

**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
City of Albany, Linn County)	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 Oregon Water Resources Department (Department) issued Permit S-44388 on September 27, 1979, authorizing the City of Albany (City) to divert up to 29.0 cfs of water from the South Santiam River for municipal use.
2. The Department issued a final order on January 26, 2005, granting the City an extension of time through October 1, 2063, in which to complete construction and accomplish full beneficial use of the water allowed under Permit S-44388. The final order required the City to submit a Water Management and Conservation Plan (plan) to the Department by January 26, 2008. It also specified that the diversion of water under Permit S-44388 be limited to 6.0 cfs (*out of the permitted 29.0 cfs*) until access to water beyond that amount is authorized by the Department as part of approval of the required plan.
3. The Department issued a final order on February 27, 2007, approving the City's required plan (*described in Finding of Fact #2*). The final order also specified that the limitation of the diversion of water under Permit S-44388, as described in Finding of Fact #2, be removed.
4. On August 8, 2017, the Department issued Certificate 93318 recognizing the partial perfection of 28.57 cfs of water under Permit S-44388. The remaining unperfected portion of Permit S-44388 is 0.43 cfs of water.
5. The City submitted an updated plan to the Department on September 21, 2017. The required statutory fee for review of the plan was received by the Department on September 22, 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.

The plan was required by a condition set forth under the City's previously approved plan (Sp. Or. Vol. 71, Pg. 281) issued on February 27, 2007.

6. The Department published notice of receipt of the plan on October 10, 2017, as required under OAR Chapter 690, Division 086. No comments were received.
7. The Department provided written comments on the plan to the City on December 15, 2017. In response, the City submitted a revised plan on February 1, 2018.
8. 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.
9. The projections of future water needs in the plan demonstrate a need for 0.43 cfs of water available under Permit S-44388 to help meet overall projected 20 year demands. These projections are reasonable and consistent with the City's land use plan.
10. The system is fully metered and the rate structure includes a base rate and volumetric charge. Unaccounted-for water is estimated at 9 percent.
11. The plan includes 5-year benchmarks for the continued implementation of: annual water audits; the installation of meters at all new service connections; a meter testing and maintenance program; a water rate structure that bills customers based on the quantity of water metered; the collection and analysis of water use data by customer class; a leak detection and line replacement program; a public education and outreach program; and, a technical and financial assistance program. The City has also included the following additional conservation measures:
 - a. The City will continue to enforce the requirements of the Oregon Plumbing Specialty Code and the Oregon Residential Specialty Code for water conserving plumbing fixtures; and,
 - b. The City will continue to require looping of the water distribution system, as applicable.
12. The plan includes 5-year benchmarks for evaluation, development, and implementation, as appropriate, of the following programs:
 - a. Water Rate Structure
 - i. The City will continue to explore options for making modifications to the existing rate structure.
 - b. Water Re-use, Recycling, and Non-Potable Water Opportunities
 - i. The City will continue to evaluate ways to conserve potable water and encourage customers to utilize water re-use, recycling, and non-potable water options when practicable.
 - c. Technical and Financial Assistance
 - i. The City will continue to explore new advertising and outreach opportunities that encourage efficient water use.

13. The plan identifies the Santiam River and South Santiam River as the sources of the City's water rights. The plan also accurately and completely describes flow dependent species listed as Sensitive, Threatened, or Endangered present in each source as well as the parameters for which each source has been listed as water quality limited.
14. 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.
15. The diversion of water under the unperfected portion of Permit S-44388 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 #11 and #12, 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 need to provide additional system resiliency and redundancy and considering the operational requirements of the City's treatment and distribution system, initiating diversion of the unperfected portion of Permit S-44388 is the most feasible and appropriate water supply alternative available to the City; and,
 - c. The City is not legally required to provide mitigation to address the resource issues identified under OAR 690-086-0140(5)(i) at this time.

Conclusion of Law

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

Now, therefore, it is ORDERED:

Duration of Plan Approval:

1. The City of Albany's Water Management and Conservation Plan is approved and shall remain in effect until **March 16, 2028**, unless this approval is rescinded pursuant to OAR 690-086-0920.

Development Limitation:

2. The limitation of the diversion of water under the unperfected portion of Permit S-44388 is removed and, subject to other limitations or conditions of the permit, in addition to the 28.57 cfs under Certificate 93318 (Permit S-44388), the City of Albany is authorized to divert up to 0.43 cfs (*out of the total permitted 0.43cfs*) under the unperfected portion of Permit S-44388.

Plan Update Schedule:

3. The City of Albany shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years and no later than **September 16, 2027**.

Progress Report Schedule:

4. The City of Albany shall submit a progress report containing the information required under OAR 690-086-0120(4) by **March 16, 2023**.

Other Requirements for Plan Submittal:

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 City of Albany 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 16 day of March, 2018.



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

Mailing date: MAR 19 2018

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>