

Oregon Water Resources Department

Water Right Services Division

Water Rights Application
Number G-15131

FINAL ORDER

Extension of Time for Permit Number G-13909
Permit Holder: Lazy River Vineyard LLC/Ned Lumpkin and Kirsten W Lumpkin

Permit Information

Application:	G-15131
Permit:	G-13909
Basin:	2 – Middle Willamette / Watermaster District 16
Date of Priority:	April 19, 2000
Source of Water:	Two wells in North Yamhill River Basin
Purpose of Use:	Irrigation of 136.65 Acres
Maximum Rate:	0.2 cubic foot 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-13909 was issued by the Department on May 24, 2001. The permit called for complete application of water to beneficial use by October 1, 2005. On April 27, 2015, Lazy River Vineyard LLC; Ned Lumpkin and Kirsten W Lumpkin submitted to the Department an Application for Extension of Time for Permit G-13909. An amended Application for Extension of Time for Permit G-13909 was submitted to the Department June 16, 2015. In accordance with OAR 690-315-0050(2), on June 9, 2015, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2025. The protest period closed July 24, 2015, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

Except as expressly stated herein, The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order dated June 9, 2015.

Finding of Fact 9, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

~~The Department has identified two wells that were not authorized by Permit G-13909. The permit holder states on the application that Well (YAMH 52000), located in Township 2 South, Range 4 West, Section 19, SW ¼ SW ¼, is the well currently being used for irrigation. According to Permit G-13909, two wells were authorized, with one point of diversion located in Township 2 South, Range 4 West, Section 19, SW ¼ NW ¼, and the remaining point of diversion located in Township 2 South, Range 5 West, Section 24, SE ¼ NE ¼. Well (YAMH 52228) and Well (YAMH 52445) were both constructed in Township 2 South, Range 4 West, Section 19, SW ¼ NW ¼. Remaining work to be completed consists of the permit holder applying for a Permit Amendment for moving the authorized point of appropriation or adding an additional point of appropriation.~~

Finding of Fact 11(a), as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

~~Construction of the unauthorized wells was completed prior to October 1, 2005. Well (YAMH 52000) and Well 1 (YAMH 52445) were constructed in 2000. Construction of the authorized well, Well 2 (YAMH 52228) began construction April 12, 2000 and was completed April 13, 2000.~~

Construction of the well was completed prior to October 1, 2005. Construction of Well 1(YAMH 52445) began construction November 27, 2000 and was completed November 28, 2000.

Finding of Fact 12, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

~~Although approximately 38.0 acres have been irrigated using 0.03 cfs of water since the issuance of Permit G-13909 on May 24, 2001, the source of water is from Well (YAMH 52000) not describe in Permit G-13909, therefore, no beneficial use of water has been made from the wells authorized under this permit.~~

According to the water user a maximum rate of 0.03 cfs of water has been appropriated from the Well 1 (YAMH 52445) for irrigation of 38.0 acres.

Finding of Fact 13, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

~~Beneficial use of water has not yet been demonstrated under this permit because not all permit conditions were satisfied by October 1, 2005.~~

Finding of Fact 14, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

~~The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) the record does not show that a meter or other suitable measuring device has been installed, the permit holder states on the application a meter was installed January 15, 2001 on Well (YAMH 52000), which was not authorized by Permit G-13909, (2) the required March static water level measurements have not been received by the Department on Well 1 (YAMH 52445) authorized by Permit G-13909.~~

~~**Failure to comply with permit conditions constitutes illegal use of water. Beneficial use of water under this permit, therefore, has not yet been demonstrated. In order to legally perfect the use of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.**~~

The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

Conditions 3, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

Permit Amendment Condition

~~By October 1, 2016, the permit holder, Lazy River Vineyard LLC; Ned Lumpkin and Kirsten W Lumpkin, must submit to the Department, an application for a Permit Amendment under ORS 537.211, for approval to authorize either a change in the point of appropriation from permitted Well 2 (YAMH 52228) to Well (YAMH 52000), or adding an additional point of appropriation to include Well (YAMH 52000), currently being used to irrigate the place of use described under Permit G-13909.~~

Continued on the following page

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:

CONDITIONS

1. **Last Extension Condition**

This is to be the last extension of time granted for Permit G-13909. Any future extensions of time requests will be denied.

2. **Checkpoint Condition**

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2019 and 2024. 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

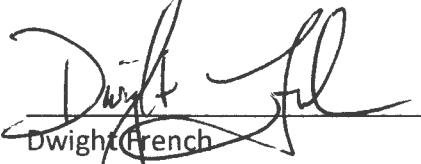
The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

Continued on the following page

ORDER

The extension of time for Application G-15131, Permit G-13909, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2005 to October 1, 2025.

DATED: August 7, 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 the Permit Extension Specialist at (503) 986-0825.
 - 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 Holder: Lazy River Vineyard LLC; Ned Lumpkin and Kirsten W Lumpkin

Application G-15131
 Permit G-13909

Progress Report for 2019

Report Due no later than October 1, 2019

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

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-13909.

FAILURE TO SUBMIT THIS REPORT WILL MOST LIKELY RESULT IN ANY FUTURE EXTENSION BEING DENIED.

DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between April 27, 2015 and October 1, 2019	FINANCIAL INVESTMENT

2. Describe actions to achieve compliance with conditions of the permit and/or previous extension.

3. Total number of acres irrigated to date: _____ (NA if not applicable)

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

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

or

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

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.

Signature _____ Date _____

Printed Name/Title _____

Diligence Shown Yes No

Date Public Noticed: _____
For OWRD use only

Reviewed by: _____

Date: _____