GIS.
 - iii. Integrate existing pipe coupon database into GIS.

- iv. Explore acquiring additional Meter Masters for Conservation staff to better enable them to confirm and document suspected leaks on non-AMI meters.
- e. Public Education
- i. Include a conservation outreach component in a formalized Public Information Plan.
 - ii. Rebuild school conservation kit and develop a teacher packet with materials targeted to school education benchmarks.
 - iii. Distribute education materials online and directly through schools.
 - iv. Expand and seek opportunities for school presentations.
 - v. Pursue outreach to entities to inform businesses about rebates and benefits of other water-conserving fixtures and actions.
- f. Technical and Financial Assistance Programs
- i. Consider pilot program of cost-sharing incentives for the largest commercial, industrial, and institutional customers.
 - ii. Re-convene Waterwise Landscape Committee to develop incentives for incorporating water efficiency measures in landscapes associated with new construction.
 - iii. Evaluate adding rebates or other incentives for retrofitting existing landscapes or irrigation systems.
 - iv. Research and evaluate cost-share programs and develop protocols for funding assistance for customers' leak repairs.
 - v. Consider incentive programs for better incorporating indoor water efficiency measures in new construction.
- g. Fixture Retrofit and Replacement Program
- i. Initiate high efficiency urinal rebate program.
- h. Other Conservation Measures
- i. Facilitate minor modifications to Medford's waterwise landscape codes.
 - ii. Consider implementation of regulations for water recycling for facilities such as car washes.
9. The plan identifies Big Butte Creek, Big Butte Spring, Willow Creek, Fourbit Creek, Willow Lake Reservoir and Rogue River as the sources of the Commission's water rights.

Additionally, the plan accurately and completely describes the aquatic resource concerns for the Big Butte Creek and middle Rogue River watersheds as follows:

- a. Threatened and/or endangered species present in the Big Butte Creek watershed includes spring Chinook Salmon (state listed as Sensitive), Coho Salmon (state listed as Sensitive, federally listed as Threatened), and summer Steelhead (state listed as Sensitive).
 - b. Threatened and/or endangered species present in the middle Rogue River watershed includes spring Chinook Salmon (state listed as Sensitive), Coho Salmon (state listed as Sensitive, federally listed as Threatened), and summer Steelhead (state listed as Sensitive).
 - c. Water quality concerns in the middle Rogue River watershed are bacteria, temperature, dissolved oxygen, nutrients, pH, chlorophyll a, altered hydrology, habitat modification, sediment/turbidity, mercury, nitrates, arsenic, fluoride and *E.coli* (listed as water quality limited).
10. The water curtailment element included in the plan satisfactorily promotes water curtailment practices and includes a list of five stages of alert with concurrent curtailment actions.
11. The diversion of water under Permit S-23210 will be initiated during the next 20 years and is consistent with OAR 690-086-0130(7), as follows:
- a. As evidenced by the 5-year benchmarks described in Findings of Fact #7 and #8, the final revised plan includes a schedule for the continuation and/or implementation of conservation measures that would provide water at a cost that is equal to or lower than the cost of other identified sources;
 - b. Due to the distribution limitations of the Big Butte watershed system, the significant investment in the Duff Water Treatment Plant, and the alternatives analysis presented in the final plan, increased use from the Rogue River/ Duff Water Treatment Plant is the most feasible and appropriate water supply alternative available to the Commission; and
 - c. The Commission is not legally required to provide mitigation to address the resource issues identified under OAR 690-086-0140(5)(i) at this time. Additionally, MWC will comply with all necessary state and federal permitting requirements prior to expansion of diversion of water under permit S-23210, as applicable.

Conclusion of Law

The Water Management and Conservation Plan submitted by the Medford Water Commission is consistent with the criteria in OAR Chapter 690, Division 086.

Now, therefore, it is **ORDERED**:

Duration of Plan Approval:

1. The Commission's Water Management and Conservation Plan is approved and shall remain in effect until **July 5, 2027**, unless this approval is rescinded pursuant to OAR 690-086-0920.

Development Limitation:

2. The limitation of the diversion of water under the remaining unperfected portion of permit S-23210 established by the extension of time approved on November 22, 2013 is removed and, subject to other limitations or conditions of the permit, the Commission is authorized to divert up to **7.5 cfs** (*out of the total permitted 39.15cfs*) under the unperfected portion of permit S-23210.
3. The limitation of the diversion of water under the remaining unperfected portion of permit S-6703 established in the final order approving an extension of time for permit S-6703 (*issued on November 22, 2013*) remains unchanged. Subject to other limitations or conditions of the permit, therefore, the Commission is not authorized to divert any water under the remaining unperfected portion of water under permit S-6703 at this time.
4. The limitation of the diversion of water under permit S-6884 (superseded by permit S-54935) established in the final order approving an extension of time for permit S-6884 (*issued on November 22, 2013, superseded by permit S-54935 issued on June 3, 2015*) remains unchanged. Subject to other limitations or conditions of the permit, therefore, the Commission remains authorized to divert only up to **3.1 cfs** (*out of the remaining unappropriated water from Big Butte Creek and its tributaries and/or springs within Big Butte Creek Basin per ORS 538.430(1)*) of water under permit S-6884 (superseded by permit S-54935).
5. The limitation of the diversion of water under the remaining unperfected portion of permit S-20177 established in the final order approving an extension of time for permit S-20177 (*issued on May 19, 2017*) remains unchanged. Subject to other limitations or conditions of the permit, therefore, the Commission is not authorized to divert any water under the remaining unperfected portion of water under permit S-20177 at this time.
6. The limitation of the diversion of water under the remaining unperfected portion of permit R-1118 established in the final order approving an extension of time for permit R-1118 (*issued on May 19, 2017*) remains unchanged. Subject to other limitations or conditions of the permit, therefore, the Commission is not authorized to divert any water under the remaining unperfected portion of water under permit R-1118 at this time.

Plan Update Schedule:

7. The Commission shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years and no later than **January 5, 2027**.

Progress Report Schedule:

8. The Commission shall submit a progress report containing the information required under OAR 690-086-0120(4) by **July 5, 2022**.

Other Requirements for Plan Submittal:

9. The deadline established herein for the submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve the Commission from any existing or future requirement(s) for submittal of a Water Management and Conservation Plan at an earlier date as established through other final orders of the Department.

Dated at Salem, Oregon this 10ⁱ day of July, 2017.



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: JUL 06 2017