

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

In the Matter of the Proposed Water Management and Conservation Plan for Port of Morrow, Morrow County)))
FINAL ORDER DENYING A WATER MANAGEMENT AND CONSERVATION PLAN

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 Port of Morrow submitted a Water Management and Conservation Plan (plan) and required statutory fee for review of the plan to the Water Resources Department (Department) on August 26, 2022. The plan was an early submittal of a condition set forth under the Port's previously approved plan (Sp. Or. Vol. 107, Pg. 1034) issued on April 5, 2018.
2. The Department published notice of receipt of the plan on September 6, 2022, as required under OAR Chapter 690, Division 086. No comments were received.
3. The Department provided written comments on the plan to the Port on November 23, 2022. In response, the Port submitted a revised plan on March 3, 2023.
4. The Department provided written comments on the Port's revised plan on July 20, 2023. In response, the Port submitted a second revised plan on September 15, 2023.
5. The Department provided written comments on the Port's second revised plan on September 20, 2023. In response, the Port submitted a final revised plan on October 10, 2023.
6. The Department reviewed the final revised plan and finds that it contains all of the elements required under OAR 690-086-0125(1) and (3) – (7); however, it does not meet the

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.

requirements of OAR 690-086-0125(2), nor does it meet the requirements of OAR 690-086-0130(1) and (2). The plan deficiencies are outlined below:

- a. As required by OAR 690-086-0125(2), the plan must include a municipal water conservation element that includes all of the items required under OAR 690-086-0150. The plan does not include an adequate 5-year update for implementation of the Port's public education benchmark agreed to in the previous final order (Sp. Or. Vol. 107, Pgs. 1034 – 1035, issued April 5, 2018) approving their 2017 plan, therefore the requirements of OAR 690-086-0150(1) have not been met resulting in the requirements of OAR 690-086-0125(2) not being satisfied;
 - b. The requirements of OAR 690-086-0130(1) are not met due to the deficiencies outlined in Finding of Fact #6-a above; and
 - c. The requirements of OAR 690-086-0130(2) are not met because the projections of future water needs in the plan do not adequately demonstrate a need for **4.5 cfs** of water available under **Permit G-18505** (formerly G-13765) and **0.34 cfs** of water available under **Permit G-12370** to help meet overall projected 20-year demands.
7. The system is fully metered, and the rate structure includes a base rate and volumetric charge. Unaccounted-for water is estimated at **19.2 percent**.

Conclusion of Law

The Water Management and Conservation Plan submitted by the Port of Morrow is not consistent with the criteria in OAR Chapter 690, Division 086.

Now, therefore, it is ORDERED:

Plan Reconsideration:

1. The Port of Morrow final revised Water Management and Conservation Plan is denied.
2. The Port has sixty (60) days from issuance of this final order to provide the five letters of intent from potential tenants at the Airport Industrial Park and the single letter of intent from the potential tenant at the South Morrow Industrial Park, all of which must include the minimum rate of gallons per minute for potable water to be provided by the Port of Morrow (water amounts must be visible and not redacted). If the Port chooses to provide these, along with No. 3 below, the Department will reconsider this final order and will authorize the green light water requests within the final revised plan for increased diversion of **4.5 cfs** of water available under **Permit G-18505** (formerly G-13765) and **0.34 cfs** of water available under **Permit G-12370** to help meet overall projected 20-year demands.
3. The Port has sixty (60) days from issuance of this final order to provide proof in the form of hard copies of targeted water conservation outreach emails (dates and conservation materials must be visible and not redacted) sent to customers, and dates of the in-person quarterly meetings with industrial customers where potential water conservation measures

were discussed. If the Port chooses to provide these, along with No. 2 above, the Department will reconsider this final order and will authorize the greenlight water requests within the final revised plan for increased diversion of **4.5 cfs** of water available under **Permit G-18505** (formerly G-13765) and **0.34 cfs** of water available under **Permit G-12370** to help meet overall projected 20-year demands.

Development Limitation(s):

4. Provided the Port does not supply the additional information outlined in No. 2 & No. 3 above, the limitation of the diversion of water under **Permit G-18505** (formerly G-13765) established in the Final Order approving an Extension of Time for **Permit G-18505** (*issued on November 4, 2016*) remains unchanged. Subject to other limitations or conditions of the permit, therefore, the Port of Morrow remains authorized to divert only up to **0.46 cfs** (*out of the total permitted 4.96 cfs*) of water under **Permit G-18505**.
5. Provided the Port does not supply the additional information outlined in No. 2 & No. 3 above, the limitation of the diversion of water under **Permit G-12370** established in the Final Order approving an Extension of Time for **Permit G-12370** (*issued on July 31, 2015*) remains unchanged. Subject to other limitations or conditions of the permit, therefore, the Port of Morrow remains authorized to divert only up to **0.11 cfs** (*out of the total permitted 1.448 cfs*) of water under **Permit G-12370**.

Other Requirements for Plan Submittal:

6. This denial order (consistent with OAR Chapter 690, Division 086) shall not relieve the Port of Morrow 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.

NOV 27 2023

Dated at Salem, Oregon this day _____



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources

NOV 28 2023

Mailing date: _____

Notice Regarding Servicemembers: Active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.