

Oregon Water Resources Department  
Water Rights Division



Water Rights Application  
Number S-69773

**Final Order**  
**Extension of Time for Permit Number S-54038**

**Appeal Rights**

**This is a final order in other than a contested case.** This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**Application History**

Permit S-54038 was issued by the Department on April 22, 2004. The permit called for complete application of water to beneficial use by October 1, 2008. On July 9, 2010, City of McMinnville, chartered authority McMinnville Water and Light, submitted an application to the Department for an extension of time for Permit S-54038. In accordance with OAR 690-315-0050(2), on January 11, 2011 the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2042. The protest period closed February 25, 2011, in accordance with OAR 690-315-0060(1). No protest was filed.

On February 24, 2011, the Department received comments on the PFO from McMinnville City and Light regarding needed corrections and clarification, including emphasizing the fact that Permit S-54038 is for the use of stored water only. Based on comments on the PFO, the Department's continuing evaluation reveals that certain corrections and clarifications should be made to the PFO. Findings of Fact #1 and #11 supersede the corresponding original Findings of Fact from the PFO.

**Findings of Fact**

1. Permit S-54038 was granted by the Department on April 22, 2004. The permit authorizes the use of up to 6040 Acre Feet (AF) of stored water from the Mcguire Reservoir, enlarged under Certificate 86306, a tributary of the Nestucca River for municipal use. It specified that complete application of water was to be made on or before October 1, 2008.
  
11. Walker Creek has been designated as a State Scenic Waterway, and is a study river under the National Wild and Scenic Rivers Act (2008 WMCP, page 5-3). Although developing the Walker Creek water right (Permit S-27520) as originally anticipated will be challenging, the City of McMinnville views this

water right as an important supply source that could provide emergency or supplemental supply as needed.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

### CONDITIONS

1. **Development Limitations**

Diversion of any water beyond 680 AF under Permit S-54038 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86. The required WMCP shall be submitted to the Department within 3 years of an approved extension of time application. Use of water under Permit S-54038 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 that is on file with the Department.

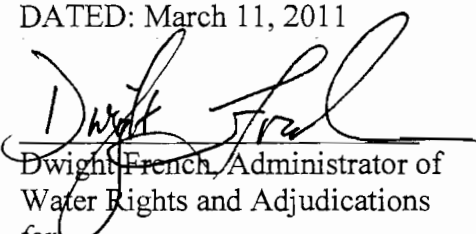
The deadline established in this PFO for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of this order may also meet the WMCP submittal requirements of other Department orders.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0080(3).

### Order

The extension of time for Application S-69773, Permit S-54038, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended to October 1, 2042. The deadline for applying water to full beneficial use is extended to October 1, 2042.

DATED: March 11, 2011

  
Dwight French, Administrator of  
Water Rights and Adjudications

for  
Phillip C. Ward, Director

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If you have any questions about statements contained in this document, please contact Ann L. Reece at (503) 986-0827.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

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