

**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
Tree Farm, LLC, Deschutes 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. Tree Farm, LLC submitted a Water Management and Conservation Plan (plan) to the Water Resources Department (Department) on November 1, 2017. The required statutory fee for review of the plan was received by the Department on November 6, 2017.
2. The Department published notice of receipt of the plan on November 14, 2017, as required under OAR Chapter 690, Division 086. No comments were received.
3. The Department provided written comments on the plan to Tree Farm, LLC on January 17, 2018 and March 7, 2018. In response, Tree Farm, LLC submitted revised plans on February 23, 2018 and April 2, 2018.
4. 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.
5. The projections of future water needs in the plan demonstrate a need for 0.78 cfs of water available under Permit G-13017 to help meet overall projected 20 year demands. These projections are reasonable and consistent with Tree Farm, LLC's land use plan.
6. Prior to diversion of any water under Permit G-13017, the distribution system will be fully metered and a rate structure that includes a volumetric charge will be developed.
7. The plan includes 5-year benchmarks for implementation of the following programs:

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.

- a. Annual Water Audit
    - i. Within five (5) years of water use being initiated under Permit G-13017, Tree Farm, LLC will conduct a water audit that compares water production and consumption on an annual basis.
  - b. Full Metering of Systems
    - i. Within three (3) years and prior to initiation of water use under Permit G-13017, all water production and water service connections will be metered.
  - c. Meter Testing and Maintenance
    - i. Within three (3) years, and prior to initiation of water under Permit G-13017, Tree Farm, LLC will implement a system to test and maintain all meters.
  - d. Leak Detection
    - i. Within five (5) years, if the annual water audit demonstrates system leakage greater than 10%, a regularly scheduled and systematic program to detect leaks in the transmission and distribution system using methods and technology appropriate to the size and capabilities of the water supplier will be implemented.
  - e. Rate Structure Based on the Quantity of Water Metered
    - i. Within three (3) years, and prior to diversion of water under Permit G-13017, all Tree Farm, LLC customers will be billed, at least in part, on the quantity of water metered at the service connection.
  - f. Public Education
    - i. Within the next five (5) years, Tree Farm, LLC will distribute water conservation educational materials to water users.
8. The plan identifies the Deschutes Aquifer as the source of Tree Farm, LLC's water right and accurately and completely describes that it is not in an OWRD-designated Critical Groundwater Area or Groundwater Limited Area and has no listed water quality limits.
  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 G-13017 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 and 3-year benchmarks described in Findings of Fact #7 (a-f), the final revised plan includes a schedule for development and 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. Considering that water savings alone from identified conservation and curtailment measures cannot fully meet Tree Farm, LLC's projected water demands, access to diversion of water under Permit G-13017 is the most feasible and appropriate water supply alternative to the supplier; and,
- c. Tree Farm, LLC is not required at this time to provide mitigation related to Permit G-13017.

### **Conclusion of Law**

The Water Management and Conservation Plan submitted by Tree Farm, LLC is consistent with the criteria in OAR Chapter 690, Division 086.

**Now, therefore, it is ORDERED:**

#### **Duration of Plan Approval:**

1. Tree Farm, LLC's Water Management and Conservation Plan is approved and shall remain in effect until **April 11, 2028**, unless this approval is rescinded pursuant to OAR 690-086-0920.

#### **Development Limitation:**

2. The limitation of the diversion of water under Permit G-13017 established by the extension of time approved on September 29, 2009 is removed and, subject to other limitations or conditions of the permit, Tree Farm, LLC is authorized to divert up to 0.78 cfs under Permit G-13017.
3. Failure to implement the conservation benchmarks identified in Findings of Fact #7 (a-f) may result in the reduction of the quantity of water authorized for diversion under Permit G-13017 during the review of Tree Farm, LLC's next plan update.

#### **Plan Update Schedule:**

4. Tree Farm, LLC shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years and no later than **October 11, 2027**.

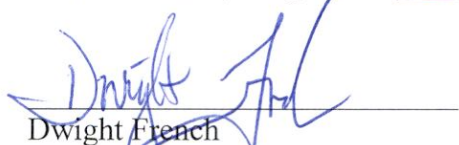
#### **Progress Report Schedule:**

5. Tree Farm, LLC shall submit a progress report containing the information required under OAR 690-086-0120(4) by **April 11, 2023**.

#### **Other Requirements for Plan Submittal:**

6. 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 Tree Farm, LLC 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 13 day of April, 2018.



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

Mailing date: APR 16 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>