

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-23660

Final Order¹
Extension of Time for Permit Number S-18654

Application History

On NOVEMBER 6, 2001, the CITY OF WALDPORT submitted an application to the Department for an extension of time for permit number S-18654. The Department issued permit number S-18654 on APRIL 25, 1949. The permit called for completion of construction of the water development project by OCTOBER 1, 1951, and complete application of water to the full beneficial use by OCTOBER 1, 1952. In accordance with OAR 690-315-0050(2), on AUGUST 13, 2002, the Department issued a Proposed Final Order proposing to extend the time to complete development of the water development project and the time to fully apply water to beneficial use to OCTOBER 1, 2021. The protest period closed SEPTEMBER 27, 2002, in accordance with OAR 690-315-0060(1). No protest was filed.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 537.248, 537.630, 539.010(5) and/or OAR 690-315-0040(2).

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. Water Management and Conservation Plan

Within two years of the issuance of this Proposed Final Order for an Extension of Time, the permittee shall submit a Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86. The Director may approve an extension of this timeline to complete the required Water Management and Conservation Plan.

2. Development Limitations

The permittee may continue to appropriate a maximum rate of 0.74 cfs (330.0 gpm) of water under Permit #S-18654 until or unless a Water Management and Conservation Plan demonstrating the need for additional water is approved by the Department in accordance

¹ **Appeal Rights**

Under the provisions of ORS 536.075, the applicant may appeal this order by filing a petition for review in the Circuit Court for Marion County or the Circuit Court for the County in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served. ORS 183.484.

with OAR Chapter 690, Division 86. No additional water may be developed until the final order approving the Water Management and Conservation Plan under OAR Chapter 690, Division 86 is issued by the Department. The Department will limit the additional quantity of water and may add additional limitations and conditions consistent with the policy and rules of the Department in place at the time the Water Management and Conservation Plan is approved.

3. Progress Reporting

In accordance with OAR 690-315-0050(6), the permittee must submit a written progress report to the Department by October 1, of the years 2007, 2012 and 2017. The report must be received by the Department not sooner than 90 days prior to the due date. The permittee's report must describe in detail the work done each year since the last extension was granted or the last progress report submitted. The report shall include:

- a) The amount of construction completed;
- b) The amount of beneficial use of water being made, including the total volume of water used, water used relative to the specific authorizations (types of use, acres irrigated, etc.) contained in the permit, and the percent of the total allowable water use that this represents;
- c) A review of the permittee's compliance with terms and conditions of the permit and/or previous extension; and
- d) Financial investments made toward developing the beneficial water use. The Department will review the progress report to determine whether the permittee is exercising diligence towards completion of the project and complying with the terms and conditions of the permit and extension.

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Failure to submit a progress report by the due date above may jeopardize continued development under the permit.

The Department will take into consideration annual reports submitted under OAR Chapter 690, Division 86 or ORS 537.099, and any other report that demonstrates diligence.

Other reports, however, are not a substitute for the progress reports and anything submitted must clearly show that diligence towards perfecting the water right permit is being attempted.

If the Department finds that diligence is questionable, the Department may:

- a) request the permittee to submit additional information with which to evaluate diligence; or
- b) apply additional conditions and performance criteria for perfection of the right; or
- c) cancel the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410 to 537.450. The Department will grant the permittee a hearing on the cancellation, if one is requested.

In determining whether the permittee has been diligent, the Department will consider any information submitted to the Department by the permittee and any information submitted during the 30-day public comment period following public notice of submittal of the progress report.

If information is received through the public notice process indicating that the applicant has not been diligent toward completing the project, and if the director determines there are significant disputes related to the use of water, the Department will conduct a hearing.

The Department's continuing evaluation reveals that the following modifications must be made to the Proposed Final Order:

CONDITIONS

1. **Development Limitations and Water Management and Conservation Plan**
The permit holder is limited to a maximum diversion rate of 0.74 cfs (330.0 gpm) of water under Permit #S-18654. Diversion of water beyond 0.74 cfs shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan under OAR Chapter 690, Division 86. The required Water Management and Conservation Plan shall be submitted to the Department within 3 years from the date of issuance of this extension order.
2. **Progress Reporting**
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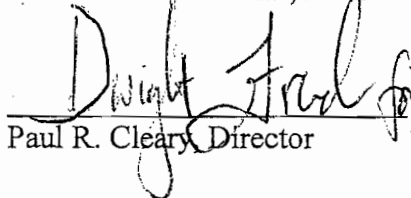
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The factors shown by the applicant, together with the conditions imposed by the Department and the modifications made herein, establish good cause for the permit extension.

Order

The extension of time for Application Number S-23660, Permit Number S-18654, therefore, is approved with the above modifications to the Proposed Final Order. The deadline for completing construction is extended to OCTOBER 1, 2021. The deadline for applying water to full beneficial use is extended to OCTOBER 1, 2021.

DATED: October 29, 2002


Paul R. Cleary, Director