

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-18131, Water Right Application G-14021,) FINAL
in the name of the Nantucket Shores Water Company) ORDER

Permit Information

Application File G-14021 / Permit G-18131

Basin 1 – North Coast Basin / Watermaster District 1

Date of Priority: March 30, 1995

Authorized Use of Water

Source of Water: Two wells in North Coast Basin

Purpose or Use: Quasi-Municipal

Maximum Rate: 0.58 Cubic Feet per Second (cfs), being 0.29 cfs from each well

**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-18131, water right Application G-14021.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- Grant an extension of time to complete construction from October 1, 2022 to October 1, 2042.
- Grant an extension of time to apply water to full beneficial use from October 1, 2022 to October 1, 2042.
- 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 690-315-0090(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 November 27, 1996, Permit G-12991 was issued by the Department. The permit authorizes the use of up to 0.58 cfs of water, from Two wells in North Coast Basin, being 0.29 cfs from eac well, for quasi-municipal use. The Permit specified construction of the water development project was to be completed by October 1, 1998, and complete application of water was to be made on or before October 1, 1999.

2. One prior permit extension has been granted for Permit G-12991. The extension request resulted in the completion dates for construction and full application of water being extended to October 1, 2022. The Extension of Time Final Order, issued December 6, 2007, required submittal of a Water Management and Conservation Plan (WMCP) within three years of issuance of the Final Order.
3. On October 12, 2018, the Department approved Permit Amendment T-12689 (Special Order Volume 109, Page 691) authorizing a change in the point of appropriation under Permit G-12991, from Well 1, to Well 3. Superseding Permit G-18131 was issued to reflect the change.
4. On March 16, 2023, Barbra Giddings, President of Nantucket Shores Water Company, submitted an “Application for Extension of Time” (Application) to the Department, requesting the time to complete construction and the time to apply water to full beneficial use under the terms and conditions of Permit G-18131 be extended from October 1, 2022 to October 1, 2042.
5. Notification of the Application for Extension of Time for Permit G-18131 was published in the Department’s Public Notice dated March 21, 2023. No public comments were received regarding the extension application.

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 March 16, 2023, 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 a well log submitted October 5, 1994, construction of TILL 1254 (Well 1) began July 19, 1994.

continued on following page

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.

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. The remaining work to be accomplished under Permit G-18131 consists of receiving Department approval for Permit Amendment T-13978, requesting authorization of three additional points of appropriation completing construction and applying water to full beneficial use.
9. As of October 1, 2022, the permit holder had appropriated 125 gallons per minute (0.279 cfs) of the 0.58 cfs of water authorized under Permit G-18131, being 125 gallons per minute from Well 1 and 56 gallons per minute from Well 3 for quasi-municipal purposes. Well 1 failed in 2017, prompting construction of Well 3. Well 3 is the only currently authorized point of appropriation under Permit G-18131.
10. In addition to the 0.58 cfs of water authorized under Permit G-18131, the Application identifies Nantucket Shores Water Company holds the following rights:
 - Permit S-53237 for 1.0 cfs of water, being 0.5 cfs from Miles Creek, 0.25 cfs from an un-named creek #2, and 0.25 cfs from an un-named creek #3, for group domestic for a population of up to 2350.

Nantucket Shores Water Company's permits 1.58 cfs, being 0.58 cfs of ground water and 1.0 cfs from live flow (surface) water. Nantucket Shores Water Company has not yet made use of 0.301 cfs of water under Permit G-18131 and 1.0 cfs of water under Permit S-53237. Nantucket Shores Water Company indicates that development of Permit S-53237 is cost prohibitive, and will not likely be developed.
11. Nantucket Shores Water Company's peak water demand within its service area boundaries was 0.279 cfs in 2023.
12. According to the Application, in 2023, the population within the service boundary of Nantucket Shores Water Company was 70, plus a seasonal transient population of approximately 755 at the 302 campsites at 1,000 Trails Campground Nantucket Shores Water Company estimates the population to increase at an estimated growth rate of 6.6 percent per year, reaching an estimated population of 250, plus up to an additional 755 seasonal transient population by the year 2042.
13. According to the Application, their peak demand is projected to be approximately 0.58 cfs of water by the year 2042.
14. According to the Application for Extension of Time submitted June 1, 2005, and subsequent updates, the maximum diversion under the permit was 0.279 cfs, with a population of 21 permanent residents, and up to 650 in seasonal transient population. Use beyond the 0.279 cfs was limited under the Final Order on Extension of Time issued December 6, 2007, and required the submittal of a WMCP within three years, being December 6, 2010.

15. According to the Application submitted March 16, 2023, The “max rate diverted to date per Nantucket Shores Water Company data, system demand downstream of the reservoir based on metering data has shown to be 26 gallons per minute (0.06 cfs) during peak times averaged out over a monthly basis, however peak instantaneous use is likely higher during hydrant flushing/testing, and when filling the swimming pool.”
16. The Application identifies that 28 of the 77 available lots have been built-out. Further, the Application identifies that projected population and demand assumes a completed build-out of 100 EDUs averaging 2.5 occupants per EDU. Based on the assumed build-out of 100 EDUs and maximum occupancy of 755 at the 1,000 Trails Campground, the permit holder anticipates a need for 0.11 cfs of water for residential uses, leaving the remaining 0.47 cfs for fire flows and irrigation of common areas.
17. According to the Application development of Permit G-18131 is needed to meet the present and future water demands of Nantucket Shores Water Company, including service to 1,000 Trails Campground, emergency fire flows, and irrigation of common areas. Additionally, Well 3 is at potential risk of disruption as it is located within a tsunami zone.

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.

18. Construction of Well 1 was complete prior to permit issuance.
19. Work was accomplished during the original development time frame under Permit G-12991 includes construction of 294,000 gallon reservoir, a water treatment plant, pump and booster stations and the distribution system.
20. During the most recent extension period under Permit G-18131, being from October 1, 1999, to October 1, 2022, Permit Amendment T-12689 was approved, and the newly authorized TILL 52714 (Well 3) was constructed, and Permit Amendment T-13798, requesting to add three additional points of appropriation.
21. Since October 1, 2022, the City construction of TILL 53249, TILL 53256, and TILL 53259 have been constructed. These wells have been constructed as the points of appropriation proposed under Permit Amendment T-13798.
22. As of March 16, 2023, the permit holder invested \$442,322, which is 64 percent of the total projected cost for complete development of this project. The permit holder estimates

an additional \$161,800 investment is needed for the completion of this project. This remaining investment needed includes the cost to construct the three wells requested to be authorized under Permit Amendment T-13798.

23. As of October 1, 2022, 0.279 cfs of the 0.58 cfs, being 0.279 cfs from Well 1, and 0.125 cfs from Well 3, allowed has been appropriated for beneficial quasi-municipal purposes under the terms of this permit.
24. The Department has considered the permit holder's compliance with conditions, and has identified the following concern:
 - a. The permit holder has not submitted a WMCP within three years of issuance of the Final Order on Extension of issued December 6, 2007.

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

25. As of March 16, 2023, the permit holder invested \$442,322, which is 64 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$161,800 investment is needed for the completion of this project. This remaining investment needed includes the cost to construct the three wells requested to be authorized under Permit Amendment T-13798.

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

26. As described in Findings 10 through 17, Nantucket Shores Water Company has indicated, they must rely exclusively on its water right permits from the North Coast Basin.
27. Nantucket Shores Water Company projects a population increase of 6.6 percent per year over a 19-year period, being the years 2023 to 2042. The Application identifies that additional development of resort type facility may occur.
28. Given the current water supply situation of Nantucket Shores Water Company, as well as current and expected demands including system redundancy and emergency use, there is a market and present demand for the water previously developed and be supplied under Permit G-18131.
29. 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.

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

30. The permit holder has a contract with 1,000 Trails Campground to sell bulk water, and they expect to obtain a fair and reasonable return on investment by continuing development of Permit G-18131.

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-18131 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. Additionally, failure of Well 1 in 2017, required that the permit holder develop Well 3, which required approval of a Permit Amendment to authorize use of the well. Well 3 is located within a tsunami zone.

LIMITATIONS AND CONDITIONS

1. 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

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and 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 complete construction and apply water to full beneficial use is reasonable, as required by OAR 690-315-0080(1)(c).
5. Completion of construction and full application of water to beneficial use can be completed by October 1, 2042⁴ pursuant to OAR 690-315-0080(1)(d).

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.

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 required by OAR 690-315-0090(3) and specified under Item 1 of the “Conditions” section of this PFO, the appropriation of water beyond 0.279 cfs (not to exceed the maximum amount authorized under this permit, being 0.58 cfs) under Permit G-18131 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).

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 under Permit G-18131 from October 1, 2022, to October 1, 2042.

extend the time to apply the water to beneficial use under Permit G-18131 from October 1, 2022, to October 1, 2042.

Subject to the following conditions:

CONDITIONS

1. Development Limitations

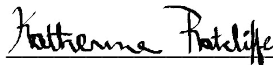
A maximum appropriation of 0.279 cfs of water is currently allowed under Permit G-18131. Any appropriation of water beyond 0.279 cfs (not to exceed the maximum amount authorized under the permit, being 0.58 cfs) shall only be authorized upon issuance of a final order approving a Water Management and 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-18131 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department. For review of water management and conservation plans that propose to increase the maximum rate of water diverted under an Extended Permit, after January 1, 2042, that the additional diversion of water will not impair or be detrimental to the public interest.

The Development Limitation established in the above paragraph supersedes any prior limitation of the appropriation of water under Permit G-18131 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 20, 2025



Katherine Ratcliffe
Water Right Services Division Administrator, for
Ivan Gall, Director
Oregon Water Resources Department

*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 5, 2025**, 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, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-8260, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

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- If you have any questions about statements contained in this document, please contact Jeffrey Pierceall at 503-979-3213.
 - 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 Will Davidson at 503-507-2749.
 - 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
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Mailing List for Extension PFO Copies

PFO Date: May 20, 2025

**Application G-14021
Permit G-18131**

Original mailed to Applicant:

Nantucket Shores Water Company
Attn: Barbara Giddings
PO Box 999
Pacific City, OR 97135

Copies sent to:

1. WRD - App. File G- 14021 / Permit G-18131
2. Agent &/or CWRE representing applicant

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving electronic copy via e-mail (10 AM Tuesday of signature date)

4. WRD - Watermaster District 1 – Nikki Hendricks
5. WRD - Kerri Cope and Tamera Smith, Water Supply and Conservation Team (WMCP)
Done by_____Date_____

CASEWORKER: JDP

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)