

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-13679, Water Right Application G-14758,) FINAL
in the name of the City of Aumsville) ORDER

Permit Information

Application File G-14758/ Permit G-13679

Basin 2B – Middle Willamette Basin / Watermaster District 16

Date of Priority: May 26, 1998

Authorized Use of Water

Source of Water:	a well in the the Beaver Creek Basin
Purpose or Use:	Municipal use
Maximum Rate:	0.446 Cubic Foot 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-13679, water right Application G-14758.

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, 2024 to October 1, 2059.
- Make the extension of time subject to certain conditions as set forth below.

ACRONYM QUICK REFERENCE

Department – Oregon Department of Water Resources
City – City of Aumsville
ODFW – Oregon Department of Fish and Wildlife
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(3) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order and allow an extension of time, for the completion of the well or other means of developing and securing the ground water or for complete application of water to beneficial use. 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 municipal and/or 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) authorizes the Department, under specific circumstances, to condition an extension of time for municipal and/or 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 June 18, 1999, Permit G-13679 was issued by the Department. The permit authorizes the use of up to 0.446 cfs of water from a well within the the Beaver Creek Basin, for municipal use. The permit specified that complete application of water was to be made on or before October 1, 2003.

2. One prior permit extension has been granted for Permit G-13679. The extension request resulted in the completion dates full application of water being extended from October 1, 2003, to October 1, 2024.
3. The permit holder, the City of Aumsville (City), submitted an "Application for Extension of Time" (Application) to the Department on December 2, 2024, requesting the time to apply water to full beneficial use under the terms and conditions of Permit G-13679 be extended from October 1, 2024, to October 1, 2059.
4. Notification of the City's Application for Extension of Time for Permit G-13679 was published in the Department's Public Notice dated December 10, 2024. No public comments were received regarding the extension application.
5. Effective August 15, 2017, HB 2099 (Chapter 704, 2017 Oregon Laws), modifies the definition of the undeveloped portion of a municipal water right permit for the purpose of determining the amount of water that may be subject to fish persistence conditioning and diversion limitations to specify that the undeveloped portion of a municipal permit is the amount of water that has not been diverted as of the later of June 29, 2005, or the date specified in the permit or last approved extension.

Review Criteria for Municipal 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 December 2, 2024, 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 690-315-0080(1)(b)]

7. The Application for Extension of Time does not identify a construction start date, however, the permit is to supply water to an existing water system for service to City of Aumsville.⁴

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 municipal and 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.

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.

⁴ Section 5, Chapter 410, Oregon Laws 2005 and OAR 690-315-0070(3)(d).

8. Work to be accomplished under Permit G-13679 consists of constructing the well, supplying power to the well, and piping to the site from the existing Boone 2 well.
9. As of October 1, 2024, no water has been appropriated under the permit.
10. In addition to the 0.446 cfs of water authorized under Permit G-13679, the City holds the following rights for municipal use:
 - Ground Water Registration GR-3543 for 0.17 cfs of water from four wells in the Mill Creek Basin;
 - Certificate 65917 for 0.29 cfs of water from Boone Park Well in the Mill Creek Basin;
 - Certificate 96097 for 1.4 cfs of water from Boone Park Well 2 and Church Well in the Mill Creek Basin;
 - Inchoate Transfer T-13938 for 0.4 cfs of water from a Well, Boone Well 3, Mill Creek Well 1A, Mill Creek Well 1B in the Battle Creek Basin; and
 - Certificate 96098 for 0.3 cfs of water from Tower Well (new) in the North Santiam River Basin.

These water rights and permits total 3.006 cfs of groundwater. The City has not made use under Permit G-13679. According to the City, current well capacity for all rights identified above is 1.86 cfs.

11. According to the City, their peak water demand within its service area boundaries was 1.81 cfs in 2023.
12. As of 2023, the population within the service boundary of the City of Aumsville was 4,227. The City of Aumsville estimates the population will increase at growth rate of 1.42 percent per year, reaching an estimated population of 7,048 by the year 2059.
13. According to the City, their peak day demand is projected to be approximately 3.02 cfs of water by the year 2059.

Based on Findings of Fact 8, through 13, the Department has determined that the City's request for an extension of time until October 1, 2059, to apply water to full beneficial use under the terms and conditions of Permit G-13679 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) and OAR 690-315-0080(4).

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 municipal or 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.

14. Prior to the issuance of Permit G-13679, the City reviewed well logs in the area to evaluate potential well sites.
15. During the development timeline provided by the permit, being from June 18, 1999, to October 1, 2003, the City obtained well construction proposals, and drilled three test holes.
16. During the last extension period, being October 1, 2003 to October 1, 2024, the City completed a well siting study

The Department has determined that work has been accomplished since the beginning of the last authorized extension time period, which provides evidence of good cause or reasonable diligence in developing the permit.

17. As of December 2, 2024, the City has invested approximately \$69,710, which is approximately 9 percent of the total projected cost for complete development of this project. The City estimates an additional \$682,000 investment is needed for the completion of this project.
18. As of October 1, 2024, no water has been appropriated as authorized under Permit G-13679.
19. The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) the record does not show that a meter or other suitable measuring device has been installed, and (2) the required a well monitoring plan has not been received by the Department.

Financial Investment and Cost to Appropriate and Apply Water to a Beneficial Purpose

[OAR 690-315-0080(3)(b)]

20. As of December 2, 2024, the City has invested approximately \$69,710, which is 9 percent of the total projected cost for complete development of this project. The City estimates an additional \$682,000 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 municipal or 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).

21. 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-13679; 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-13679 is located within the Stayton-Sublimity ground water limited area (rules apply to basalt ground water use). The point of appropriation for Permit G-13679, located within the the Beaver Creek Basin is not

located within or above any state or federal scenic waterway. The point of appropriation is within areas 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 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)].

22. As of December 2, 2024, they have invested \$69,710, which is 9 percent of the total projected cost for complete development of this project. The City estimates an additional \$682,000 investment is needed for the completion of this project.

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

23. 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)].

24. The City of Aumsville has indicated that the City must rely on full development of Permit G-13679 to meet its future water demands.
25. City of Aumsville projects a population increase of 1.42 percent per year over the next 36 years being the years 2023 to 2059. According to their April 2000 Water System Master Plan (Section 3, page 3-7), the City expects commercial and industrial growth to be similar and proportionate to their residential growth. The City indicates there are lands outside the city limits but within the urban growth boundary that have potential for future development.
26. Given the current water supply situation of the City as well as current and expected demands, there is a market and present demand for the water to be supplied under Permit G-13679.
27. Given the current water supply situation of the City, 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 G-13679.
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. The Department determined a need to condition a "Well Construction Condition" on this extension of time. This condition, specified under Item 1 of the "Conditions" section of this PFO, was determined to be necessary due to construction of the well not starting within the time provided in the permit and in the most recent extension of time.

29. OAR 690-315-0090(3) requires the Department to place a condition on this extension of time to provide that appropriation of any water (not to exceed the maximum amount authorized under this permit, being 0.45 cfs) under Permit G-13679 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 which grants access to a greater appropriation of water under the permit consistent with OAR 690-086-0130(7). A "Development Limitation" condition" is specified under Item 1 of the "Conditions" section of this PFO to meet this requirement.

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

The City expects to obtain a fair and reasonable return on investment by continuing development of Permit G-13679.

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

30. 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)]

31. Delay of development under Permit G-13679 was due, in part, to the size and scope of the municipal water system, which was designed to be phased in over a period of years.

Maintaining the Persistence of Listed Fish Species [OAR 690-315-0080(1)(f) and (2)]

The Department's determination regarding maintaining the persistence of listed fish species shall be based on existing data and advice of the Oregon Department of Fish and Wildlife (ODFW). The determination shall be limited to impacts related to stream flow as a result of use of the undeveloped portion of the permit and further limited to where, as a result of use of the undeveloped portion of the permit, ODFW indicates that stream flow would be a limiting factor for the subject listed fish species.

32. This will be the second extension of time issued after June 29, 2005, for this permit, which is a municipal use permit issued before November 2, 1998. A Final Order on the first extension of time after June 29, 2005, was issued on February 27, 2015. Thus, this extension of time request is not subject to fish persistence criteria under 690-315-0080(1)(f) and (2).

CONCLUSIONS OF LAW

1. The City 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 537.630(2).
2. The City 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. As required by OAR 690-315-0080(1)(b), the permit holder was able to demonstrate that actual construction of the project began (commenced) within the time period required by ORS 537.630(2).

4. Pursuant to ORS 540.510(3)(a) and (b), water under Permit G-13679 may be applied to beneficial use on land to which the right is not appurtenant.
5. The time requested to apply water to full beneficial use is reasonable, as required by OAR 690-315-0080(1)(c).
6. Application of water to beneficial use can be completed by October 1, 2059⁵ pursuant to OAR 690-315-0080(1)(d).
7. 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 City 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).
8. 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 "Well Construction Condition" that applies to Permit G-13679.
9. As required by OAR 690-315-0090(3) and as described in Finding 29, above, and specified under Item 2 of the "Conditions" section of this PFO, the appropriation of any water (not to exceed the maximum amount authorized under this permit, being 0.45 cfs) under Permit G-13679 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan(s) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of appropriation of water under the permit consistent with OAR 690-086-0130(7).
10. As described in Finding 32, above, this will be the 2nd extension issued after June 29, 2005, for this permit, which is a municipal use permit issued before November 2, 1998; therefore this extension of time request is not subject to fish persistence criteria under 690-315-0080(1)(f) and (2).

Proposed Order

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

⁵ 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 Department, for issuance of a water right certificate; or (2) continue to appropriate water under the water right permit until the Department conducts a survey and issues a water right certificate under ORS 537.625.

Extend the time to apply the water to beneficial use under Permit G-13679 from October 1, 2024, to October 1, 2059.

Subject to the following conditions:

CONDITIONS

1. **Well Construction Condition**

The City shall complete construction of an authorized well by the end of this extension of time period, being October 1, 2059. If construction of an authorized well is not completed by October 1, 2059, no future extensions of time will be authorized, and Permit G-13679, shall be canceled.

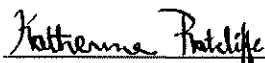
2. **Development Limitations**

No appropriation of water is currently allowed under Permit G-13679. Appropriation of any water (not to exceed the maximum amount authorized under this permit, being 0.45 cfs), shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes 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. The amount of water used under Permit G-13679 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department. In order to approve water management and conservation plans that propose to increase the maximum rate of water diverted under an Extended Permit, after January 1, 2042, the Department must find that the additional diversion of water will not impair or be detrimental to the public interest (OAR 690-086-130(8)).

The Development Limitation established in the above paragraph supersedes any prior limitation of the appropriation of water under Permit G-13679 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 the final order may also meet the WMCP submittal requirements of other Department orders.

DATED: July 15, 2025



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

Proposed Final Order: Permit G-13679

*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 **August 29, 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.

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>.

- Page 11 of 11

