

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

In the Matter of the Proposed Water Management and Conservation Plan for City of Bend, Deschutes County)))
FINAL ORDER APPROVING 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 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 City of Bend submitted a Water Management and Conservation Plan (plan) to the Water Resources Department (Department) on January 3, 2011. The plan was submitted: 1) as an update to the City's previously approved plan; 2) to comply with conditions set forth in Permits G-16177 and G-16178; and 3) to comply with conditions set forth in the final order approving an extension of time for Permit G-8565.
2. The Department published notice of receipt of the plan on January 11, 2011, 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 March 16, 2011, and in response, the City submitted a revised plan on June 20, 2011.
4. The Department reviewed the revised plan and finds that it contains all of the elements required under OAR 690-086-0125.
5. The projections of future water needs in the plan, which project demands for the population anticipated in 20 years, are reasonable and consistent with the City's land use plan. These projections also demonstrate a need for the 2.45 cfs available under Permit G-8565 within 20 years.
6. The City of Bend has a water system that is fully metered and has a rate structure that includes a base rate and volumetric charge. Unaccounted-for water is estimated at 4.0 percent.

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 for implementation of an annual water audit program and a reduction in the base quantity allowance in the water rate structure; reorganizing and updating customer classes and service codes; upgrading water meters with automated metering infrastructure (AMI) data technology; using improved technology when upgrading or replacing existing source meters; and becoming an EPA WaterSense Program partner.
8. The plan includes 5-year benchmarks for evaluation, development, and implementation of programs to explore the potential development of cost-share partnerships between the City's three water utilities; conduct cost analysis aimed at the creation of water budgets for targeted customer groups based on evapotranspiration; study the cost effectiveness of implementing a toilet rebate replacement or incentive program based on the new voluntary federal HET standard; and evaluate the adoption of modified irrigation restrictions based on time of day.
9. The plan identifies ground water, Tumalo Creek, Bridge Creek and an Unnamed Tributary of the Middle Fork Tumalo Creek as the sources of the City's water rights. Additionally, the plan accurately and completely describes the listed fish species that occur in Bridge Creek and Tumalo Creek, namely Inland Columbia Redband Trout, as being federally-listed as "sensitive" and state-listed as "sensitive-vulnerable," and the water quality parameters for which Tumalo Creek has been 303(d) listed by the Oregon Department of Environmental Quality.
10. The water curtailment element included in the plan satisfactorily promotes water curtailment practices and includes a list of four stages of alert with concurrent curtailment actions.
11. The diversion of water under extended Permit G-8565 will be increased 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 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. Based upon the City of Bend's projected water demand growth; limitations in the City's available supply from their Tumalo Creek source; limitations in acquiring new surface or ground water use permits in the Deschutes Basin; and the nature of the City's interconnections with Avion Water Co., Inc. and Roats Water System (i.e., available under emergency supply conditions only), the increased use from ground water Permit G-8565 is the most feasible and appropriate water supply alternative to the supplier at this time; and
 - c. The City is not required to provide any Deschutes mitigation under Permit G-8565. Furthermore, the City currently is not required to take any mitigation actions under federal law. The City is required, however, to provide mitigation credits as part of the Deschutes Basin Mitigation Program to offset the impacts to surface water of the consumptive portion of its use of groundwater under Permits G-16177 and G-16178. The City has an approved incremental mitigation plan related to these two permits.

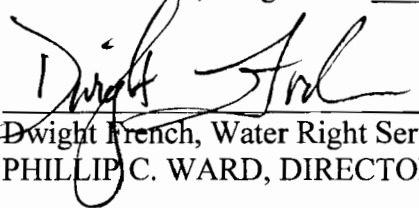
Conclusion of Law

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

Now, therefore, it is ORDERED:

1. The City of Bend Water Management and Conservation Plan is approved and shall remain in effect until June 29, 2021, unless this approval is rescinded pursuant to OAR 690-086-0920.
2. The limitation of the diversion of water under Permit G-8565 established by the extension of time approved on November 15, 2007, is removed and, subject to other limitations or conditions of the permit, the City of Bend is authorized to divert up to 2.45 cfs under Permit G-8565.
3. The City of Bend 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 December 29, 2020.
4. The City of Bend shall submit a progress report containing the information required under OAR 690-086-0120(4) by June 29, 2016.

Dated at Salem, Oregon this 30 day of June, 2011.


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

Mailing date: JUL 01 2011