

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 R-15322, Water Right Application R-86934) FINAL
in the name of Gary Young, Blue Mountain Ranch) ORDER

Permit Information

Application:	R-86934
Permit:	R-15322
Basin:	Deschutes / Watermaster District 24
Date of Priority:	June 29, 2007
Source of Water:	Beaver Creek, a tributary of Crooked River
Storage Facility:	Beaver Creek East Reservoir
Purpose or Use:	irrigation, livestock, and wildlife
Maximum Volume:	72.11 acre-feet (AF)

Please read this Proposed Final Order in its entirety as it contains additional conditions not included in the original permit.

In summary, the Department proposes to:

- Grant an extension of time to complete construction of the water system from April 11, 2023, to October 1, 2030.
- Grant an extension of time to apply water to full beneficial use from April 11, 2023, to October 1, 2030.¹
- Make the extension subject to certain conditions set forth below.

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

¹ Pursuant to ORS 537.230(5), upon the completion of beneficial use of water allowed under the permit, the permit holder 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 permit holder shall submit a map of the survey and the claim of beneficial use.

ACRONYM QUICK REFERENCE

Application – Application for Extension of Time
Department – Oregon Water Resources Department
ODFW – Oregon Department of Fish and Wildlife
PFO – Proposed Final Order
FOF – Finding of Fact
AF - acre-feet

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(2) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order 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.

OAR 690-315-0050(5) states that extension orders may include, but are 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 690-315-0050(6) requires the Department, for extensions exceeding five years, to establish checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between checkpoints will not exceed five year periods.

FINDINGS OF FACT

1. On April 11, 2018 Permit R-15322 was issued by the Department. The permit authorizes the storage of up to 72.11 AF of water for irrigation, livestock, and wildlife, in Beaver Creek East Reservoir from the Beaver Creek, a tributary of Crooked River. The permit specified construction of the water system, and the permitted volume of water was to be stored within five years from the date of permit issuance, being April 11, 2023.

2. On November 7, 2025, Susan Teskey, member of Blue Mountain Ranch, submitted an “Application for Extension of Time” (Application) to the Department, requesting the time to complete construction of the reservoir, and the time to store the permitted volume of water be extended from April 11, 2023, to October 1, 2030. This is the first permit extension requested for Permit R-15322.
3. On November 25, 2026, notification of the Application for Permit R-15322 was published in the Department’s Public Notice. No public comments were received.

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)]

4. On November 7, 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)]

5. According to the application, construction of the pump station for the Beaver Creek East Reservoir and excavation of the keyway trench began in the summer of 2022.

The Department has determined the permit holder began construction prior to April 11, 2023.

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 permit.²

6. During the original development time frame under Permit R-15322, a pump station and piping to Beaver Creek East Reservoir, and excavation of the keyway trench started.
7. Since April 11, 2023, no additional work has been accomplished.

The Application provides evidence that progress of physical work, enough to qualify as the minimum necessary, has been made towards completion of the water system for the Department to find good cause and reasonable diligence towards complete application of water to a beneficial use.

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

The water right permit holder's conformance with the permit conditions.

8. The record does not demonstrate compliance with all permit conditions has been demonstrated.

The Department has determined that the permit holder has not demonstrated compliance with all permit conditions as required by Permit R-15322. The Department recognizes that it is the intent of the permit holder to comply with permit conditions at the time they become applicable, including the requirement to install fish screen and by-pass devices prior to the storage of water, or to obtain documentation that the fish screens and by-pass devices are not required.

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

The amount of beneficial use made of the water during the permit time limits.

9. No water has been stored in Beaver Creek East Reservoir.

The Department has determined that beneficial use of water has not been demonstrated under Permit R-15322.

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

10. According to the Application, an investment of approximately \$88,700 has been made. The costs included the original permit application fees, protests and legal fees, costs associated with issuance of the Final Order and Permit, historic costs of on-ranch activities, and the cost of a meter that has not yet been installed. These items are not considered costs associated with construction under this permit and therefore are not counted towards development. After deducting these costs, the approximate total

² "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.

investment for construction to date is approximately \$15,000 which is about 5.5 percent of the total projected cost for complete development of this project. An additional \$257,700 investment is needed to complete this project, which includes the cost of the flow meter purchased but not installed, and construction of the Beaver Creek East Reservoir.

The Department has determined that the permit holder has made an investment, which provides evidence of good cause and reasonable diligence towards the storage of water to beneficial use.

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

The Application provides evidence of progress towards completion of the water system; a financial investment has been made; the permit holder has not demonstrated compliance with all permit conditions, and; beneficial use has not been demonstrated. The Department has determined the applicant has demonstrated the minimum necessary for the Department to find reasonable diligence towards complete application of water to a beneficial use.

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.

11. 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 R-15322; 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.

12. Current Water Availability Analysis for the Beaver Creek, tributary of Crooked River at the mouth (watershed ID 70605) show that water is only available during the months of March and April at the 50% exceedance level.

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).

13. The point of diversion is located on Beaver Creek, a tributary of Crooked River, and is not located within a Withdrawn Area.
14. Beaver Creek, a tributary of Crooked River is located above the Deschutes Scenic Waterway.
15. The point of diversion is in a location listed by the Department of Environmental Quality as a water quality limited stream.
 - Beaver Creek, River Mile 0 to 20 listed under Water Quality Limited for dissolved oxygen.

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.

16. Beaver Creek, a tributary of Crooked River is located within an area ranked “high” 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.

17. An approximate total of \$15,000 has been invested in the project.

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

Other economic interests dependent on completion of the project.

18. Other economic interests dependent on the completion of the project have not been identified.

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

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

19. 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)]

20. 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 690-315-0042(2)(g)]

21. The Application asserts:

The Ranch owners initially submitted the Permit application to OWRD on June 29, 2007. OWRD issued the PFO to deny the Permit application on June 9, 2009, a governmental delay of 2 years. The Ranch owners timely protested the denial, and addressed the issue for the denial by adding additional usage types. OWRD issued the Final Order incorporating the Settlement Agreement on April 14, 2011, and issued Permit R-15322 on April 11, 2018, a further governmental delay of 9 years. Additional work with Dam safety to rereview the dam design based on changes to OAR 690-020 adopted in 2020 requires a 5-year rereview of the dam design. Discussions and preliminary review of the dam design was conducted with OWRD Dam Safety in April 2024, Dam Safety did not see any concern with the older than 2020 design and recommended to request design re-review in the year anticipated construction on the dam would reconvene.

A review of the record indicates that a Final Order incorporating a settlement agreement was issued April 14, 2011, which required approval of dam plans and specifications, and submittal of the permit recording fee. The permit holder was granted a series of Administrative Holds to provide time for engineering and plans to be developed and submitted. In 2013, the Department approved plans and specifications. On August 23, 2017, the Department sent a reminder to the permit holder that the outstanding recording fees were still needed to issue a permit. On March 22, 2018, the permit holder submitted the required recording fee, and on April 11, 2018, the Department issued Permit R-15322. The Department has determined that additional government requirements, beyond what was required by the Final Order issued on April 11, 2011, and by Permit R-15322, issued April 11, 2018, have not been identified in the Application.

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

22. The Application states:

In the Winter of 2015, the owners' paternal grandfather became ill; he passed away in August of 2015. As the patriarch of their family, it was a difficult loss and a stressful time for the family and for the Ranch's business. Following his death, the Ranch owners'

energy was focused on burying their grandfather, moving their grandmother to Arizona, handling the ensuing estate issues, and managing the change in family & Ranch operations dynamics. The time and finances that had been planned to be allocated towards on structing East Reservoir, developing other Ranch water rights Permits, and executing other Ranch projects, was redirected in the summer, fall, and winter of 2015 while the Ranch owners managed the circumstances and fallout after the death of their grandfather.

In January of 2016, the two primary owners of the Ranch (brother and sister Aaron Young and Sarah Teskey) reached the difficult and sensitive decision to enact a buyout agreement wherein Sarah would purchase Aaron's individual interest. This process consumed all the emotional financial and administrative energy of those involved in the Ranch business for the entire 2016 year. The Ranch maintained basic operations during this transition but there was little time attention or manpower remaining for completion of water right-related improvements, or for seeking new financing, and scant finances were available for investing in water rights-related projects, including construction of East Reservoir.

Beginning in late 2016, the Ranch owners were making tremendous progress with on-Ranch improvements, including water rights related improvements. Unfortunately, the 2020 Pandemic and associated restrictions slowed that progress. In addition, beef prices fluctuated wildly as a result of COVID. which increased the difficulty in accurately budgeting for reservoir construction and other water right permit development tasks. As noted earlier in this Extension Application, Pump Station #1 was constructed in the Fall of 2021. piping was installed connecting Pump Station #1 to the East Reservoir location, and the keyway trench excavation was worked on in the summer of 2022 and the summer of 2023. However, insufficient time and financing were available to complete construction of East Reservoir and the related irrigation system.

Denial of an Extension Would Result in Undue Hardship [OAR 690-315-0040(2)(i)]

23. A denial of the extension would result in undue hardship, and no other reasonable alternatives exist for meeting water use needs.

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

24. The Application provides evidence of good faith of the appropriator under Permit R-15322.

Based on FOF 5, 6, 10, and 17, the Department has determined that the applicant has shown good faith and reasonable diligence.

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.

25. As of November 7, 2025, the permit holder states the remaining work to be completed consists of completing construction of the water system and applying water to full beneficial use.

Given the amount of development left to occur, the Department has determined that the permit holder’s request to have until October 1, 2030, to accomplish the application of water to beneficial use under the terms and conditions of Permit R-15322 is both reasonable and necessary.

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 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 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).

LIMITATIONS AND CONDITIONS

1. 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 the need to place a “Water Use Condition” on this extension of time in order to ensure diligence is exercised in the development and perfection of water use permit. This condition, specified under Item 1 of the “Conditions” section of this PFO, was determined to be necessary because no beneficial use of water use under the terms and conditions of the permit has been—made since the permit issuance.

CONCLUSIONS OF LAW

1. The Applicant 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 Applicant complied with construction timeline requirements to begin construction as required by ORS 537.230, OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

3. Based on Finding of Facts 5, through 24, completion of construction and full application of water to beneficial use can be accomplished by October 1, 2030³, as required by OAR 690-315-0040(1)(c).
4. The Applicant can complete the project within the time period requested for the extension on the project. OAR 690-315-0050(5).
5. The Applicant has demonstrated good cause for the extension, but the extension must be conditioned to ensure this is the last extension granted in order to ensure future diligence; OAR 690-315-0050(5).

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 apply water to beneficial use under Permit R-15322 from April 11, 2023, to October 1, 2030.


Subject to the following conditions:

LIMITATIONS AND CONDITIONS

1. Water Use Condition

If no water is stored use under the terms and conditions of Permit R-15322 on or before October 1, 2030, this will be the be the last extension of time granted for Permit R-15322. Any future extensions of time request will be denied, unless the permit holder can provide the Department with evidence that beneficial use of the water is shown during this extension period. In addition, all normal extension standards and rules will be evaluated. ORS 539.010(5); OAR 690-315-0040.

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.*

³Pursuant to ORS 537.230(5), 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 a new or revised claim of beneficial use as deemed appropriate by the Department.

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.

