

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

In the Matter of Application for Extension)	FINAL ORDER APPROVING AN
of Time for Transfer of Water Right)	EXTENSION OF TIME
Authorized by T-6983, Lincoln County,)	
Oregon)	

Applicant

CITY OF LINCOLN CITY
PO BOX 50
LINCOLN CITY, OR 97367

Findings of Fact

1. On June 14, 2006, the Department received an application for extension of time for transfer of water right from City of Lincoln City.
2. The Water Resources Department issued an order approving Transfer Application T-6983 on May 23, 1995. The order was recorded in Special Order Volume 49, at Page 196. The order set a transfer completion date of October 1, 1996, and the date for submission of a claim of beneficial use as October 1, 1997.
3. The Water Resources Department issued an order approving an extension of time dated September 29, 1997. The order was recorded in Special Order Volume 51, Page 1096. The order set a transfer completion date of October 1, 2001.
4. The City has temporarily suspended its use of water from Rock Creek and has modified the diversion dam to allow fish passage. The City holds three water rights under which a total of 2.43 cfs may be used from the point of diversion authorized under Application T-6983. The water right affected by Application T-6983 constitutes 0.2 cfs of the total quantity of water authorized.
5. The presumption that the failure to use the right for five consecutive years constitutes forfeiture of the right could be rebutted under ORS 540.610(2) (a) and (b). Additionally, failure to complete the changes authorized under Application T-6983 would result in reversion of the diversion to the previously authorized location under OAR 690-380-6010.

<p>This is a final order in other than 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 either 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.</p>

6. The City is evaluating its long-term and emergency water supply requirements and the role of the existing Rock Creek water rights in conjunction with other potential supply alternatives including Drift Creek, Seid Creek, Salmon River, and Treat River.
7. The City is working cooperatively with the Oregon Department of Fish and Wildlife and the Water Resources Department in its long term water supply planning and in assessing fish passage and screening requirements for the diversion of water under the existing Rock Creek water rights.
8. Pending a conclusion to these efforts, the Rock Creek water rights provide a back-up source of supply.
9. The applicant requested an extension until October 1, 2046, to complete construction. However, an extension until October 1, 2025 would provide a more reasonable period of time for the city to pursue coordination of the city's long-term water supply, to assess use of the authorized diversion, and to complete beneficial use under the right.
10. The approval of an extension to October 1, 2025 does not preclude approval of a subsequent extension. An extension allowing additional time to complete construction may be approved if the applicant demonstrates in a request for such an extension that additional time beyond October 1, 2025 is needed.

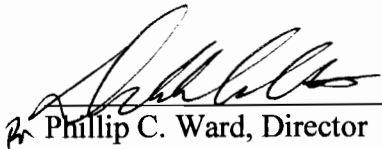
Conclusions of Law

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-6983.

Now, therefore, it is ORDERED:

The time for completion of beneficial use authorized by T-6983 shall be extended to October 1, 2025.

Dated at Salem, Oregon this 28th day of May, 2009


Phillip C. Ward, Director

JUN 12 2009
Mailing date: _____