

Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number S-54638

Final Order
Extension of Time for Permit Number S-44944
Permit Holder: City of Sheridan

Permit Information

Application File S-54638 / Permit S-44944

Basin 2 – Willamette Basin / Watermaster District 16

Date of Priority: August 10, 1976

Authorized Use of Water

Source of Water:	Kegbine Spring #3, a tributary of Willamina Creek
Purpose or Use:	Municipal Use
Maximum Rate:	0.22 Cubic Feet per Second (cfs)

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-44944 was issued by the Department on August 7, 1980. The permit called for completion of construction by October 1, 1982, and complete application of water to beneficial use by October 1, 1983. On June 23, 2004, City of Sheridan submitted an application to the Department for an extension of time for Permit S-44944. In accordance with OAR 690-315-0050(2), on May 31, 2011, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2038, and the time to fully apply water to beneficial use to October 1, 2038. The protest period closed July 15, 2011, in accordance with OAR 690-315-0060(1). No protest was filed.

The Department adopts and incorporates by reference the Proposed Final Order dated May 31, 2011. 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 under Permit S-44944 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-44944 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.

2. Conditions to Maintain the Persistence of Listed Fish

A. Minimum Fish Flows Needs

Minimum fish flow needs in Willamina Creek as recommended by ODFW are in Table 1, below; flows are to be measured at the mouth of Willamina Creek.

Table 1

ODFW'S RECOMMENDED MINIMUM FISH FLOW NEEDS AT THE MOUTH OF WILLAMINA CREEK	
Month	Cubic Feet per Second
October	40
November - May	70
June	50
July - September	20

B. Determining Water Use Reductions - Generally

The maximum amount of the undeveloped portion of Permit S-44944 that can be diverted as a result of this fish persistence condition is determined in proportion to the amount by which the flows shown in Table 1 are missed based on a seven day rolling average of mean daily flows measured at the mouth of Willamina Creek. The percent of missed target flows is defined as:

$$(1 - [(Q_A - E) / Q_T]) \times 100\%,$$

where Q_A is the actual flow measured at the mouth of Willamina Creek based on the seven day rolling average, E is the undeveloped portion of the permit as of this extension, and Q_T is the target flow (from Table 1).

The percent missed target flows applied to the undeveloped portion of the permit provides the maximum amount of undeveloped water that can be diverted as a result of this fish persistence condition, and is defined as:

$$E - (E \times \% \text{ missed target flows}),$$

where E is the undeveloped portion of the permit as of this extension, being 0.22 cfs.

When $Q_A - E \geq Q_T$, the target flow is considered met and therefore the amount of the undeveloped portion of the permit that can be diverted would not need to be reduced.

C. Examples

Example 1: Target flow met.

On July 15, the last seven mean daily flows were 29, 27, 25, 24, 22, 20 and 19 cfs. The seven day rolling average is (Q_A) 23.7 cfs. Given that the undeveloped portion of this permit as of this extension (E) is 0.22 cfs, then the 7 day average of mean daily flows minus the undeveloped portion is greater than the 20.0 cfs target flow (Q_T) for July 15. In this example, $Q_A - E \geq Q_T$.

$$23.7 - 0.22 \geq 20.0$$

The amount of the undeveloped portion of the permit that can be diverted would not be reduced because the target flow is considered met.

Example 2: Target flow missed.

Step 1: Given that the undeveloped portion of this permit (E) is 0.22 cfs, if on July 15, the average of the last seven mean daily flows (Q_A) was 15.0 cfs, and the target flow (Q_T) is 20.0, then the target flow would be missed by 26.0%.

$$(1 - [(15.0 - 0.22) / 20]) \times 100\% = 26.0\%$$

Step 2: The undeveloped portion of this permit as of this extension (E) is 0.22 cfs. Therefore, in this example, the maximum amount of the undeveloped portion of Permit S-44944 that can be diverted as a result of this fish persistence condition is 0.16 cfs.

$$0.22 - ((0.22 \times 26\%) / 100) = 0.16$$

Step 3: Given that the entire permit, being 0.22 cfs, is undeveloped, if the amount of water legally authorized for a diversion at a given point in time (for example, authorization provided through a WMCP) is 0.10 cfs, then 0.10 cfs of undeveloped water would be available for use by the permit holder.

In this example, the 0.10 cfs of undeveloped water is less than the 0.16 cfs maximum undeveloped portion (from Step 2) that can be diverted as a result of this fish persistence condition. Therefore, there would be no required reduction in water use of the undeveloped portion under the permit.

Step 4: If the amount of water legally authorized for a diversion at a given point in time is 0.19 cfs, then of the 0.22 cfs only 0.19 cfs would be available for use by the permit holder.

In this example, the 0.19 cfs of undeveloped water is greater than the 0.16 cfs maximum undeveloped portion (from Step 2) that can be diverted as a result of this fish persistence condition. Therefore, the amount of undeveloped water diverted by the permit holder would need to be reduced by 0.03 cfs.

$$0.19 - 0.16 = 0.03$$

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-54638, Permit S-44944, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from October 1, 1991 to October 1, 2038. The deadline for applying water to full beneficial use under the terms and conditions of the permit is extended from October 1, 1991 to October 1, 2038.

DATED: August 4, 2011



Dwight French, Water Right Services Division Administrator for
PHILLIP C. WARD, DIRECTOR

If you have any questions about statements contained in this document, please contact Ann 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