

Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number G-16685

Final Order
Extension of Time for Permit Number G-16235
Permit Holders: Jack and Sally Hay, and Middlebay, LTD.

Permit Information

Application File G-16685 Permit G-16235

Basin: 4 – Hood / Watermaster District 3

Date of Priority: June 15, 2006

Authorized Use of Water

Source of Water: Well 1(WASC 51466) and Well 2 in Fifteenmile Creek
Basin within the Fifteen Mile Creek Basin

Purpose of Use: Irrigation of 310.9 Acres

Maximum Rate: 3.0 Cubic Feet per Second (cfs)

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.630 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

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-16235 was issued by the Department on October 18, 2007. The permit called for completion of construction by October 1, 2012, and complete application of water to beneficial use by October 1, 2012. On July 13, 2012, Jack and Sally Hay, on behalf of Middlebay, LTD., submitted to the Department an Application for Extension of Time for Permit G-16235 requesting to extend the date to complete application of water to beneficial use. In accordance with OAR 690-315-0050(2), on June 11, 2013, the Department issued a Proposed Final Order

proposing to extend the time to fully apply water to beneficial use to October 1, 2022. The protest period closed July 26, 2013, in accordance with OAR 690-315-0060(1). No protest was filed.

On June 21, 2013, the Department received comments via email concerning the extension of time request for Permit G-16235. The comments raised concerns about the co-applicant Middlebay, Ltd.

Findings of Fact

The permit record demonstrates that Jack and Sally Hay are the original permit holders of record. Jack and Sally Hay assigned all their interest in a portion of Permit G-16235 to Middlebay, Ltd, C/O James Martin, Sunshine Mill. (See PARTIAL ASSIGNMENT and map delineating the portion assigned dated June 28, 2012.)

The Extension Application received on July 13, 2012 was signed by “Jack Hay for Middlebay, Ltd. The Department has determined that Jack Hay was not authorized to sign the extension application for Middlebay, Ltd, as the there is no written authorization in the record.¹

On February 5, 2014, the Department received an amended Extension of Time Application, identical to the one received on July 13, 2012, with the exception Jack and Sally Hay signed the application as permit holders, and in addition, James Martin signed the application for permit holder Middlebay, Ltd.

The Department accepts the authority of these signatures to proceed with the issuance of a Final Order.

On February 6, 2014, the applicant clarified that the intent of the Extension of Time application was to extend the completion of construction as well as the deadline for applying water to full beneficial use to October 1, 2022.

The Department finds this request reasonable as the water system is not yet completed, and more time is required as requested.

The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order dated June 11, 2013.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, any comments received, and information within the file, the permit may be extended subject to the following conditions:

¹ If more than one party is a permit holder of record, the Department requires only one the permit holders of record to sign an Application for an Extension of Time; alternatively a person having written authorization from a permit holder of record may sign an Application for an Extension of Time.

CONDITIONS

1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2018**. *A form will be enclosed with your Final Order.*

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

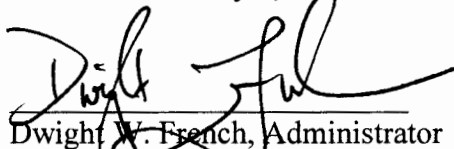
CONCLUSION OF LAW

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-16685, Permit G-16235, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended to from October 1, 2012 to October 1, 2022. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2012 to October 1, 2022.

DATED: February 7, 2014



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

-
- If you have any questions about statements contained in this document, please contact Ann Reece at (503) 986-0834.
 - 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
-



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem Oregon 97301-1266
 (503) 986-0900
 www.wrd.state.or.us

**Extension of Time
 Progress Report Form
 For Checkpoints**

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holders: Jack and Sally Hay; and Middlebay, LTD., c/o James Martin

Application G-16685

Permit G-16235

Report Due no later than October 1, 2018

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

Progress Report Form for 2018

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfections of Permit G-16235. FAILURE TO SUBMIT THIS REPORT WILL MOST LIKELY RESULT IN ANY FUTURE EXTENSION BEING DENIED.

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2012 and October 1, 2018	FINANCIAL INVESTMENT

2. Compliance with terms and conditions of the permit and/or previous extension.

3. Total number of acres irrigated to date= _____ (if applicable)

4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit, if any, made to date.

Maximum rate used to date = _____ cfs (cubic feet per second), or

Maximum rate used to date = _____ gpm (gallons per minute), or

Acre Feet stored to date = _____ AF

Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet). Do not provide daily, monthly or annual water volume totals.

INCOMPLETE REPORTS WILL BE RETURNED. AN ANSWER IS REQUIRED IN EACH ITEM. USE N/A FOR ITEM 3 IF THE USE IS NOT IRRIGATION.

Signature _____ Date _____