

Application for Extension of Time

In the Matter of the Application for an Extension of Time)
for Permit R-12019, Water Right Application R-70200) FINAL ORDER
in the name of McGough Enterprises, LLC)

Application:	R-70200
Permit:	R-12019
Basin:	John Day / Watermaster District 21
Date of Priority:	February 14, 1990
Source of Water:	Carroll Creek and an unnamed stream, tributaries of West Branch Bridge Creek
Storage Facility:	Three unnamed reservoirs
Purpose of Use:	Livestock and Wildlife
Maximum Volume:	4.5 Acre-Feet (AF) per year, being 1.5 AF in each of three reservoirs

Appeal Rights

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

Permit R-12019 was issued by the Department on September 11, 1996. The permit called for actual construction work to begin by September 11, 1997, completion of construction by October 1, 1998, and complete application of water to beneficial use by October 1, 1999. On March 9, 2016, McGough Enterprises, LLC submitted an Application for Extension of Time for

Permit R-12019. In accordance with OAR 690-315-0050(2), on April 26, 2016, the Department issued a Proposed Final Order proposing to extend the time to complete construction from October 1, 1998 to October 1, 2020, and the time to apply water to full beneficial use from October 1, 1999 to October 1, 2020. The protest period closed June 10, 2016, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated April 26, 2016.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to no additional conditions.

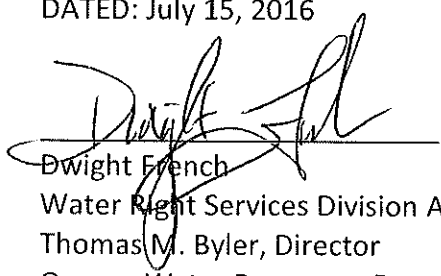
CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

ORDER

The extension of time for Application R-70200, Permit R-12019, therefore, is approved. The deadline for completing construction is extended from October 1, 1998 to October 1, 2020. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 1999 to October 1, 2020.

DATED: July 15, 2016



Dwight French

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

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- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503) 986-0825.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
-



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

March 11, 2016

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: R-70200 (Permit R-12019)**. Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Corey Courchane at (503) 986-0825. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: www.wrd.state.or.us.

Extension PFO Checklist for Other than Muni or Quasi-Municipal

Water Use Permits
(OAR 690-315-0010 through OAR 690-315-0060)

Application: R - 70200 Permit: R - 12019 Permit Amendment? No ☐ Yes ☐ T- ☐ pending ☐ approved

Permit Holder's Name: Circle Bar Cattle Company

Permit Holder's Mailing Address: 2709 Buena Vista Vancouver, WA 98661 email: Barba 78021@aol.com

Phone Number: 360-694-5632

Agent/CWRE: Herb Winters Wheeler SWCD

Drainage Basin: 6 County: Wheeler Watermaster District: 21 Watermaster: Ken Thiemann

NCR
Mike
Ladd

Date Permit was issued: September 11, 1996 Priority Date: February 14, 1990 Date of PN: 3-15-16

Source: Carroll Creek and an unnamed stream, trib. of W. Branch Bridge Creek

Use: Livestock and wildlife facility 3 unnamed reservoirs

"Q": 4.5 AF/yr, being 1.5 AF in each of three reservoirs

Orig "A" Date: September 11, 1997 Orig "B" Date: 10/1/1998 Orig "C" Date: 10/1/1999

Extension request received: 3-9-16 Last Authorized "B" Date: 10/1/ Last Authorized "C" Date: 10/1/

Request Number (1, 2, 3...): 1 Proposed "B" Date: 10/1/2020 Proposed "C" Date: 10/1/2020

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition
✓		Began Construction: <u>1983</u>
✓		Fish screen + bypass (<u>1-21-16 ODFW letter - not currently reg.</u>)
	✓	Riparian protection around <u>spring</u> reservoirs

Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:

Yes No

- ☐ ☒ Work was accomplished within the time allowed in the permit or previous extension
- ☐ ☒ Water right permit holder conformed with the permit or previous extension conditions
- ☒ ☐ Beneficial use made of the water during the permit or previous extension time limits

• Permit holder has beneficially used 4.5 cfs/gpm (af) of the total permitted quantity of water on acres

- ☒ ☐ Financial investments were made toward developing the beneficial water use.

• Amount Invested to date: \$ 24,755 Estimated Remaining Cost: \$ 63,960

GW REVIEW: Y ☒ CC

MITIGATION REVIEW: Y ☒

Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes ☒ No ☐

Application _____ - _____ Permit _____ - _____ Township _____ Range _____ Section _____

Determination of the market and the present demand for water or power to be supplied:

Identify the closest surface water or localized water basin. West Branch Bridge Creek

Ground Water Permits: Is the POA located...

Surface Water Permits: Is the POD located...

Yes No

☒ ☐ above a state scenic waterway? Above John Day Scenic Source: OWRD "Areas Above State Scenic Waterways" Map

☐ ☒ within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html

☐ ☒ within a critical or limited Ground Water Area? Name of area _____

☒ ☐ within a sensitive, threatened or endangered species area source: "/>

☐ ☒ in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list _____

☒ ☐ within an area ranking low / moderate / high (circle one) for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. ☒ Approval of Extension Request

No ... "Good Cause" cannot be found. ☐ Denial of Extension Request

Conditions to be included in Extension PFO (if applicable)? Yes ☐ No ☒

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

☐ 5-year Progress Report Checkpoints (Years: _____)

☐ Other: _____

Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:

☐ **COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

☒ **COBU Requirement - Surface Water - post July 9, 1987**

"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

☒ **COBU Requirement - Ground Water - post July 9, 1987**

"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

NOTES:

Extension "PFO" Dates

Mailing / Issuance Date: 4/26 Protest Deadline Date: 6/10 FO Issuance Date: 6/24

Reviewer's Name: Carey Date: 3-10-16

Completeness Checklist for Permit Extension of Time Application

Minimum completeness criteria for Extension of Time Applications are set forth in OAR 690-086-0020(3) for NON-Municipal or NON-Quasi-Municipal permits and in OAR 690-086-0070(3) for Municipal or Quasi-Municipal permits.

- ☒ 1. Is the permit to be extended Non-Cancelled according to WRIS and the permit file? yes
If the permit has been cancelled, the Extension Application cannot be accepted.
- ☒ 2. Is the extension applicant's name and mailing address the permit holder of record? yes
 If an Assignment has **not** yet occurred, and is **not** submitted with the Extension of Time Application, the application cannot be accepted.
- ☒ 3. Did Construction begin on or before the "A" date (Actual Construction date), If no "A" date then by the "C" date (Completion Date)? yes
IF NO, Return application, The Extension cannot be granted.
- ☒ 4. Pull the permit file. If a copy of the permit is not in the file, pull up an image of the permit in WRIS.
- ☒ 5. Is the appropriate Extension of Time Application used? yes
 If the wrong application form is used, the Extension Application cannot be accepted.
 - If a Municipal or Quasi-Municipal permit, use: "Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits."
 - If a NON-Municipal or NON-Quasi-Municipal permit, use: "Application for Extension of Time for a Water Right Permit (Non-Municipal / Non-Quasi-municipal Water Use)."
- ☒ 6. Are the requested date(s) for extension identified (Page 1)? yes
 • Check the permit to see if it includes a "B-Date" and/or a "C-Date."
"B-Date" = date by which construction of the water delivery system for the permit is to be completed.
"C-Date" = date by which full beneficial use of water under the permit is to be accomplished AND CONSTRUCTION MUST BEGIN by if no "A" DATE.
- ☒ 7. Is the Extension Application signed (with an original signature) by permit holder(s) of record or an authorized agent? yes
(If signed by agent, documentation from the permit holder(s) granting authorization for the agent to sign on their behalf must be provided or be present and current in the permit file.)
 If **not** signed by a permit holder of record or authorized agent, the Extension Application cannot be accepted.
- ☒ 8. Are all questions on the application answered? yes
(NOTE: Supporting documentation such as: copies of the permit, well log(s), annual water use reports, static water level measurement reports, evidence demonstrating construction/work/water use accomplished, etc. may be included.)
- ☒ 9. Has the \$575 fee been paid? yes
***If applicable, has the \$85 fee for the Assignment been paid?** _____
(As of July 1, 2013, the Extension of Time fee is \$575, and Request for Assignment fee is \$85)
 If the fee has **NOT** been paid, the application cannot be accepted.
****NOTE:** If the fee is the only item missing, contact the applicant to see if they can submit the fee with the next few days. If the applicant commits to submitting the fee within one week, hold the Extension Application, and explain to them that if it is not received the application will be returned (as we are required to keep any application, regardless of how complete, if retained by the Department as long as two weeks.
- ☐ 10. If after completing this checklist, it is not clear whether the application can be accepted, please route both the money slip and Non-Muni Extension Application to Machele Bamberger or Corey Courchane. For municipal application route to, Machele Bamberger. One will either: 1) accept the application; 2) return the application; or 3) prepare a deficiency letter.

Reviewed by: Cosby Date: 3-10-16

**Application for Extension of Time for a Water Right Permit
(NON-Municipal/NON Quasi-Municipal water Use)**

RECEIVED BY OWRD



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301
(503) 986-0900
www.wrd.state.or.us

MAR 09 2016

SALEM, OR

Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permit extension request the Department must be able to find:

1) Construction has begun:

A. For Groundwater Permits

Construction of the well began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

B. For Surface Water or Reservoir Permits

Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

- 2)** A required fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

Instructions are in Attachment A.

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TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT
***A separate extension application must be submitted for each permit as per
OAR 690-315-0020(2).***

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I, Ben H. McGough Circle Bar Operations

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

2709 Buena Vista
ADDRESS

Vancouver
CITY

Wa
STATE

98661
ZIP

1-360-694-5632
PHONE

Barba78021@aol.com
E-MAIL ADDRESS

the permit holder of: Application Number R-70200

Permit Number R-12019
[OAR 690-315-0020(3)(b)]

do hereby request that the time in which to:

☒ complete construction (of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water), which time now expires on **Month: 10 Day: 1 Year: 1998**, be extended to October 1, 2020, [OAR 690-315-0020(3)(i)]

☐ N/A (Check this box if the permit does not specify a date by when construction must be completed.)

and/or the time in which to:

☒ apply water to full beneficial use under the terms and conditions of the permit, which time now expires on **Month: 10 Day: 1 Year: 1999**, be extended to October 1, 2020.
[OAR 690-315-0020(3)(i)]

I am the permit holder, or have written authorization from the permit holder (attached to this Application for Extension of Time), to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Ben H. McGough 3/3/2016
Signature Date
Ben H. McGough Manager/Owner
Printed Name Title

MAR 09 2016

SALEM, OR

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT
***A separate extension application must be submitted for each permit as per
 OAR 690-315-0020(2).***

I, Ben H. McGough Circle Bar Operations

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

2709 Buena Vista
 ADDRESS

Vancouver
 CITY

Wa
 STATE

98661
 ZIP

1-360-694-5632
 PHONE

Barba78021@aol.com
 E-MAIL ADDRESS

the permit holder of: Application Number R-70200

Permit Number R-12019
 [OAR 690-315-0020(3)(b)]

do hereby request that the time in which to:

☒ complete construction (of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water), which time now expires on **Month: 10 Day: 1 Year: 1998**, be extended to October 1, 2020, [OAR 690-315-0020(3)(i)]

☐ N/A (Check this box if the permit does not specify a date by when construction must be completed.)

and/or the time in which to:

☒ apply water to full beneficial use under the terms and conditions of the permit, which time now expires on **Month: 10 Day: 1 Year: 1999**, be extended to October 1, 2020.
 [OAR 690-315-0020(3)(i)]

I am the permit holder, or have written authorization from the permit holder (attached to this Application for Extension of Time), to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

X Ben H. McGough 2/24/2016
 Signature Date
Ben H. McGough CL
 Printed Name Title

Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of \$575.
- Signature page (Second page of this Application for Extension of Time).
- All supporting documentation and/or evidence referenced in the Application for Extension of Time.

**MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence**

\$575 STATUTORY FEE TO:

**Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301**

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GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS, available at the following link:
http://www.oregon.gov/owrd/PUBS/docs/forms/fillable_muni_quasi_ext_app_form_2014.doc
- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).
- An instruction sheet, INSTRUCTIONS FOR COMPLETING AN APPLICATION FOR EXTENSION OF TIME FOR A WATER RIGHT PERMIT (Attachment A), provides details that will help you answer each question on the application. Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at:
http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_690/690_315.html
- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.
- An Application for an Extension of Time will be reviewed for completeness. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website at <http://apps.wrd.state.or.us/apps/wr/wrinfo/> (using the link to the Water Rights Information System (WRIS)). Or, a copy of the permit (or other documents) may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).
- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time

Please see the instruction sheet to help you answer these questions.

1. Beginning Construction within required deadlines. OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the well begun? ☐ Yes ☐ No

Date construction began Month: Day: Year:

Details of construction and attach documentation:

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For Surface/Reservoir Permit

Has construction of the water system begun? ☐ Yes ☐ No

Date construction began Month: Day: Year:

Details of construction and attach documentation: The ponds were constructed many years ago. Exact time is unknown. No changes have been made since I have owned the ranch.

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OAR 690-315-0020(3)(A)(e)(A)

2. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

CHART-A

Permit Conditions In this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☐	Installation of a meter/totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☐	Submittal of initial static water level measurement	☐ Yes ☐ No	
☐	Submittal of annual static water level measurements in the month required	☐ Yes ☐ No	
☐	Submittal of Seven consecutive static water level measurements in the month required	☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
Surface Water or Reservoir			
☐	Installation of a meter/ totalizing flow meter/ in-line meter	☐ Yes ☐ No	
☐	Installation a staff gauge	☐ Yes ☐ No	
☒	Installation of a fish screen	☒ Yes ☐ No	ODFW Letter 1-21-16
☒	Installation of a fish by-pass device	☒ Yes ☐ No	ODFW Letter 1-21-16
☐	Installation of a fish passage	☐ Yes ☐ No	
☐	Installation of an outlet gate/pipe/ conduit	☐ Yes ☐ No	
☐	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☐ Yes ☐ No	
☐	Submit as-built plans and specification	☐ Yes ☐ No	
☐	Submittal of a letter from an engineer prior to storage	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	

If you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* (this does NOT include planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued – eg. well drilled.</i>	COST*
1953	Excavate .5 acre feet of material. 1 pond.	\$516.17
1996	Excavate 4 acre feet of material. 2 ponds	\$24,239.47
DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER <i>List work/actions done during the permitted time period.</i>	COST*
	Date the permit was signed - find date above signature on last page of permit.	
	Date the permit specified complete application of water to the use shall be made- all permits contain this date.	
DATE	WORK ACCOMPLISHED AFTER the date the permit specified complete application of water <i>COMPLETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
Total Cost for Chart-B		24,755.64

* If exact cost is not known, you must provide your best estimate.

4. If this is not your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. *Use chronological order.*

CHART-C

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD <i>List all work done during the last authorized extension period.</i>	COST*
	"Extended From" date for complete application of water used in the 1 st (or the most recent) Application for Extension of Time.	
	"Extended To" date for complete application of water resulting from the 1 st (or the most recent) Application for Extension of Time.	
DATE	WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED <i>List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
Total Cost of Chart-C		

* If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]

5. Cost of project to date: 24755
(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

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[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____ cfs (cubic feet per second) or,

Maximum rate used to date = _____ gpm (gallons per minute) or,

Acre-feet stored to date = .5, 1, 3 AF

7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as Identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment? (See 8 below)	Maximum Instantaneous rate used to date from this well -- under <u>this permit only</u> (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit								

8. If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location.

Has or will a Permit Amendment Application been/be filed? Yes ☐ No ☐

If a Permit Amendment Application has been filed: Transfer No. T-_____

Well # _____ Actual location: _____

Well # _____ Actual location: _____

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SALEM, OR

[OAR 690-315-0020(3)(e)(C)]

9. Provide the total number of acres irrigated to date under this permit (if applicable).

Total acres irrigated to date: _____

Ground Water Permits: Please specify which wells are being utilized for this irrigation.

Well # _____ Acres _____ Well # _____ Acres _____

Well # _____ Acres _____ Well # _____ Acres _____

[OAR 690-315-0020(3)(i)(I)]

10. Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
10/1/2020	Site Preparation	\$1,560.00
10/1/2020	Riparian Planting	\$36,000.00
10/1/2020	Fence Installation	\$26,400.00
Year: 2020	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		\$63,960.00

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project:
(The total cost from CHART-E)

[OAR 690-315-0020(3)(h)]

12. Describe the reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. Provide supporting information for the reason(s) that best fits your circumstances. Include any additional unforeseen events and/or other governmental regulation or requirements.

[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

[OAR 690-315-0020(3)(m)(n)]

14. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

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MAR 09 2016
SALEM, OR

Attach permit, and documentation to the application.

**Oregon Water Resources Department
Water Right Services Division**

Application for Extension of Time

In the Matter of the Application for an Extension of Time	) PROPOSED FINAL
for Permit R-12019, Water Right Application R-70200	) ORDER
in the name of McGough Enterprises, LLC	)

Permit Information

Application:	R-70200
Permit:	R-12019
Basin:	John Day / Watermaster District 21
Date of Priority:	February 14, 1990
Source of Water:	Carroll Creek and an unnamed stream, tributaries of West Branch Bridge Creek
Storage Facility:	Three unnamed reservoirs
Purpose of Use:	Livestock and Wildlife
Maximum Volume:	4.5 Acre-Feet (AF) per year, being 1.5 AF in each of three reservoirs

Please read this Proposed Final Order in its entirety.

In summary, the Department proposes to:

- Grant an extension of time to complete construction of the water system from October 1, 1998 to October 1, 2020.
- Grant an extension of time to apply water to full beneficial use from October 1, 1999 to October 1, 2020.¹

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

¹ Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use.

ACRONYM QUICK REFERENCE

Department – Oregon Water Resources Department

PFO – Proposed Final Order

cfs – cubic feet per second

AF – acre-feet

ODFW – Oregon Department of Fish and Wildlife

WCSCD – Wheeler County Soil Conservation District

AUTHORITY

Generally, see **ORS 537.230** and **OAR Chapter 690 Division 315**.

ORS 537.230(3) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under **ORS 539.010(5)** and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

FINDINGS OF FACT

Background

1. Permit R-12019 was issued by the Department on September 11, 1996. The permit authorizes storage of up to 4.5 AF of water, being 1.5 AF in each of three unnamed reservoirs from Carroll Creek and an unnamed stream, tributaries of West Branch Bridge Creek, for livestock and wildlife. The permit specified actual construction was to begin by September 11, 1997, construction of the water system was to be completed by October 1, 1998, and complete application of water was to be made on or before October 1, 1999.
2. On December 3, 2007, the Department issued a letter by certified mail, requesting either a Claim of Beneficial Use or an extension of time be submitted, or cancellation

proceedings for Permit R-12019 would begin.

3. On July 24, 2008, a Claim of Beneficial Use (COBU) was submitted to the Department for review.
4. On September 6, 2011 an assignment from Circle Bar Cattle Company to McGough Enterprises, LLC was recorded in the records of the Water Resources Department.
5. On August 10, 2015, the Department began a review of the COBU for certificate issuance of Permit R-12019.
6. On September 11, 2015, the Department issued a Proposed Order of Certification to cancel Permit R-12019, for failure to comply with conditions of the permit by not installing a fish screen and by-pass devices, or providing documentation from ODFW that fish screening or by-pass devices are not required, and preliminary and final riparian management plan designs were not submitted to the Wheeler County Soil Conservation District and the Oregon Department of Fish and Wildlife for approval.
7. On October 1, 2015, the Department received a request for reconsideration to cancel Permit R-12019.
8. On January 22, 2016, the Department received documentation, stating that ODFW has determined the three reservoirs do not currently require fish screening.
9. The permit holder, Ben H. McGough, submitted an "Application for Extension of Time" to the Department on March 9, 2016, requesting the time to complete construction of the water system be extended from October 1, 1998 to October 1, 2020, and the time to apply water to full beneficial use under the terms of Permit R-12019 be extended from October 1, 1999 to October 1, 2020. This is the first permit extension requested for Permit R-12019.
10. Notification of the Application for Extension of Time for Permit R-12019 was published in the Department's Public Notice dated March 15, 2016. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230², 537.248³ and/or 539.010(5)⁴.

²ORS 537.230 applies to surface water permits only.

³ORS 537.248 applies to reservoir permits only.

⁴ORS 539.010(5) applies to surface water and ground water permits.

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

11. On March 9, 2016, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

12. Actual construction of the water system began prior to the September 11, 1997 deadline specified in the permit. According to the permit holder, construction of one of the reservoirs was completed in 1953.

According to the COBU submitted to the Department July 24, 2008, Reservoir No. 3 date for beginning construction was stated as, "Prior to 1983, Dam was already built." The Department has determined the permit holder has satisfied the condition requiring beginning of construction of the water works.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

13. As of March 9, 2016, the permit holder states the remaining work to be completed consists of meeting all permit conditions, including riparian planting and fence installation; completing construction of the water system; and applying water to full beneficial use.

Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2020, to complete construction of the water system and to accomplish the application of water to beneficial use under the terms and conditions of Permit R-12019 is both reasonable and necessary.

Good Cause [OAR 690-315-0040(1)(d)]

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction [OAR 690-315-0040(3)(a)]

14. The application states work was accomplished within the time allowed in the permit or previous extension as follows:
 - a. Actual construction of the water system began prior to the September 11, 1997 deadline specified in the permit. Construction of a reservoir was completed in 1953. Construction of two remaining reservoirs was completed in 1996.

- b. No other work was completed during the original development time frame under Permit R-12019, as a majority of the work was completed prior to permit issuance.

The Department has determined that work has been accomplished prior to permit issuance, which provides evidence of good cause and reasonable diligence from the appropriator towards the complete application of water to a beneficial use.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]

- 15. The COBU states a maximum volume of 3.04 AF of water, being 1.43 AF in Reservoir 1, 0.38 AF in Reservoir 2, and 1.23 AF in Reservoir 3, has been stored in three unnamed reservoirs for livestock and wildlife.
- 16. Beneficial use of water has not yet been demonstrated under this permit because not all permit conditions were satisfied by October 1, 1999.

Compliance with Conditions [OAR 690-315-0040(3)(c)]

- 17. The water right permit holder's conformance with the permit or previous extension conditions.
 - a. The Department has considered the permit holder's compliance with conditions, and has identified the following concern: (1) the record does not show that a plan of design, installation, and maintaining riparian protection around the springs and reservoirs was submitted to the WCSCD and ODFW.
 - b. Beneficial use of water under this permit, therefore, has not yet been demonstrated. In order to legally perfect the use of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

The Department has determined that this extension will allow the riparian planting and fence installation completed after October 1, 1999, to satisfy compliance of the condition of "The permittee shall design, install, and maintain riparian protection around the springs and reservoirs identified in this permit including fencing and plantings. The permittee shall submit preliminary and final riparian management plan designs to the Wheeler County Soil Conservation District and the Oregon Department of Fish and Wildlife for approval," in an effort to make proof of beneficial use of the water as required by Permit R-12019.

Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b), (3)(d), (4)(d)]

- 18. The applications states the permit holder has invested about \$24,755, which is about 28 percent of the total projected cost for complete development of this project. The permit

holder anticipates an additional \$63,960 investment is needed for the completion of this project.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

19. The Department has found good faith of the appropriator under Permit R-12019.

The Market and Present Demands for Water [OAR 690-315-0040(2)(d-e)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife [OAR 690-315-0040(4)(a-c)].
20. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit R-12019; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an application for a new water right is submitted. The points of diversion are located on tributaries of West Branch Bridge Creek, and are not located within a Withdrawn Area. West Branch Bridge Creek is located above the John Day Scenic Waterway, and it is located within an area ranked "moderate" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. The points of diversion are not in a location listed by the Department of Environmental Quality as a water quality limited stream.
21. Other economic interests dependent on completion of the project [OAR 690-315-0040(4)(e)].
- a. None have been identified.
22. Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0040(4)(f)].
- a. None have been identified.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

23. Use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

24. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events [OAR 690-315-0040(2)(h)]

25. None have been identified.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230(3).
2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
4. Based on Finding of Facts 12 through 19, completion of construction and full application of water to beneficial use can be accomplished by October 1, 2020⁵, as required by OAR 690-315-0040(1)(c).
5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to complete construction and apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

⁵Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and a new or revised claim of beneficial use as deemed appropriate by the Department.

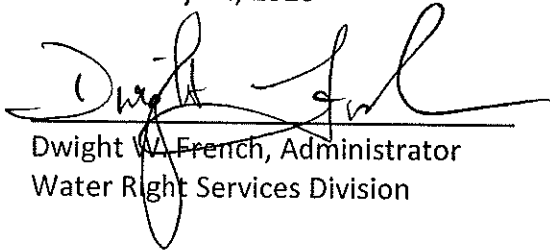
PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time to complete construction of the water system under Permit R-12019 from October 1, 1998 to October 1, 2020.

Extend the time to apply water to beneficial use under Permit R-12019 from October 1, 1999 to October 1, 2020.

DATED: May 24, 2016



Dwight W. French, Administrator
Water Right Services Division

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **July 8, 2016**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
 - c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
 - d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
 - e. Any citation of legal authority supporting the petitioner, if known;
 - f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
 - a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a protest has been submitted, and:
 - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - 2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

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>

- If you have any questions about statements contained in this document, please contact Corey Courchane at (503) 986-0825.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
725 Summer St NE, Suite A
Salem, OR 97301-1266
Fax: 503-986-0901

Mailing List for Extension PFO Copies

PFO Date: May 24, 2016

Copies Mailed

Application: R-70200

By: SP

Permit: R-12019

On: 5-24-16

Original mailed to Applicant:

McGough Enterprises, LLC
2709 Buena Vista
Vancouver, WA 98661

Copies sent to:

1. WRD - App. File R-70200/ Permit R-12019
2. Herb Winters, Conservation Specialist/Project Manager
Wheeler SWCD
40535 Hwy 19
Fossil, OR 97830

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving via e-mail (10 AM Tuesday of signature date)
(DONE BY EXTENSION SPECIALIST)

4. WRD - Watermaster District 21, Ken Thiemann

CASEWORKER: CAC

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-70200

Final Order

Application History

On February 14, 1990, CIRCLE BAR CATTLE COMPANY submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on July 9, 1996. The protest period closed August 23, 1996, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

Order

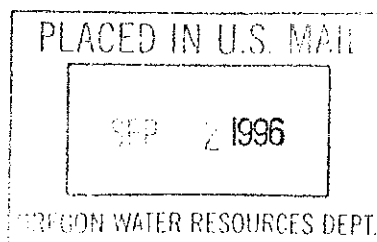
Application R-70200 therefore is approved as proposed by the Proposed Final Order, and Permit Number R-12019 is issued as limited by the conditions proposed by the Proposed Final Order.

DATED September 11, 1996


Martha O. Page
Director

Appeal Rights

Under the provisions of ORS 183.484, the applicant may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served.



STATE OF OREGON

COUNTY OF WHEELER

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

CIRCLE BAR CATTLE COMPANY
WEST BRANCH ROUTE
MITCHELL, OREGON 97750

(541) 462-3699

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: R-70200

SOURCE OF WATER: CARROLL CREEK AND AN UNNAMED STREAM, TRIBUTARIES OF WEST BRANCH BRIDGE CREEK

STORAGE FACILITY: THREE UNNAMED RESERVOIRS

PURPOSE OR USE OF THE STORED WATER: LIVESTOCK AND WILDLIFE

AMOUNT/VOLUME ALLOWED: 4.5 ACRE-FEET PER YEAR, BEING 1.5 ACRE-FEET IN EACH OF THREE RESERVOIRS

STORAGE SEASON ALLOWED: WATER MAY BE APPROPRIATED FOR STORAGE FROM NOVEMBER 1 THROUGH MAY 31 OF EACH YEAR

DATE OF PRIORITY: FEBRUARY 14, 1990

The area submerged by the reservoirs, when full, will be 1.0 acre each, and the maximum depth of water will be 5.0 feet in each. The maximum height of each dam shall not exceed 9.5 feet.

DAM LOCATION: NE 1/4 NE 1/4, NW 1/4 NE 1/4, SE 1/4 NW 1/4, SECTION 9, TOWNSHIP 12 SOUTH, RANGE 20 EAST, W.M.; RESERVOIR 1 - 40 FEET SOUTH AND 4350 FEET EAST, RESERVOIR 2 - 1100 FEET SOUTH AND 3400 FEET EAST, RESERVOIR 3 - 2260 FEET SOUTH AND 2410 FEET EAST, ALL FROM NW CORNER, SECTION 9

THE AREA TO BE SUBMERGED BY THE RESERVOIRS IS LOCATED AS FOLLOWS:

NE 1/4 NE 1/4
NW 1/4 NE 1/4
SE 1/4 NW 1/4
SECTION 9

TOWNSHIP 12 SOUTH, RANGE 20 EAST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.
- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screen is to be in place and functional prior to diversion of any water.

The permittee shall design, install and maintain riparian protection around the springs and reservoirs identified in this permit including fencing and plantings. The permittee shall submit preliminary and final riparian management plan designs to the Wheeler County Soil Conservation District and the Oregon Department of Fish and Wildlife for approval.

STANDARD CONDITIONS

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 1999.

Issued September 11, 1996


Martha O. Pagel, Director
Water Resources Department