

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

Water Right Application
Number G-15227

**Correcting Final Order
Extension of Time for Permit Number G-14050
(modified by Permit Amendments T-9246 and T-9901)**

Authority

ORS 537.230, 537.630 and 539.010(5) establish the process in which a water use permit holder may submit a request to extend the time to complete construction and/or accomplish full application of water to beneficial use under a water use permit. OAR Chapter 690, Division 315 implements the statutes and provides the Department's procedures and criteria for evaluating extension of time applications.

Findings of Fact

1. The Department issued Permit G-14050 (modified by Permit Amendments T-9246 and T-9901) on August 23, 2001. The permit called for complete application of water to beneficial use by October 1, 2005.
2. On May 6, 2005, Country View Estates Water System submitted an application to the Oregon Water Resources Department (Department) for an extension of time for Permit G-14050.
3. The Department's review of the Extension of Time Application for Permit G-14050 confirmed that the applicant demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0080(3).
4. In accordance with OAR 690-315-0050(2), on August 7, 2007, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2020. The protest period for the Proposed Final Order for Extension of Time for Permit G-14050 closed on September 21, 2007, in accordance with OAR 690-315-0060(1). No protest was filed.
5. On October 4, 2007, the Department issued a Final Order approving the Extension of Time for Permit G-14050 and extending the deadline for applying water to full beneficial use under the permit to October 1, 2020.

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.

Correcting Final Order: Permit G-14050 (modified by Permit Amendments T-9246 and T-9901)

6. Subsequent review of the Extension of Time for Permit G-14050 by the Department revealed that the Final Order issued on October 4, 2007, was not consistent with the findings of fact and conclusions of law made in the Proposed Final Order issued on August 7, 2007.
7. The August 7, 2007 Proposed Final Order for Extension of Time for Permit G-14050 stated in Finding of Fact #14 that, "*As of May 6, 2005, the Country View Estates Water System served approximately 98 residential users. Country View Estates Water System expects to serve 106 residents by the year 2020, a population growth of approximately 0.5 percent per year.*" It also stated in Conclusion of Law #7 that, "*In accordance with OAR 690-315-0090(4-5), and as described in Finding 14 above, the Department has determined that the permit holder of G-14050 is not subject to OAR 690-315-0090(3). Country View Estates Water System is not required to submit a WMCP consistent with OAR Chapter 690, Division 86.*"
8. The October 4, 2007 Final Order for Extension of Time for Permit G-14050, however, added the following condition language (Condition #1) that was inconsistent with the August 7, 2007 Proposed Final Order described above (Finding of Fact #4):

"Diversion of any water beyond 0.4516 cfs under Permit G-14050 (modified by Permit Amendments T-9246 and T-9901) shall only be authorized upon issuance of a final order approving a WMCP under OAR Chapter 690, Division 86. The required WMCP shall be submitted to the Department within 3 years of an approved extension application. Use of water under Permit G-14050 (modified by Permit Amendments T-9246 and T-9901) must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 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."

9. Because the October 4, 2007 Final Order for Extension of Time for Permit G-14050 was **not** consistent with the findings of fact and conclusions of law made in the Proposed Final Order issued on August 7, 2007, the Department finds that the October 4, 2007 Final Order contained scrivener's errors and was erroneously issued.

CONCLUSIONS OF LAW

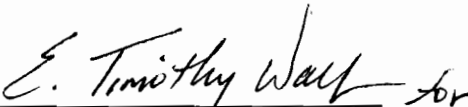
1. The applicant is entitled to apply for an extension of time to completely apply water to the full beneficial use pursuant to ORS 537.630(2).
2. The applicant has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0080(1)(a).
3. The applicant demonstrated that actual construction on the project began within the time specified in the permit, as required by OAR 690-315-0080(1)(b).

4. The time requested to apply water to full beneficial use is reasonable, as required by OAR 690-315-0080(1)(c).
5. Full application of water to beneficial use can be completed by October 1, 2020 pursuant to OAR 690-315-0080(1)(d).
6. 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 the fair return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the water right permit holder had no control, and the Department has determined that the permit holder has shown good cause for an extension of time to apply the water to full beneficial use pursuant to OAR 690-315-0080(1)(e).
7. In accordance with OAR 690-315-0090(4), and as described in Finding of Fact #7 above, the Department has determined that the permit holder of G-14050 is not subject to OAR 690-315-0090(3). Country View Estates Water System is not required to submit a WMCP consistent with OAR Chapter 690, Division 86.

Now, therefore, it is ORDERED:

1. This Correcting Final Order is issued to replace the Final Order for Extension of Time for Permit G-14050 issued on October 4, 2007. The Final Order for Extension of Time for Permit G-14050 issued on October 4, 2007 is superseded and of no further force or effect.
2. The Extension of Time for Permit G-14050 (Application G-15227), modified by Permit Amendments T-9246 and T-9901, is approved and the deadline for applying water to full beneficial use is extended to October 1, 2020.
3. In accordance with OAR 690-315-0090(4), and consistent with the findings of fact and conclusions of law made in the August 7, 2007 Proposed Final Order for Extension of Time for Permit G-14050, the Department has determined that the permit holder of Permit G-14050 is not subject to OAR 690-315-0090(3). Therefore, Country View Estates Water System is not required to submit a WMCP consistent with OAR Chapter 690, Division 86.

DATED: July 25, 2012


Dwight French, Administrator
Water Right Services Division
for
Phillip C. Ward, Director