

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-80207

Final Order
Extension of Time for Permit Number R-10236

Appeal Rights

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

The Department issued Permit R-10236 on September 30, 1996. The permit called for completion of construction by October 1, 1998 and complete application of water to beneficial use by October 1, 1999. On May 24, 2005, Russ Ferguson, Sr. submitted to the Department an Application for Extension of Time for Permit R-10236. In accordance with OAR 690-315-0050(2), on May 22, 2007, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2015 and the time to fully apply water to beneficial use to October 1, 2015. The protest period closed July 6, 2007, in accordance with OAR 690-315-0060(1). No protest was filed.

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:

CONDITIONS

1. Compliance Condition

- (a) Prior to any water use, the permit holder must provide written documentation to

the Department confirming that a meter or other suitable measuring device has been installed; and

- (b) Prior to the diversion of any water, the permit holder must provide written documentation that fish screening and a fishway have been installed and approved by the Oregon Department of Fish and Wildlife, or that the Oregon Department of Fish and Wildlife have determined that fish screening and a fishway are not necessary.

2. Checkpoint Condition

The permit holder must submit a completed Diligence Progress Report to the Department by **October 1, in the years 2007 and 2012. *A form for each year is enclosed for your use.***

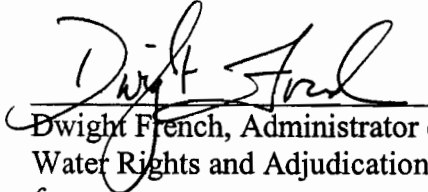
- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

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-80207, Permit R-10236, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended to October 1, 2015. The deadline for applying water to full beneficial use is extended to October 1, 2015.

DATED: July 19, 2007


Dwight French, Administrator of
Water Rights and Adjudications
for
Phillip C. Ward, Director

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- If you have any questions about statements contained in this document, please contact Kim French at (503) 986-0813.
 - 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
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