

IMPORTANT NOTICE
for holders of ground water permits

Oregon law requires that you hire a Certified Water Rights Examiner to survey the use that you make under your permit. This survey must be submitted to the Salem office of the Water Resources Department no later than one year after the completion dated allowed by your extension. [See ORS 537.630(4)]

ORS 537.630

1) Except for the holder of a permit for municipal use, the holder of a permit issued pursuant to ORS 537.625 shall prosecute the construction of a well or other means of developing and securing the ground water with reasonable diligence and complete the construction within a reasonable time fixed in the permit by the Water Resources Department, not to exceed five years after the date of approval of the application. However, the department, for good cause shown, shall order and allow an extension of time, including an extension beyond the five-year period, for the completion of the well or other means of developing and securing the ground water or for complete application of water to beneficial use. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

(2) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which the permit for municipal use is issued under ORS 537.625. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

- (a) The holder shows good cause. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right;
- (b) The extension of time is conditioned to provide that the holder may divert water beyond the maximum rate diverted for beneficial use before the extension only upon approval by the department of a water management and conservation plan; and
- (c) For the first extension issued after the effective date of this 2005 Act for a permit for municipal use issued before November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned to maintain, in the portions of waterways affected by water use under the permit, the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. The department shall base its finding on existing data and upon the advice of the State Department of Fish and Wildlife. An existing fish protection agreement between the permit holder and a state or federal agency that includes conditions to maintain the persistence of any listed fish species in the affected portion of the waterway is conclusive for purposes of the finding.

(3) If the construction of any well or other means of developing and securing the ground water is completed after the date of approval of the application for a permit under ORS 537.625, within 30 days after the completion, or if the construction is completed before the date of approval, within 30 days after the date of approval, the permit holder shall file a certificate of completion with the Water Resources Department, disclosing:

- (a) The depth to the water table;
- (b) The depth, diameter and type of each well, and the kind and amount of the casing;
- (c) The capacity of the well pump in gallons per minute and the drawdown thereof;
- (d) The identity of the record owner of any property that was described in the application for a permit under ORS 537.625 but is not included in the certificate of completion; and
- (e) Any other information the department considers necessary.

(4) Upon completion of beneficial use necessary to secure the ground water as required under this section, the permit holder shall hire a water right examiner certified under ORS 537.798 to survey the appropriation. Within one year after applying the water to beneficial use or the beneficial use date allowed in the permit, the permit holder shall submit the survey as required by the Water Resources Department to the department along with the certificate of completion required under subsection (3) of this section. If any property described in the permit is not included in the request for a water right certificate, the permittee shall state the identity of the record owner of that property.

(5) After the department has received a certificate of completion and a copy of the survey as required by subsections (3) and (4) of this section that show, to the satisfaction of the department, that an appropriation has been perfected in accordance with the provisions of ORS 537.505 to 537.795 and 537.992, the department shall issue a ground water right certificate of the same character as that described in ORS 537.700. The certificate shall be recorded and transmitted to the applicant as provided in ORS 537.700.

(6) The procedure for cancellation of a permit shall be as provided in ORS 537.260.

(7) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under subsection (5) of this section for a supplemental water right, the permittee shall have a facility capable of handling the full rate and duty of water requested from the supplemental source and be otherwise ready, willing and able to use the amount of water requested, up to the amount of water approved in the water right permit. To obtain a certificate for a supplemental water right, the permittee is not required to have actually used water from the supplemental source if:

- (a) Water was available from the source of the primary water right and the primary water right was used pursuant to the terms of the primary water right; or
- (b) The nonuse of water from the supplemental source occurred during a period of time within which the exercise of the supplemental water right permit was not necessary due to climatic conditions.

Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number G-16663

Final Order
Extension of Time for Permit Number G-16196
Permit Holder: Barnett Estate Partnership

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 G-16196 was issued by the Department on June 21, 2007. The permit called for complete application of water to beneficial use by October 1, 2011. On September 19, 2011, Barnett Estate Partnership submitted to the Department an Application for Extension of Time for Permit G-16196. In accordance with OAR 690-315-0050(2), on February 14, 2012, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2013. The protest period closed March 30, 2012, in accordance with OAR 690-315-0060(1). No protest was filed.

The Department adopts and incorporates by reference the Proposed Final Order dated February 14, 2012.

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 no additional conditions.

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

Order

The extension of time for Application G-16663, Permit G-16196, therefore, is approved. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2011 to October 1, 2013.

DATED: May 24, 2012



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

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- If you have any questions about statements contained in this document, please contact Jerry Gaaney at (503) 986-0812.
 - 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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