

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-16094, Water Right Application G-16433,) FINAL
in the name of the City of Keizer) ORDER

Permit Information

Application File G-16433 / Permit G-16094
Basin 2B – Middle Willamette Basin / Watermaster District 16
Date of Priority: April 8, 2005

Authorized Use of Water

Source of Water: Well 17 within the Labish Creek Basin
Purpose or Use: Municipal Use and Irrigation Use on 28.5 acres
Maximum Rate: 1.03 Cubic Feet per Second (cfs),
being 1.03 cfs for municipal use and 0.35 cfs for irrigation

**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-16094, water right Application G-16433.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- Grant an extension of time to complete construction from October 1, 2010, to October 1, 2050.
- Grant an extension of time to apply water to full beneficial use from October 1, 2010, to October 1, 2050.
- 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 Keizer
ODFW – Oregon Department of Fish and Wildlife
PFO – Proposed Final Order
WMCP – Water Management and Conservation Plan
GR - Groundwater Registration

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) 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 690-315-0050(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 690-315-0080 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.

FINDINGS OF FACT

1. Permit G-16094 was issued by the Department on September 21, 2006. The permit authorizes the use of up to 1.03 cfs of water from Well 17 within the Labish Creek Basin for municipal use and irrigation use on 28.5 acres. The permit specified that construction of the water development project was to be completed by October 1, 2010, and that complete application of water was to be made on or before October 1, 2010.
2. On October 3, 2022, Bill Lawyer, City Manager for the City of Keizer (City), submitted an “Application for Extension of Time” (Application) to the Department requesting the time to complete construction and to apply water to full beneficial use under the terms and conditions of Permit G-16094 be extended from October 1, 2010, to October 1, 2050. This is the first extension request for Permit G-16094.
3. Notification of the City’s Application for Extension of Time for Permit G-16094 was published in the Department’s Public Notice dated October 18, 2022. No public comments were received regarding the extension application.
4. On January 23, 2023, the City submitted additional information to supplement their pending Application for Extension of Time.

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)]

9. On October 3, 2022, 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)]

10. According to the Application, construction of MARI 59353 (Well 17) began June 2005.
11. According to the well log received by the Department on November 25, 2005, Well 17 construction began August 8, 2005.

The Department has determined that construction of Well 17 began by October 1, 2010, as required by ORS 537.630.

¹ ORS 537.230 applies to surface water permits only.

² ORS 537.630 applies to ground water permits only.

³ ORS 537.010(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 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.

12. The remaining work to be accomplished under Permit G-16094 consists of completing construction of the water system, specifically to provide for an additional 8.0 acres of irrigation as authorized under the permit.
13. As of October 1, 2010, the permit holder had appropriated the total 1.03 cfs of water authorized under Permit G-16094 for municipal purposes, and approximately 35 gallons per minute (gpm) for irrigation of 20.5 acres. There is no “undeveloped portion” as defined by ORS 537.630, as the full rate authorized for municipal use has been appropriated.
14. In addition to the 1.03 cfs of water authorized under Permit G-16094, the City holds 22 additional rights and registrations totaling 38.2093 cfs of groundwater for municipal use. These rights are identified in Exhibit A, included at the end of the Proposed Final Order.
15. The City’s peak water demand within its service area boundaries was 37.4 cfs in 2022.
16. According to the Application, in 2022, the population within the service boundary of the City of Keizer was 39,485. City of Keizer estimates the population will increase at a growth rate of 1.5 percent per year, reaching an estimated population of 48,082 by the year 2032.
17. The City’s peak day demand of is projected to be approximately 44.67 cfs of water by the year 2032.
18. According to the Application, the municipal use authorized under the permit has been fully developed, as the full rate of 1.03 cfs has been appropriated from Well 17 for municipal use. The Application indicates that 20.5 acres of the authorized 28.5 acres has been developed, leaving 8.0 acres of irrigation to be developed under the permit.

The Department has determined that the City’s request for an extension of time until October 1, 2050, to complete construction and to apply water to full beneficial use under the terms and conditions of Permit G-16094 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 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.

19. Prior to the issuance of Permit G-16094 on September 21, 2006, Well 17 was constructed.
20. The Application identifies the construction of an elevated reservoir was completed in May 2007.

The Department has determined that work has been accomplished towards the development of the permitted water use.

21. According to the Application, as of October 3, 2022, the City has invested \$2,240,000, which is approximately 69 percent of the total projected cost for complete development of this project. The City estimates an additional \$1,000,000 investment is needed for the completion of this project.
22. As of October 1, 2010, all of the 1.03 cfs of water authorized for municipal use has been appropriated from Well 17 under the terms of this permit.
23. The Department has considered the City's compliance with conditions, and did not identify any concerns.

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

28. According to the Application, as of October 3, 2022, they have invested \$2,240,000, which is approximately 69 percent of the total projected cost for complete development of this project. The City estimates an additional \$1,000,000 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).

29. 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)]*.
30. 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-16094; 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-16094 is not located within a limited or critical ground water area. The point of appropriation for Permit G-16094, located within the Labish Creek Basin, is not located within or above any state or federal scenic waterway. The point of appropriation is within areas ranked low 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)].

31. According to the Application, as of October 3, 2022, they have invested \$2,240,000, which is approximately 69 percent of the total projected cost for complete development of this project. The City estimates an additional \$1,000,000 investment is needed for the completion of this project.

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

32. 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)].

33. City of Keizer projects a population increase of 1.5 percent per year over the next 10 years.

LIMITATIONS AND CONDITIONS

1. OAR 690-315-0050(6) requires a checkpoint condition on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. A “Checkpoint Condition” is specified under Item 1 of the “Limitations and Conditions” section of this PFO to meet this condition.

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. Pursuant to ORS 540.510(3)(a) and (b), water under Permit G-16094 may be applied to beneficial use on land to which the right is not appurtenant.

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, 2050⁴ 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 City has shown good cause for an extension of time to complete construction and to apply the water to full beneficial use pursuant to OAR 690-315-0080(1)(e).
7. There is no undeveloped portion of the permit to be considered under ORS 537.260.

LIMITATIONS AND CONDITIONS

1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2031, 2036, 2041, and 2046. A form will be enclosed with your Final Order.**

- (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.

⁴ 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.

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-16094 from October 1, 2010, to October 1, 2050.

extend the time to apply the water to beneficial use under Permit G-16094 from October 1, 2010, to October 1, 2050.

DATED: January 13, 2026



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 February 27, 2026, 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 \$720 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$1,425 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>.

If you have any questions about statements contained in this document, please contact Ann L. Reece at 503-986-0834.

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 Patricia McCarty at 503-986-0820.

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
