Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number S-64559

Final Order
Extension of Time for Permit Number S-47330
Permit Holder: City of Jefferson

Permit Information

Application File S-64559/ Permit S-47330
Basin 2 – Willamette Basin / Watermaster District 16
Date of Priority: December 1, 1982

Authorized Use of Water

Source of Water:	The Santiam River, a Tributary of the Willamette River
Purpose or Use:	Municipal Use
Maximum Rate:	3.09 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-47330 was issued by the Department on March 22, 1983. The permit called for completion of construction by October 1, 1984, and complete application of water to beneficial use by October 1, 1985. On November 18, 2003, City of Jefferson submitted an application to the Department for an extension of time for Permit S-47330. In accordance with OAR 690-315-0050(2), on June 7, 2011, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2044, and the time to fully apply water to beneficial use to October 1, 2044. The protest period closed July 22, 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 June 7, 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 beyond 1.56 cfs under Permit S-47330 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-47330 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 the Santiam River as recommended by ODFW are in Table 1, below; flows are to be measured in the Santiam River at Jefferson, Oregon (USGS Gage Number 14189000, or its equivalent).

Table 1

ODFW'S RECOMMENDED MINIMUM FISH FLOW NEEDS IN THE SANTIAM RIVER MEASURED AT USGS GAGE 14189000, SANTIAM RIVER AT JEFFERSON, OREGON	
Month	Cubic Feet per Second
October – May	1500
June – August	1000
September 1 – September 15	1000
September 16 – September 30	1500

B. Determining Water Use Reductions – Generally

The maximum amount of the undeveloped portion of Permit S-47330 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 in the Santiam River at Jefferson (USGS Gage Number 14189000, or its equivalent). 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 designated gage 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 1.53 cfs.

The maximum amount of undeveloped water that can be diverted as a result of this fish persistence condition may be adjusted by a Consumptive Use Percentage, when applicable, as per Item 2.C., below.

When $Q_A - E \geq Q_T$, the amount of the undeveloped portion of the permit that can be diverted would not need to be reduced as a result of this fish persistence condition.

C. Consumptive Use Percentages

a. Initial Consumptive Use Percentages
The City of Jefferson has not identified any Consumptive Use Percentages based on the return of flows to the Santiam River through effluent discharge. Thus, at this time the City may not utilize Consumptive Use Percentages for the purpose of calculating the maximum amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition.

b. First Time Utilization of Consumptive Use Percentages
Utilization of Consumptive Use Percentages for the purpose of calculating the maximum amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition may begin after the issuance of the Final Order for this extension of time.

First time utilization of Consumptive Use Percentages is contingent upon the

City (1) providing evidence in writing that ODFW has determined that withdrawal points and effluent discharges are within reasonable proximity to each other, such that fish habitat between the two points is not impacted significantly, and (2) submitting monthly Consumptive Use Percentages and receiving the Water Resources Director's concurrence with the proposed Consumptive Use Percentages. Utilization of Consumptive Use Percentages is subject to an approval period described in 2.C.f., below.

Consumptive Use Percentages submitted to the Department for review must (1) be specified as a percentage (may be to the nearest 1/10 percent) for each month of the year and (2) include a description and justification of the methods utilized to determine the percentages. The proposed Consumptive Use Percentages should be submitted on the *Consumptive Use Percentages Update Form* provided with the Final Order for this extension of time.

c. Consumptive Use Percentages Updates

Continuing the utilization of Consumptive Use Percentages for the purpose of calculating the maximum amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition beyond an approval period (as described in 2.C.f., below) is contingent upon the City submitting updated Consumptive Use Percentages and receiving the Water Resources Director's concurrence with the Consumptive Use Percentages Updates. Utilization of Consumptive Use Percentages Updates is subject to an approval period described in 2.C.f., below.

The updates to the Consumptive Use Percentages must (1) be specified as a percentage (may be to the nearest 1/10 percent) for each month of the year and (2) include a description and justification of the methods utilized to determine the percentages. The updates should be submitted on the *Consumptive Use Percentages Update Form* provided with the Final Order for this extension of time.

d. Changes to Wastewater Technology and/or Wastewater Treatment Plant Practices

If there are changes to either wastewater technology or the practices at the City's waster water treatment facility resulting in 25% or more reductions in average monthly return flows to the Santiam River, then the Consumptive Use Percentages in effect at that time may no longer be utilized for the purposes of calculating the maximum amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition. The 25% reduction is based on a 10-year rolling average of monthly wastewater return flows to the Santiam River as compared to the average monthly wastewater return flows from the 10 year period just prior to date of the first approval period described in 2.C.f., below.

If such changes to either wastewater technology or the practices at the City's waster water treatment facility occur resulting in 25% reductions, further utilization of Consumptive Use Percentages is contingent upon the City submitting Consumptive Use Percentages Updates as per 2.C.c., above, and

receiving the Water Resources Director's concurrence with the updated Consumptive Use Percentages.

e. Relocation of the Point(s) of Diversion(s) and/or Return Flows
If the point(s) of diversion(s) and/or return flows are relocated, Consumptive Use Percentages in effect at that time may no longer be utilized for the purposes of calculating the maximum amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition.

After relocation of the point(s) of diversion(s) and/or return flows, further utilization of Consumptive Use Percentages is contingent upon the City (1) providing evidence in writing that ODFW has determined that any relocated withdrawal points and effluent discharge points are within reasonable proximity to each other, such that fish habitat between the two points is not impacted significantly, and (2) submitting Consumptive Use Percentages Updates as per 2.C.c., above, and receiving the Water Resources Director's concurrence with the updated Consumptive Use Percentages.

f. Approval Periods for Utilization of Consumptive Use Percentages
The utilization of Consumptive Use Percentages for the purpose of calculating the maximum amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition may continue for a 10 year approval period that begins 10 years from the Water Resources Director's most recent date of concurrence with Consumptive Use Percentages Updates as evidenced by the record, unless sections 2.C.d., or 2.C.e. (above) are applicable.

Consumptive Use Percentages (first time utilization or updates) which are submitted and receive the Director's concurrence will begin a new 10 year approval period. The approval period begins on the date of the Water Resources Director's concurrence with Consumptive Use Percentages Updates, as evidenced by the record. The City at its discretion may submit updates prior to the end of an approval period.

D. Examples

Example 1: Target flow met.

On July 15, the last seven mean daily flows were 1100, 1150, 1190, 1200, 1200, 1180 and 1170 cfs. The seven day rolling average is (Q_A) 1170 cfs. Given that the undeveloped portion of this permit as of this extension (E) is 1.53 cfs, then the 7 day average of mean daily flows minus the undeveloped portion is greater than the 1000 cfs target flow (Q_T) for July 15. In this example, $Q_A - E \geq Q_T$.

$$1170 - 1.53 \geq 1000$$

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 1.53 cfs, if on July 15, the average of the last seven mean daily flows (Q_A) was 850 cfs, and the target flow (Q_T) is 1000, then the target flow would be missed by 15.1%.

$$(1 - [(850 - 1.53) / 1000]) \times 100\% = 15.1\%$$

Step 2: Assuming the Consumptive Use Percentage is 78.7%[1] during the month of July and the utilization of this percentage is authorized, and the target flow is missed by 15.1% (from Step 1), then the amount of the undeveloped portion of the permit that could be diverted would be reduced by 11.9%.

$$(78.7\% \times 15.1\%) / 100 = 11.9\%$$

(If adjustments are not to be made by a Consumptive Use Percentage, then the undeveloped portion of the permit would only be reduced by the % by which the target flow is missed – 15.1% in this example).

Step 3: The undeveloped portion of the permit as of this extension (E) is 1.53 cfs. Therefore, in this example, the maximum amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition is 1.35 cfs.

$$1.53 - ((1.53 \times 11.9\%) / 100) = 1.35$$

Step 4: Given that the permitted quantity under this right is 3.09 cfs, and the undeveloped portion is 1.53 cfs, if the amount of water legally authorized for a diversion at a given point in time (for example, authorization provided through a WMCP) is 2.0 cfs, then only 0.44 cfs of undeveloped water would be used to satisfy the 2.0 cfs.

$$2.0 - (3.09 - 1.53) = 0.44$$

Note: (3.09 – 1.53) equals the developed portion of the permit

In this example, the 0.44 cfs of undeveloped water is less than the 1.35 cfs maximum undeveloped portion (from Step 3) 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.

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[1] Currently, the City of Jefferson may not utilize Consumptive Use Percentages for the purpose of calculating the amount of the undeveloped portion of Permit S-47330 that can be diverted as a result of this fish persistence condition. The utilization of the Consumptive Use Percentage 78.7% is only for illustrative purposes in this example.

Step 5: If the amount of water legally authorized for a diversion at a given point in time is 2.95 cfs, then 1.39 cfs of undeveloped water would be used to satisfy the 2.95 cfs.

$$2.95 - (3.09 - 1.53) = 1.39$$

In this example, the 1.39 cfs of undeveloped water is greater than the 1.35 cfs maximum undeveloped portion (from Step 3) 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 0.04 cfs.

$$1.39 - 1.35 = 0.04$$

In this example, the maximum amount of water that could be appropriated is 2.91 cfs.

$$2.95 - 0.04 = 2.91$$

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-64559, Permit S-47330, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from October 1, 1994 to October 1, 2044. The deadline for applying water to full beneficial use under the terms and conditions of the permit is extended from October 1, 1994 to October 1, 2044.

DATED: August 4, 2011

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

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