

**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
for Permit G-15209, Water Right Application G-15460,)	FINAL
in the name of the Salmon Valley Water Company)	ORDER

Permit Information

Application File G-15460 / Permit G-15209

Basin 3 – Sandy Basin / Watermaster District 20

Date of Priority: March 27, 2001

Authorized Use of Water

Source of Water:	a well within the Sandy River Basin
Purpose or Use:	Quasi-Municipal
Maximum Rate:	0.33 Cubic Feet per Second (cfs)

**This Extension of Time request is being processed in accordance with Oregon
Administrative Rule Chapter 690, Division 315.**

*Please read this Proposed Final Order in its entirety as it contains
additional conditions not included in the original permit.*

This Proposed Final Order applies only to Permit G-15209, water right Application G-15460.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- Grant an extension of time to apply water to full beneficial use from October 1, 2020, to October 1, 2037.
- Make the extension of time subject to certain conditions as set forth below.

ACRONYM QUICK REFERENCE

Department – Oregon Department of Water Resources
PFO – Proposed Final Order
WMCP – Water Management and Conservation Plan

Units of Measure

cfs – cubic feet per second
gpm – gallons per minute

AUTHORITY

Generally, see ORS 537.630 and OAR Chapter 690 Division 315.

ORS 537.630(2) provides in pertinent part that the Oregon Water Resources Department (Department) for good cause shown shall order and allow 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 690-315-0080 provides in pertinent part that the Department shall make findings to determine if an extension of time for quasi-municipal water use permit holders may be approved to complete construction and/or apply water to full beneficial use.

OAR 690-315-0050(5) authorizes the Department to include in an extension order, but is not limited to, any condition or provision needed to: ensure future diligence; mitigate the effects of the subsequent development on competing demands on the resource; and periodically document the continued need for the permit.

OAR 690-315-0090(3) requires the Department, under specific circumstances, to condition an extension of time for quasi-municipal water use permit holders to provide that diversion of water beyond the maximum rate diverted under the permit or previous extension(s) shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan under OAR Chapter 690, Division 86.

FINDINGS OF FACT

1. On September 24, 2002, Permit G-15209 was issued by the Department. The permit authorizes the use of up to 0.33 cfs of water, from a well in the Sandy River Basin for quasi-municipal use. It specified complete application of water was to be made on or before October 1, 2006.
2. One prior permit extension has been granted for Permit G-15209. The extension resulted in the completion dates for construction and full application of water being extended to October 1, 2020.
3. On May 10, 2021, the permit holder submitted an "Application for Extension of Time" (Application) to the Department, requesting the time to apply water to full beneficial use under the terms and conditions of Permit G-15209 be extended from October 1 2020, to October 1, 2037.
4. Notification of the Application for Extension of Time for Permit G-15209 was published in the Department's Public Notice dated June 8, 2021. No public comments were received regarding the extension application.
5. On May 10, 2021, the permit holder submitted additional information to supplement their Application for Extension of Time. The information was in response to the Departments request for clarification of how the permit holder intends to develop their full rate within the time requested when their Application when their total water available under water right certificates previously developed exceeds the projected demand by 2037.

Review Criteria for Quasi-Municipal Water Use Permits [OAR 690-315-0080(1)]

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 690-315-0080. This determination shall consider the applicable requirements of ORS 537.230¹, 537.630² and/or 539.010(5)³

Complete Extension of Time Application [OAR 690-315-0080(1)(a)]

6. On May 10, 2021, the Department received an Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0080(1)(b)]

7. According to the Well Log received by the Department January 6, 2003, construction of CLAC 58429 (Well) began November 25, 2002.

¹ ORS 537.230 applies to surface water permits only.

² ORS 537.630 applies to ground water permits only.

³ ORS 539.010(5) applies to surface water and ground water permits.

Based on FOF 7, the Department has determined that construction of the Well began before October 1, 2006, being the date the permit specifies for complete application of water.

Duration of Extension [OAR 690-315-0080(1)(c) and (1)(d)]

Under OAR 690-315-0080(1)(c),(d), in order to approve an extension of time for quasi-municipal water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

8. As of October 1, 2020, the permit holder had appropriated 0.00 cfs of the 0.33 cfs of water authorized under Permit G-15209 for quasi-municipal purposes.
9. In addition to the 0.33 cfs of water authorized under Permit G-15209, Salmon Valley Water Company holds the following rights:
 - Certificate 84220 for 0.37 cfs of water from A well within the Salmon River Basin;
 - Certificate 90091 for 0.37 cfs of water from 2 wells within the Salmon River Basin;
 - Permit G-11422 for 0.5 cfs of water from two wells within the Salmon River Basin; and
 - Permit G-18476 for 1.0 cfs of water from six wells within the Salmon River Basin.

Salmon Valley Water Company's permit and water right certificates total 2.57 cfs of ground water. According to the permit holder, the RGP North and RGP South wells, authorized under Permit G-11422 operate at 48 gallons per minute (gpm) and 46 gpm respectively and the Routledge Well, authorized for use under permit G-18476 operates at 125 gpm; to allow for natural recharge. Foxglove-7 Well, authorized under Permit G-18476 operates at approximately 250 gpm, but requires frequent backwashing of the treatment system. Salmon River Well, authorized under Certificate 84220, operates at 65 gpm and has a history of drying out. These wells all average less than 30% of their permitted rates.

10. Salmon Valley Water Company's peak water demand within its service area boundaries was 0.521 cfs in 2018.
11. According to the Application, in 2018, the population within the service boundary of Salmon Valley Water Company was 1,542. Salmon Valley Water Company estimates the population to increase at an estimated growth rate of 1.8 percent per year, reaching an estimated population of 2,147 by the year 2037.
12. According to the Application, their peak demand is projected to be approximately 0.726 cfs of water by the year 2037. This peak demand could be provided under Certificates 84220, and 90091, if not for issues with the authorized wells.

13. According to the permit holder, full development of Permit G-15209 is needed to meet the present and future water demands of Salmon Valley Water Company, specifically system redundancy and emergency use as many wells authorized under previously developed water right certificates, no longer produce sufficient water to meet their needs at all times.
14. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2037, to accomplish the application of water to beneficial use under the terms of Permit G-15209 is both reasonable and necessary.

Good Cause [OAR 690-315-0080(1)(e) and (3)(a-g) and (4)]

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0080(3).

Reasonable Diligence and Good Faith of the Appropriator [OAR 690-315-0080(3)(a), (3)(c) and (4)]

Reasonable diligence and good faith of the appropriator must be demonstrated during the permit period or prior extension period as a part of evaluating good cause in determining whether or not to grant an extension. In determining the reasonable diligence and good faith of a quasi-municipal water use permit holder, the Department shall consider activities associated with the development of the right including, but not limited to, the items set forth under OAR 690-315-0080(4) and shall evaluate how well the applicant met the conditions of the permit or conditions of a prior extension period.

15. Actual construction of the well and water system began prior to the deadline specified in the permit.
16. Work was accomplished (specified in the Application for Extension of Time) during the original development time frame under Permit G-15209.
17. During the most recent extension period under Permit G-15209, being from October 1, 2006, to October 1, 2020, the following work was completed by the City:
 - installed meters on wells authorized under other water rights;
 - submitted a Water Management and Conservation Plan;
 - completed a drinking water assessment study;
 - started a meter review and testing program;
 - implemented a new metering and billing program; and
 - engaged in activities to develop other water rights.
18. As of May 10, 2021, the permit holder invested \$727,600, which is 61 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$465,000 investment is needed for the completion of this project.
19. As of October 1, 2020, none of the 0.33 cfs allowed has been appropriated for beneficial quasi-municipal purposes under the terms of this permit.
20. The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

Cost to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0080(3)(b)]

21. As of May 10, 2021, the permit holder invested \$727,600, which is 61 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$465,000 investment is needed for the completion of this project.

The Market and Present Demands for Water [OAR 690-315-0080(3)(d) and (5)(a-f)]

For quasi-municipal water use permits issued after November 2, 1998, in making a determination of good cause pursuant to 690-315-0080(3)(d), the Department shall also consider, but is not limited to, the factors in 690-315-0080(5)(a-f).

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 690-315-0080(5)(a-f)].

22. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-15209; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined at such time that such application for a new water right is submitted. The point of appropriation for Permit G-15209 is not located within a limited or critical ground water area. The points of appropriation for Permit G-15209, located within the Sandy River Basin, is not located within or above any state or federal scenic waterway. The point of appropriation is within an area ranked highest 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 point of appropriation is not in an area listed by the Department of Environmental Quality as a water quality limited stream.

Economic investment in the project to date [OAR 690-315-0080(5)(d)].

23. As of May 10, 2021, the permit holder invested \$727,600, which is 61 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$465,000 investment is needed for the completion of this project.

Other economic interests dependent on completion of the project [OAR 690-315-0080(5)(e)].

24. None have been identified.

Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0080(5)(f)].

25. As described in Findings 9, 12, and 13 Salmon Valley Water Company has indicated,

and the Department finds that Salmon Valley Water Company must rely on development of Permit G-15209 to meet backup and emergency demands.

26. Salmon Valley Water Company projects a population increase of 1.8 percent per year over a 19 year period, being 2018 to 2037.
27. Given the current water supply situation of Salmon Valley Water Company, including current and expected demands, the need for system redundancy, and emergency water supply, there is a market and present demand for the water to be supplied under Permit G-15209.
28. OAR 690-315-0050(5) provides for extension orders to include, but are not limited to, any condition or provision needed to ensure future diligence, and to mitigate the effects of the subsequent development on competing demands on the resource. Based on the Application and additional information submitted by the permit holder, the use of water under Permit G-15209 is needed primarily as a redundant supply as the wells authorized by other water rights held have demised in capacity, because the projected demand by 2037 has been identified as being 0.726 cfs. Because the permit holder has not identified a projected demand that would necessitate the use of all water rights and permits held by the permit holder, the Department has determined a need to place a a "Limited Water Use Condition" on this extension of time. This condition is specified under Item 1 of the "Conditions " section of this PFO, and will only allow appropriation of water under Permit G-15209 when needed to make up a deficiency when wells under Water Right Certificate 84220 and 90091 cannot achieve a combined rate of appropriation of 0.74 cfs of water, being 0.37 cfs under Certificate 84220, and 90091.
29. OAR 690-315-0090(3) requires the Department to place a condition on this extension of time to provide that appropriation of water beyond 0.00 cfs (not to exceed the maximum amount authorized under this permit, being 0.33 cfs) under Permit G-15209 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan(s) (WMCP) under OAR Chapter 690, Division 86 that grants access to a greater rate of appropriation of water under the permit consistent with OAR 690-086-0130(7). "Development Limitation" condition" is specified under Item 2 of the "Conditions" section of this PFO to meet this requirement.

Fair Return Upon Investment [OAR 690-315-0080(3)(e)]

30. Use and income from the permitted water development project would likely result in reasonable returns upon the investment made in the project to date.

Other Governmental Requirements [OAR 690-315-0080(3)(f)]

31. Delays caused by any other governmental requirements in the development of this project have not been identified.

Events which Delayed Development under the Permit [OAR 690-315-0080(3)(g)]

32. According to Application, delay of development under Permit G-15209 was due, in part, to the size and scope of the quasi-municipal water system, which was designed to be phased in over a period of years, and to the availability of funding to expand the water supply system.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to completely apply water to the full beneficial use pursuant to ORS 537.630(1).
2. The applicant has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0080(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.630 as required by OAR 690-315-0080(1)(b).
4. The time requested to apply water to full beneficial use is reasonable, if conditioned to only allow emergency and backup use, as required by OAR 690-315-0080(1)(c).
5. Application of water to beneficial use can be completed by October 1, 2037⁴ pursuant to OAR 690-315-0080(1)(d).
6. 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 the fair return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the water right permit holder had no control, and the Department has determined that the permit holder has shown good cause for an extension of time to apply the water to full beneficial use pursuant to OAR 690-315-0080(1)(e).
7. As authorized in OAR 690-315-0050(5) and as described in Finding 28 above, the Department has established, as specified under Item 1 of the "Conditions" section of this PFO, a "Limited Water Use Condition" that applies to any use of water under Permit G-15209, when combined with use under Certificate 84220, and Certificate 90091.
8. As required by OAR 690-315-0090(3) and as described in Finding 34, above, and specified under Item 2 of the "Conditions" section of this PFO, the appropriation of water beyond 0.00 cfs (not to exceed the maximum amount authorized under this permit, being 0.33 cfs) under Permit G-15209 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan(s) (WMCP) under OAR Chapter

⁴ Pursuant to ORS 537.630(4), 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 the claim of beneficial use.

690, Division 86 that grants access to a greater rate of appropriation of water under the permit consistent with OAR 690-086-0130(7).

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 apply the water to beneficial use under Permit G-15209 from October 1, 2020, to October 1, 2037.

Subject to the following conditions:

CONDITIONS

1. **Limited Water Use Condition**

The use of water under Permit G-15209 is limited to a rate to make up the deficiency in supply under Certificates 84220 and 90091. The combined maximum rate that may be appropriated under Certificate 84220, Certificate 90091, and Permit G-15209 may not exceed 0.74 cfs.

2. **Development Limitations**

No appropriation of water is currently allowed under Permit G-15209. Appropriation of any water (not to exceed the maximum amount authorized under this permit, being 0.33 cfs) shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan(s) (WMCP) under OAR Chapter 690, Division 86 that grants access to a greater rate of appropriation of water under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. Use of water under Permit G-15209 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department.

The Development Limitation established in the above paragraph supersedes any prior limitation of the appropriation of water under Permit G-15209 that has been established under a prior WMCP or Extension final order issued by the Department.

The deadline established in the Extension Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of this order may also meet the WMCP submittal requirements of other Department orders.

DATED: May 28, 2024



Dwight French
Water Right Services Division Administrator

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

Protests

Pursuant to OAR 690-315-0060(1), 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. Protests must be received by the Water Resources Department no later than **July 12, 2024**, at this address: Oregon Water Resources Department, Water Right Services Division, 725 Summer St NE, Suite A, Salem, OR 97301-1266. Protests may not be submitted by electronic mail. OAR 690-002-0025(3).

Protests must be in writing and include all of the following:

- The name, address, and telephone number of the protestant
- A detailed description of the protestant'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
- A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency
- If the applicant protests, a statement of whether a hearing is requested
- Citation of legal authority supporting the protestant, if known
- Proof of service of the protest on the water right permit holder, if protestant is other than the water right permit holder, and
- If you are the applicant, the protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$950 required by ORS 536.050.

Within 60 days after the close of the period for requesting a contested case hearing, the Director shall either issue a final order on the extension request, or schedule a contested case hearing if a protest has been submitted, and, upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or, the applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests. The hearing will be conducted as provided in Oregon Revised Statutes (ORS) Chapter 183, and Oregon Administrative Rules (OAR) 137-003-0501 to 137-003-0700.

If the applicant does not request a hearing within 30 days after the close of the protest period, or if the request for a hearing is withdrawn, or the Department or the administrative law judge is notified that the protestant will not appear, or the protestant fails to appear, at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

A party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations,

