

Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number S-35037

Final Order
Extension of Time for Permit Number S-27441
Permit Holder: Eugene Water and Electric Board

Permit Information

Application File S-35037/ Permit S-27441

Basin 2 – Willamette Basin / Watermaster District 2

Date of Priority: June 14, 1961

Authorized Use of Water

Source of Water: McKenzie River, a Tributary of Willamette River

Purpose or Use: Municipal Use

Maximum Rate: 183.0 Cubic Feet per Second (cfs)

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

Application History

Permit S-27441 was issued by the Department on August 11, 1961. The permit called for completion of construction by October 1, 1965, and complete application of water to beneficial use by October 1, 1965. On September 29, 2003, Eugene Water and Electric Board (EWEB) submitted an application to the Department for an extension of time for Permit S-27441. In accordance with OAR 690-315-0050(2), on September 23, 2014, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2083, and the time to fully apply water to beneficial use to October 1, 2083. The protest period closed November 7, 2014, in accordance with OAR 690-315-0060(1). WaterWatch of Oregon filed a timely protest, which was subsequently withdrawn by letter on December 23, 2014.

Findings of Fact

The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order dated September 23, 2014.

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 4.82 cfs up to 183.0 cfs under Permit S-27441 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of diversion of water under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. The amount of water used under Permit S-27441 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, on file with the Department.

The deadline established in this Extension Final Order 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 final order may also meet the WMCP submittal requirements of other Department orders.

2. **Conditions to Maintain the Persistence of Listed Fish**

The developed portion of the permit, 4.82 cfs, is *not* subject to these fish persistence conditions.

A. **Fish Persistence Target Flows**

- a. Fish persistence target flow needs in the Lower McKenzie River (approximately river mile 14.1 to the mouth) as recommended by ODFW are in Table, 1 below; flows are to be measured on the McKenzie River above Hayden Bridge, Springfield, Oregon at USGS gage No. 14164900, or its equivalent.

Table 1

FISH PERSISTENCE TARGET FLOW ON THE LOWER MCKENZIE RIVER MEASURED AT USGS GAGE 14164900 ABOVE HAYDEN BRIDGE SPRINGFIELD, OREGON	
Months	Cubic Feet per Second
January 1 – December 31	2000

- b. **Alternate Streamflow Measurement Point**

The location of a target flow measurement point as established in these Conditions to Maintain the Persistence of Listed Fish may be revised if the City provides evidence in writing that ODFW has determined that persistence flows may be measured at an alternate streamflow measurement point and provides an adequate description of the location of the alternate streamflow measurement point, and the Water Resources Director concurs in writing.

B. Determining Water Use Reductions – Generally

The maximum amount of the undeveloped portion of Permit S-27441 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 average¹ of mean daily flows as determined or measured by the water user in the Lower McKenzie River at the specified gage location. 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 location based on the seven-day rolling average, E is the undeveloped portion of the permit, being 178.18 cfs, and Q_T is the target flow (from Table 1).

The percent by which the target flow is missed applied to the undeveloped portion of the permit provides the maximum amount of undeveloped portion of the permit that can be diverted as a result of this fish persistence condition, and is defined as:

$$E - (E \times \% \text{ missed target flow}),$$

where E is the undeveloped portion of the permit, being 178.18 cfs.

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. Examples

Example 1: Flow target met:

On September 15, the last seven mean daily flows in the Lower McKenzie River at the designated gage were 2430, 2450, 2525, 1910, 1875, 2460 and 2500 cfs. The seven day rolling average (Q_A) is 2307 cfs. Given that the undeveloped portion of this permit (E) is 178.18, then the 7 day average of mean daily flows minus the undeveloped portion is greater than the 2000 cfs target flow (Q_T) for September 15. In this example, $Q_A - E \geq Q_T$.

$$2307 - 178.18 \geq 2000$$

The amount of the undeveloped portion of the permit that can be diverted would not be reduced because the target flow is considered met.

¹ Alternatively, the water user may use a single daily measurement.

Example 2: Target flow missed.

Step 1: Given that the undeveloped portion of this permit (E) is 178.18, if on September 15, the average of the last seven mean daily flows (Q_A) was 1720 cfs, and the target flow (Q_T) is 2000, then the target flow would be missed by 22.9%.

$$(1 - [(1720 - 178.18) / 2000]) \times 100\% = 22.9\%$$

Step 2: Given that the undeveloped portion of this permit (E) is 178.18 cfs, and the undeveloped portion of the permit needs to be reduced by 22.9% (from Step 1), or 40.8 cfs, then the maximum amount of the undeveloped portion of Permit S-27441 that could be diverted as a result of this fish persistence condition would be 137.38 cfs. (This maximum amount may be limited as illustrated in Step 3, below.)

$$(178.18 \times 22.9\%) / 100 = 40.8$$

$$178.18 - 40.8 = 137.38$$

Step 3: The calculated maximum amount of water that could be diverted under the permit due to the fish persistence condition may not exceed the amount of water to which the City is legally entitled to divert. In this example, if the amount of water legally authorized for diversion under this permit is 134.82 cfs (for example, authorization to divert 130.0 cfs provided through a WMCP plus the 4.82 cfs developed portion of the permit), then 134.82 cfs would be the maximum amount of diversion allowed under this permit.

(Conversely, if the amount of water legally authorized for diversion under this permit is 150.0 cfs, then 142.2 cfs (137.38 from Step 2 + the 4.82 developed portion of the permit) would be the maximum amount of diversion allowed under this permit.)

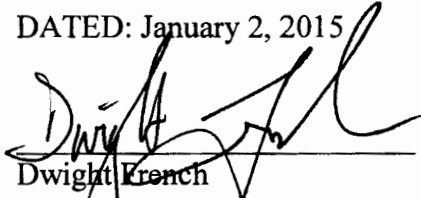
CONCLUSION OF LAW

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-35037, Permit S-27441, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from October 1, 2000 to October 1, 2083. The deadline for applying water to full beneficial use within the terms and conditions the permit is extended from October 1, 2000 to October 1, 2083.

DATED: January 2, 2015



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler Director,
Oregon Water Resources Department

If you have any questions about statements contained in this document, please contact Ann L. 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
