

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

In the Matter of Application for Extension) FINAL ORDER APPROVING AN EXTENSION
of Time for Transfer Application B-112,) OF TIME
Deschutes County)

Applicant

CITY OF BEND
ATTN PAUL RHEAULT
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BEND, OREGON 97701

Authority

Oregon Administrative Rules (OAR) 690-380-5140(2) authorizes the Department to grant an extension of time to complete a transfer.

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time to complete a transfer as authorized by a final order issued under OAR Division 380.

OAR 690-380-6020 (3) establishes that extensions are granted for one year, from October 1 to October 1 of each year. An extension for up to five years may be granted for transfers involving municipal or quasi-municipal use. Extensions may be granted for longer time if the applicant can justify the need for a longer period of time by submission of pertinent evidence.

Background

1. The Water Resources Department issued an order to the City of Bend approving Transfer Application B-112 on December 28, 1959. The order was recorded in Special Order Volume 10, at Page 288. The order set a transfer completion date of October 1, 1968. The order approved changes in character of use from irrigation to municipal use, place of use, and point of diversion pursuant to the provisions of 540.510 to 540.530.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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.

2. The Water Resources Department issued an order approving an extension of time dated June 5, 1980. The order was recorded by a letter from the Department and on the original extension application. The order set a transfer completion date of October 1, 1984.
3. The Water Resources Department issued an order approving an extension of time dated November 9, 1984. The order was recorded by a letter from the Department and on the original extension application. The order set a transfer completion date of October 1, 1989.
4. The Water Resources Department issued an order denying an extension of time dated December 2, 1998, because it appeared that an extension of time was not needed.
5. On May 18, 2009, the Department signed an order, which was mailed on May 20, 2009, approving a fourth extension of time. The order was recorded in Special Order Volume 77, Pages 767-768. The order extended the transfer completion date to October 1, 2019.

Findings of Facts

6. On July 19, 2019, the Department received a fifth application for extension of time for Transfer Application B-112.
7. Since the approval of the most recent extension of time, the applicant has completed a \$70 million surface water improvement project, including an updated and expanded surface water intake, new and expanded transmission line, and construction of a membrane filtration water treatment plant. The City's new surface water system increased its diversion capacity. The City also obtained a special use permit (SUP) from the U.S. Forest Service for water system components located on U.S. Forest Service lands. The SUP limits the use of surface water to the extent that full beneficial use of water under B-112 in conjunction with other municipal water rights held by the City cannot yet be demonstrated. The SUP expires at the end of 2037.
8. To fully complete the change, the City needs additional time to allow for the U.S. Forest Service to issue an SUP that will not preclude the demonstration of the full beneficial use of Transfer B-112 to meet the demands of its municipal customers.
9. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2038. Consistent with OAR 690-380-6020(3), the applicant provided sufficient justification in the extension application to grant an extension for municipal use for more than five years year. The Department will extend the transfer completion date to October 1, 2038.

