



Oregon

Theodore R. Kulongoski, Governor

CERTIFIED LETTER Return Receipt Requested

File # R-74011
Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

November 10, 2005

Scott H. McKenzie
PO Box 281
Sixes, OR 97476

REFERENCE: Application #R-74011 (Permit #R-12096)
Partially held by: Scott H. McKenzie and Brian & Kyle Arriola

Dear Permit Holder:

On January 22, 2002, the Department issued a Final Order approving an Extension of Time for Permit #R-12096. The Final Order extended the time in which to complete construction of the water system from October 1, 1999, to October 1, 2010, and the time in which to accomplish beneficial use of water to the full extent under the terms of Permit #R-12096 from October 1, 2000, to October 1, 2010.

The Final Order approving the Extension of Time also included the following condition that requires:

The permittee must submit a written progress report to the Department by **October 1, 2005**. The report must be received by the Department not sooner than 90 days prior to the due date. The permittee's report must describe in detail the work done each year since the last extension was granted or the last progress report submitted.

The report shall include:

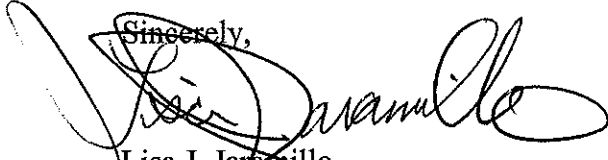
- a) The amount of construction completed;
- b) The amount of beneficial use of water being made, including the total volume of water used, water used relative to the specific authorizations (types of use, acres irrigated, etc.) contained in the permit, and the percent of the total allowable water use that this represents;
- c) A review of the permittee's compliance with terms and conditions of the permit and/or previous extension; and
- d) Financial investments made toward developing the beneficial water use.

Failure to submit a progress report by the due date above will result in cancellation of the undeveloped portion of the permit by the Department pursuant to ORS 537.260 or ORS 537.410 to 537.450. Within one year after cancellation, the permittee must submit a Claim of Beneficial Use and Final Proof Survey, pursuant to ORS 537.230 and 537.250, for the portion of the permit developed as of October 1, 2005.

To date, the Department has not received this progress report from you. In order to maintain the ability to continue developing water under this permit, you should submit this progress report immediately. For your reference, I have enclosed a copy of the Extension of Time Final Order containing this condition.

If you have any questions concerning this matter, please feel free to contact me by telephone at (503) 986-0808.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa J. Jaramillo", written over the typed name.

Lisa J. Jaramillo
Water Rights Specialist
Water Rights Section

Enclosure

cc: Application File #R-74011 (Permit #R-12096)
Mitch Lewis, Watermaster Dist. #19
Brian and Kyle Arriola, 1365 Nutmeg Street, Coquille, OR 97423

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

R-74011
 SCOTT H MCKENZIE
 PO BOX 281
 SIXES, OR 97476

2. Article Number

(Transfer from service label)

7004 2510 0004 6094 9360

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x Carol McKenzie

 Agent Addressee

B. Received by (Printed Name)

Carol McKenzie

C. Date of Delivery

11-14-03

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

COPY

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-74011

Final Order
Extension of Time for Permit Number R-12096

Application History

On September 28, 2000, Scott McKenzie, Brian Arriola and Kyle Arriola submitted an application to the Department for an extension of time for permit number R-12096. The Department issued Permit number R-12096 on March 12, 1997. The permit called for completion of construction of the water development project by October 1, 1999, and complete application of water to the full beneficial use by October 1, 2000. In accordance with OAR 690-320-0010(8), on November 28, 2000, the Department issued a Proposed Final Order proposing to extend the time to complete development of the water development project to October 1, 2010, and/or the time to fully apply water to beneficial use to October 1, 2010. The protest period closed January 12, 2001. No protest was filed.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 537.248, 537.630 and/or 539.010(5).

Conditions

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 the following conditions:

The permittee must submit a written progress report to the Department by **October 1, 2005**. The report must be received by the Department not sooner than 90 days prior to the due date. The permittee's report must describe in detail the work done each year since the last extension was granted or the last progress report submitted. The report shall include:

- a) The amount of construction completed;
- b) The amount of beneficial use of water being made, including the total volume of water used, water used relative to the specific authorizations (types of use, acres irrigated, etc.) contained in the permit, and the percent of the total allowable water use that this represents;
- c) A review of the permittee's compliance with terms and conditions of the permit and/or previous extension; and
- d) Financial investments made toward developing the beneficial water use.

The Department will review the progress report to determine whether the permittee is exercising diligence towards completion of the project and complying with the terms and conditions of the permit and extension.

Failure to submit a progress report by the due date above will result in cancellation of the undeveloped portion of the permit by the Department pursuant to ORS 537.260 or 537.410 to 537.450. Within one year after cancellation, the permittee must submit a final proof survey pursuant to ORS 537.230 and 537.250.

If the Department finds that diligence is questionable, the Department may:

- a) request the permittee to submit additional information with which to evaluate

- b) diligence;
- c) apply additional conditions and performance criteria for perfection of the right; or cancel the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410 to 537.450. The Department will grant the permittee a hearing on the cancellation, if one is requested.

In determining whether the permittee has been diligent, the Department will consider information submitted to the Department by the permittee and any information submitted during the 30-day public comment period following public notice of submittal of the progress report.

If information is received through the public notice process indicating that the applicant has not been diligent toward completing the project, and if the director determines there are significant disputes related to the use of water, the Department will conduct a hearing.

Order

The extension of time for Application Number R-74011, Permit Number R-12096, therefore, is approved. The deadline for completing construction is extended to October 1, 2010. The deadline for applying water to full beneficial use is extended to October 1, 2010.

DATED: January 22, 2002

Paul R. Cleary, Director

Appeal Rights

Under the provisions of ORS 536.075, 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. ORS 183.484.

Route Slip.....Extension of Time Progress Reports

1. Ann: Progress Report Review

Date Report Received 1-31-06

Report complete: YES

NO - Send certified letter requesting missing information.

Certified letter mailed on: _____

2. Jonnine: Publish on the Department's Public Notice

Publish on Public Notice (written progress reports 320 315) Date: 4/18/06

Update workflow in WRIS (Extension Checkpoint Received, Salem, Date)

Print mailing label

Return to Ann

3. Prepare Notice of Determination Letter

Date Needed 5-23-06

Send to permit holder after 30 day public notice + anyone who made comments

Cc: Watermaster _____

File

4. Return File to Filing Cabinet

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**Extension of Time Checkpoint Progress Report
PUBLIC NOTICE INFORMATION**

Permit Holder: Partially held by Scott H. McKenzie and Brian & Kyle

Mailing Address: Scott: P.O. Box 281 Sixes, OR 97476 ↓ Arriola
1365 Nutmeg St

Application #: R-74011 Permit #: R-12096 Coquille, OR 97423

County: Curry

Quantity of Water: 125 AF/YEAR, being 100.0 AF Reservoir 1 + 25.0 AF in Reservoir 2

Source of Water: An Unnamed Stream, a tributary of Floras Lake

Permitted Use: Stored Water to be appropriated under Permit S-52994 for Cranberry Operations

Current Authorized Extension Date: Oct 1, 2010

Permit holder:	Partially held by Scott H. McKenzie and	
App#	R-74011	Permit # R-12096
	Brian & Kyle Arriola	

Progress Report Diligence Review

- ok a. The amount of construction completed; after 10-1-00
widened / deepened / lengthened reservoir
installed flow meter / gauge / weir / gated valve
- ok b. The amount of beneficial use of water being made, including the total volume of water used, water used relative to the specific authorizations (types of use, acres irrigated, etc.) contained in the permit, and the percent of the total allowable water use that this represents;
32.75 aF / yr on 20 ac cranberries
24% usage
- ok c. A review of the permittee's compliance with terms and conditions of the permit and/or previous extension; and
flow meter ✓ ok
water usage report ✓ ok
weir installed ✓ ok
out let pipe ✓ .05 cfs released @ all times
progress report due 10-1-05 ✓
- ok d. Financial investments made toward developing the beneficial water use.
Reservoir expansion \$6000
Equipment 27,500 (85,000 T)

Diligence Shown yes no (as of 30 comment period)

Reviewed by: <u>A. Reece</u>	Date: <u>4-11-06</u>
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Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

May 23, 2006

Scott H. McKenzie
PO Box 281
Sixes, OR 97476

REFERENCE: Application R-74011 (Permit R-12096)

Dear Permit Holder:

The Water Rights Section received your written progress report for Permit R-12096 (Application R-74011). Receipt of the progress report was published on the Department's weekly Public Notice, dated April 18, 2006. The Department did not receive any public comment on the progress report.

Additionally, the Department determined that diligence toward completion of the project and compliance with the terms and conditions of the permit and extension has been demonstrated.

If you have any questions, please feel free to contact me by telephone at (503) 986-0808.

Sincerely,

Ann L. Reece
Extensions
Water Rights and Adjudications Division

cc: Brain and Kyle Arriola
Appl R-74011 (Permit R-12096)
Mitch Lewis, Watermaster District 19



Scott H. McKenzie
Box 281
Sixes, OR 97476

Ms. Lisa J. Jaramillo
Water rights specialist
Water rights section
Oregon Water Resources Department

January 29, 2006

RE: Application's # R-74011 (Permit # R-12096)
S-74012 (Permit # S-52994)
G-13664 (Permit # G-13029)

Dear Ms. Jaramillo,

The following is a written progress report as required for approval of an extension of time to complete the water system as described in the above referenced permits.

Since January 2002 the following construction has been completed.

In the month of December 2003 the reservoir was made wider, deeper and longer by the use of a D7 Cat and Komotsu PC 200 excavator to excavate material and a Michigan HT 110 earthmover to remove the material to an upland area.

In the Spring and Summer of 2004 approximately 10 acres were cleared of brush and stumps using a D7 Cat and Komotsu PC 200 excavator.

In the Summer and Fall of 2004 3.5 acres of cranberry fields were constructed.

In the Winter of 2005 3.5 acres of cranberry fields were plumbed for irrigation and planted.

In the Summer of 2005 construction began on a 1 acre cranberry field.

I am applying approximately 32.75 acre feet of water annually to 20 acres of cranberry fields for temperature control, irrigation and flood harvest. That represents approximately 24% of the total allowable use.

RECEIVED

JAN 31 2006

WATER RESOURCES DEPT
SALEM, OREGON

In regards to:

Application # G-13664 A totalizing flow meter is installed.
Water use reports are made.

Application # R-74011 A total flow meter is installed at the POD.
A staff guage is installed in the resevoir.
Water use reports are submitted.
A down stream wier and gated valve is installed
0.05 cfs and greater is being released from the resevoir at all times.

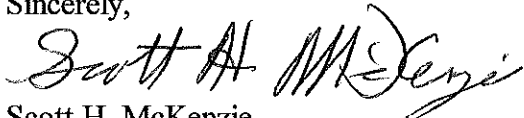
Application # S-74012 A totalizing flow meter is installed at the POD.
A v-notch weir is installed down stream and the flow is being metered.

Since January 2002 I have made the following investments towards developing the benefical water use as allowed by the above applications.

2003 reservoir expansion \$6,000
2004 land cleared for cranberry field construction \$10,000
2004 3.5 acres constructed \$24,000
2004 Michigan earthmover purchase \$27,500
2005 3.5 acres plumbed and planted \$15,000
2005 1 acre cleared and construction begun \$2,500

If you have any question or if more information is needed contact me at the above address or at (541) 332-3381.

Sincerely,


Scott H. McKenzie

RECEIVED

JAN 31 2006

WATER RESOURCES DEPT
SALEM, OREGON