

**Oregon Water Resources Department**  
**Water Right Services Division**

**Application for Extension of Time**

|                                                               |   |                    |
|---------------------------------------------------------------|---|--------------------|
| In the Matter of the Application for an Extension of Time for | ) | <b>PROPOSED</b>    |
| Permit G-17518, Water Right Application G-12766, in the       | ) | <b>FINAL ORDER</b> |
| name of Noble Livestock LLC                                   | ) | <b>TO DENY</b>     |

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Permit Information

|                   |                                        |
|-------------------|----------------------------------------|
| Application:      | G-12766                                |
| Permit:           | G-17518                                |
| Basin:            | 14 – Klamath / Watermaster District 17 |
| Date of Priority: | January 24, 1992                       |
| Source of Water:  | a well in the Lost River Basin         |
| Purpose or Use:   | Irrigation of 96.0 Acres               |
| Maximum Rate:     | 1.2 cubic feet per second (cfs)        |

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This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.630 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

*In Summary, the Department proposes to:*

- Deny an extension of time to complete construction of the water system from October 1, 2014, to October 1, 2030.
  
- Deny an extension of time to apply water to full beneficial use from October 1, 2014, to October 1, 2030.

## **ACRONYM QUICK REFERENCE**

Application – Application for Extension of Time  
Department – Oregon Department of Water Resources  
FOF – Finding of Fact  
PFO – Proposed Final Order  
cfs – cubic feet per second

## **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)** 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 therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

**OAR 690-315-0040** provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is “good cause” to approve the extension. OAR 690-315-0040(2)-(4) contains the factors that the Department must consider to make findings that support a “good cause” determination.

## **FINDINGS OF FACT**

1. On January 18, 1996, Permit G-12223 was issued by the Department. The permit authorizes the use of up to 1.2 cfs of water from a well in the Lost River Basin for irrigation of 96.0 acres. On July 31, 1996, superseding Permit G-12766 was issued to correctly describe the dates for measuring and reporting static water level measurements, beginning and completing construction, and complete application of water. The permit specified actual construction of the well to begin by January 18, 1997, construction of the water system was to be completed by October 1, 1997, and complete application of water was to be made on or before October 1, 2000.
2. Two prior permit extensions have been granted for Permit G-12766. The most recent extension request resulted in the completion dates for construction and full application of water being extended from October 1, 2006, to October 1, 2014. The Extension of Time Final Order contained a condition stating that no additional extensions of time would be granted for the permit.

3. On June 25, 2013, Permit Amendment Application T-11624, was submitted to the Department requesting a change in place of use under Permit G-12446. Documentation in the file for the permit amendment indicates that the Department requested a water master review for the pending transfer. During the review, the water master discovered issues with the place of use being requested in the transfer, and that the permit holder's agent was seeking the permit holder's decision on what they wished to do. An updated map for the Permit Amendment was not submitted until May 13, 2015. On November 17, 2015, Permit Amendment T-11624, was approved. Superseding Permit G-17518 was issued to reflect the changes.
4. On December 5, 2019, an assignment from Ken and Dianne Buscher to Noble Livestock, LLC, was recorded in the records of the Water Resources Department.
5. On January 8, 2020, an assignment from Noble Livestock, LLC, to Northwest Farm Credit Services, FLCA and Noble Livestock, LLC a Limited Liability Company, was recorded in the records of the Water Resources Department.
6. On August 18, 2025, the permit holder submitted an "Application for Extension of Time" (Application) to the Department, requesting both the time to complete construction of the water system and the time to apply water to full beneficial use under the terms and conditions of Permit G-17518 be extended from October 1, 2014 to October 1, 2030.
7. On August 26, 2026, notification of the Application for Extension of Time for G-17518 was published in the Department's Public Notice. No public comments were received regarding the extension application.

### **Review Criteria [OAR 690-315-0040]**

*In order to approve an Application for an Extension of Time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).*

### **Complete Extension of Time Application [OAR 690-315-0040(1)(a)]**

8. On August 18, 2025, the Department received a completed Application and the fee specified in ORS 536.050 from the permit holder.

### **Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]**

9. Construction of the well was complete prior to permit issuance.

The Department has determined that the prosecution of the construction of the well began prior to January 18, 1997.

**Good Cause [OAR 690-315-0040(1)(d)]**

*The Department must find that there is “good cause” to approve the extension. In making a “good cause” finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).*

**Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]**

*In order to make a finding of “good cause” to approve the extension, the Department shall consider whether the applicant has demonstrated “reasonable diligence” in previous performance under the permit. OAR 690-315-0040(2)(a). In determining “reasonable diligence”, the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.*

**Amount of Construction OAR 690-315-0040(3)(a)**

*The amount of construction completed within the time allowed in the previous extension.<sup>1</sup>*

10. During the most recent extension period, being from October 1, 2006, to October 1, 2014, no additional work was accomplished.
11. The Application identifies installation of a new meter, a new motor, a new water column, a new VFD drive and maintenance on the water system between February 2023 and June 2024.

The Application does not identify any work being accomplished during the most recent extension of time period, and identifies only maintenance work as being accomplished since 2014.

**Compliance with Conditions [OAR 690-315-0040(3)(c)]**

*The water right permit holder’s conformance with the permit and previous extension conditions.*

12. The Department has considered the permit holder’s compliance with conditions, and did not identify any concerns.

The Department has determined that the permit holder has demonstrated compliance with permit conditions as required by Permit G-17518.

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<sup>1</sup> “Actual Construction” is defined in OAR 690-315-0020(3)(d)(A) and (B) as physical work performed toward completion of the water system which demonstrates the water right permit holder’s good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

**Beneficial Use of Water OAR [690-315-0040(3)(b)]**

*The amount of beneficial use made of the water during the permit or previous extension conditions.*

13. According to the Application a maximum rate of 1.2 cfs of water has been appropriated from the well (Well 1, Well 2) for irrigation of 96.0 acres.

The Department has determined that Beneficial use of water has been demonstrated under this permit because all permit conditions were satisfied by October 1, 2014.

**Financial Investments to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]**

14. An investment of approximately \$50,000, which is the total projected cost for complete development of this project, has been made.

The Department has determined that the permit holder has made an investment.

**Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]**

The Application does not provide evidence that work has been accomplished towards completion of the water system; the permit holder has demonstrated compliance with permit conditions, and; beneficial use of water has been demonstrated. The Department has determined the applicant has not demonstrated reasonable diligence in previous performance under Permit G-17518.

**The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]**

*The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:*

- *(a) The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) 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);*
- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

**OAR 690-315-0040(4)(a)**

The amount of water available to satisfy other affected water rights and scenic waterway flows.

15. A review of 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-17518; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

**OAR 690-315-0040(4)(b)**

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).

16. The points of appropriation for Permit G-17518, located within the Lost River Basin, is located in an area where ground water is connected to the surface waters of the Klamath Scenic Waterway.
17. Lost River is located above Klamath Scenic Waterway.
18. The point of appropriation is not in an area listed by the Department of Environmental Quality as a water quality limited stream.

**OAR 690-315-0040(4)(c)**

The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

19. Lost River is located within an area 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.

**OAR 690-315-0040(4)(d)**

Economic interests dependent on completion of the project.

20. An approximate total of \$50,000 has been invested in the project.

**OAR 690-315-0040(4)(e)**

Other economic interests dependent on completion of the project.

21. The Application identifies farm hands employed on the land as additional economic interests.

**OAR 690-315-0040(4)(f)**

Other factors relevant to the determination of the market and present demand for water and power.

22. No other factors relevant to the determination of the market and present demand for water and power have been identified.

**Fair Return Upon Investment [OAR 690-315-0040(2)(f)]**

23. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

**Other Governmental Requirements [OAR 690-315-0040(2)(g)]**

24. The Application asserts that the delay in the approval of Permit Amendment T-111624 represents an additional governmental delay.

Though Permit Amendment T-11624 was submitted on June 25, 2013, as described by the Applicant, the Permit Amendment Application, and associated maps, raised concerns during the watermaster review process, specific to the proposed place of use. The watermaster was in communication with the agent representing the permit holders in an attempt to resolve the issues. The Agent for the permit holder did not submit the updated map until May 13, 2015. The Department has determined that there were no additional governmental requirements which delayed the development of the permit because the Permit Amendment Application was incomplete upon submittal, and the applicants did not resolve the issue until after the October 1, 2014, extended completion date.

**Unforeseen Events [OAR 690-315-0040(2)(h)]**

25. No unforeseen events were identified that contributed to the extended length of time needed to fully develop and perfect Permit G-17518.

**Denial of the Extension Will Result in Undue Hardship [OAR 690-315-0040(2)(i)]**

26. The Application asserts a denial would result in an undue hardship:

*“A denial of the extension would result in the permit conditions not being in compliance; therefore, the water right will eventually be canceled resulting in the owners losing their rights to irrigate the authorized lands from their well.”*

The Department record shows that compliance with all permit conditions have been satisfied by October 1, 2014. According to the Application for Extension of Time submitted on September 22, 2011, a water meter was installed in 1999, and according to the Department record, at least one annual water use report was submitted prior to October 1, 2014, and the required March and October static water level measurements have been submitted prior to October 1, 2014.

**Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]**

27. On January 31, 2019, an agent for the permit holder inquired with the Department about issues surrounding Permit G-17518, including the date the permit was issued after the approval of Permit Amendment T-11624. During the exchange, the agent was informed that the only way for the permit holder to perfect the use of water on the place of use authorized by Permit G-17518, would be to apply for an extension of time to request the date for complete application of water be extended so the place of use, authorized by

Permit Amendment T-11624, could be irrigated within the time provided by the permit. The Department indicated that the Application for Extension of Time fees would be waived if the application was submitted by August 1, 2019. No Application for Extension of Time was submitted by August 1, 2019. An Application for Extension of Time was not submitted until August 18, 2025, more than six years past when the permit holders contacted the Department with concerns regarding the water right.

28. Though compliance with conditions has been demonstrated by October 1, 2014, a review of water use reports submitted to the Department show that no water use reports were submitted between water years 2003 and 2020.
29. The Application does not provide evidence of good faith of the appropriator under Permit G-17518.

The Department has determined, based on the record, that the water user has not demonstrated good faith in the development of the water right permit.

**Duration of Extension [OAR 690-315-0040(1)(c)]**

*Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.*

30. According to the Application, all work is complete.

**Good Cause [OAR 690-315-0040(1)(d)]**

*The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).*

The Final Order on Extension of Time issued May 24, 2012, was conditioned to be the last extension of time that was to be authorized. The Application does not demonstrate good cause exists to approve the extension.

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 fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, and any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to complete construction and apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

## CONCLUSIONS OF LAW

1. The permit holder has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
2. The permit holder has complied with the time allowed for construction work under the permit pursuant to ORS 537.630 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
3. The Application established that there has been no construction, no financial investment or reasonable diligence toward developing the project during the most recent extension of time period, being from October 1, 2006, to October 1, 2014, or in the twelve years since the completion date has passed. The permit holder has not shown that good cause exists for an extension of time to complete construction and apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

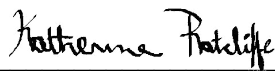
## PROPOSED ORDER

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

Deny the time to complete construction of the water system under Permit G-17518 from October 1, 2014, to October 1, 2030.

Deny the time to apply water to beneficial use under Permit G-17518 from October 1, 2014, to October 1, 2030.

DATED: March 31, 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 May 15, 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 971-453-1175, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

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- If you have questions about statements contained in this document, please contact Jeffrey D. 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 503-986-0900.
  - Address any correspondence to :      Water Right Services Division  
725 Summer St NE, Suite A  
Fax: 503-986-0901                      Salem, OR 97301-1266
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