

**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)	WATER MANAGEMENT AND
Pacific City Joint Water-Sanitary)	CONSERVATION PLAN
Authority, Tillamook 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 plan may authorize the diversion and use of water under a permit extended pursuant to OAR Chapter 690, Division 315.

Findings of Fact

1. On August 5, 2010, the Pacific City Joint Water-Sanitary Authority (PCJWSA) submitted a draft Water Management and Conservation Plan for review under OAR Chapter 690, Division 086.
2. The Oregon Water Resources Department (Department) published notice of receipt of the plan on August 10, 2010, as required under OAR Chapter 690, Division 086. Timely public comments were received on September 9, 2010, from WaterWatch of Oregon.
3. The Department provided comments on the plan to PCJWSA on October 28, 2010, and, in response, the City submitted draft revisions to the plan on July 17, 2012 and August 1, 2012. The final revised plan was submitted to the Department on August 20, 2012.
4. The Department reviewed PCJWSA's revised plan, as well as the public comments received, and finds that the revised plan contains all of the elements required under OAR 690-086-0125.
5. The projections of future water needs in the plan demonstrate a need for 2.0 cfs of water available under Permit S-36881 to help meet overall anticipated demands of 3.43 cfs for PCJWSA's 20-year planning horizon. These projections are reasonable and consistent with PCJWSA's land use plan.
6. The system is fully metered and unaccounted-for water is estimated at 31 percent. The rate structure includes a base rate and volumetric charge, and customers are billed on a monthly basis.

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.

7. The plan includes 5-year benchmarks to continue and/or initiate implementation of the following: perform an annual water audit; completely replace all old water meters by the year 2016; monitor billing records for discrepancies and test and/or repair customer meters, as necessary; calibrate and maintain source meters on a 4 to 5 year basis; perform acoustical leak detection; replace pipe in sections of the distribution system comprised of aging asbestos cement (AC) and galvanized steel pipes; distribute residential conservation kits; distribute low-flow shower heads/bathroom sink aerator nozzles; staff an information booth at local events to provide public outreach and educational materials related to water conservation; expand public outreach to include distribution of water conservation-related materials to hotels/motels, restaurants and rental homes in the area, thereby targeting the tourist population; provide technical assistance to homeowners related to home water audits and suggestions on water conservation practices; and provide technical assistance to commercial customers by working with hotels/motels to provide water conservation information in each guest room and with restaurants to start requiring customers to ask for water instead of automatically supplying it. The plan also includes a 5-year benchmark to perform a survey to evaluate public interest in PCJWSA offering rebates to customers who invest in water conserving fixtures/appliances.
8. The plan identifies Horn Creek, an Unnamed Stream (a tributary of Horn Creek), and ground water as the sources of PCJWSA's water rights. The plan accurately and completely describes the listed streamflow-dependent species that are present in PCJWSA's surface water sources, being Coho salmon (federally listed as threatened and state listed as sensitive), Chinook salmon (state listed as sensitive), Chum salmon (state listed as sensitive), Steelhead trout (federally listed as species of concern and state listed as sensitive), Western Brook lamprey (federally listed as species of concern and state listed as sensitive) and Pacific lamprey (federally listed as species of concern and state listed as sensitive). The plan also accurately and completely describes that Horn Creek is listed by the Oregon Department of Environment Quality as being water quality limited for temperature during summer months, and that PCJWSA's ground water sources are not located within a designated critical ground water area or a ground water management area.
9. The water curtailment element included in the plan satisfactorily promotes water curtailment practices and includes a list of three stages of alert with concurrent curtailment actions.
10. The diversion of water under Permit S-36881 will be expanded during the next 20 years and is consistent with OAR 690-086-0130(7), as follows:
 - a. As evidenced by the 5-year conservation benchmarks and continuing conservation measures described in Findings of Fact #6 and 7 above, the plan includes a schedule for development of conservation measures that would provide water at a cost that is equal to or lower than the cost of other identified sources;

- b. Considering that PCJWSA's water supply capacity is limited during low streamflow, high demand periods; that accessing additional supply from ground water would likely be limited and generally a poor alternative supply source; and that PCJWSA's current and planned conservation measures cannot meet future demands alone, the use of surface water under PCJWSA's extended Permits S-36881 is the most feasible and appropriate water supply alternative available to PCJWSA; and
- c. The plan identifies that PCJWSA is subject to conditions for maintaining a diversion structure that includes an intake and screen complying with the Oregon Department of Fish and Wildlife fish screening requirements. The plan also identifies that PCJWSA must maintain minimum streamflow levels in Horn Creek, as established by the National Marine Fisheries Service in its March 20, 2009 Endangered Species Act Section 7 Formal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Horn Creek Municipal Water Intake which included a Biological Opinion, Incidental Take Statement and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation (for Corps No. NWP-2008-161), and as incorporated into the Final Order Incorporating Settlement Agreement issued by the Oregon Water Resources Department on May 14, 2012, approving an Extension of Time for Permit S-36881.

11. Based upon Findings of Fact #4 – #10, the Department issued a Proposed Final Order on August 23, 2012, proposing to approve PCJWSA's revised WMCP. In accordance with OAR 690-086-0915(10), the deadline for submittal of appeals to the Proposed Final Order was September 24, 2012. No timely appeals to the Proposed Final Order were received by the Department.

Conclusion of Law

The Water Management and Conservation Plan submitted by the Pacific City Joint Water-Sanitary Authority is consistent with the criteria in OAR Chapter 690, Division 086.

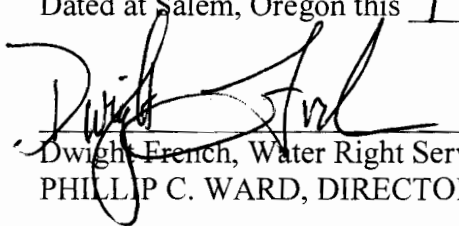
Now, therefore, it is ORDERED:

- 1. The Pacific City Joint Water-Sanitary Authority Water Management and Conservation Plan is approved and shall remain in effect until October 1, 2022, unless this approval is rescinded pursuant to OAR 690-086-0920.
- 2. The limitation of the diversion of water under Permit S-36881 established in Condition #1 (Development Limitations) in the Final Order Incorporating Settlement Agreement (Page 6 of 9) issued by the Oregon Water Resources Department on May 14, 2012, approving an Extension of Time for Permit S-36881 is removed.

Subject to other limitations and/or conditions of the permit, as well as the Settlement Conditions set forth in the Extension of Time Final Order Incorporating Settlement Agreement issued by the Oregon Water Resources Department on May 14, 2012, the Pacific City Joint Water-Sanitary Authority is authorized to divert up to 2.0 cfs under Permit S-36881.

3. The Pacific City Joint Water-Sanitary Authority shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 (effective November 1, 2002) within 10 years and no later than April 1, 2022.
4. The Pacific City Joint Water-Sanitary Authority shall submit a progress report containing the information required under OAR 690-086-0120(4) by October 1, 2017.
5. 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 Pacific City Joint Water-Sanitary Authority 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 1 day of October, 2012.


Dwight French, Water Right Services Administrator for
PHILLIP C. WARD, DIRECTOR

Mailing date: Oct. 9 2012