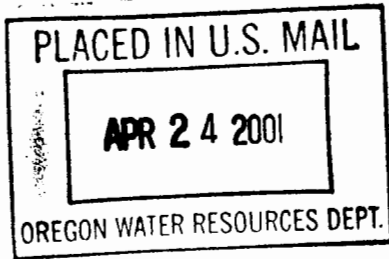


**Oregon Water Resources Department  
Water Rights Division**



Water Right Permit Extension Application  
for Permit Number 44066

Water Right Application Number 58288

**Proposed Final Order**

**Please read this Proposed Final Order in its entirety. It contains additional  
conditions not included in the original permit.**

This Proposed Final Order applies only to permit number  
44066.

**Summary of Recommendation**

The Department proposes to:

grant the extension for complete construction of the water system from October 1, 2000  
to October 1, 2010, and

grant the extension for complete application of water from October 1, 2000 to October  
1, 2010.

**Application History**

Permit no. 44066 was granted by the Water Resources Department on MAY 11, 1979.  
The permit authorizes use of 1.0 CFS of water from CALAPOOIA CREEK for  
MUNICIPAL USE in the UMPQUA RIVER basin. It specified that construction must be  
completed by October 1, 1981, and water applied to full beneficial use by October 1,  
1982. A copy of permit no. 44066 is attached.

On OCTOBER 9, 2000, the Department received an application from the CITY OF  
SUTHERLIN for an extension of time to complete construction and to apply water to full  
beneficial use. The applicant has requested until October 1, 2010 to complete  
construction of the water system and to apply water to full beneficial use. This is the  
FIFTH permit extension request.

**Findings of Fact**

ORS 537.230(2) and 537.630 (1) allows the Department to grant an extension of time to  
perfect a water right for good cause. In evaluating good cause, the Department has  
considered the written record in the permit application file in relation to the requirements

of ORS 537.230(2), ORS 537.630 (1) and ORS 539.010(5) and makes the following findings.

1. The applicant is legally entitled to apply for an extension on this permit.
2. The applicant has submitted a completed permit extension form and the required fee.
3. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit.
4. Progress in perfecting the permit is taking longer than the time limits in the permit, because the limits are not sufficient to fully develop the use. More time is needed for the population of Sutherlin to grow to the point all of the water allowed under the permit is beneficially used.
5. The applicant has pursued perfection of the right in good faith and with reasonable diligence.
  - a) Work on the water development project completed to date includes construction of most of the water system. Water has been applied at the rater of 0.58 CFS.
  - b) The applicant has invested approximately \$ 153,000 of an estimated total water system project cost of \$ 1,553,000.
  - c) The work remaining to be completed consists of the remaining construction of the water delivery system and complete application of water.
6. Based on the written record, the Department finds there is good cause to approve the extension request. The applicant has pursued perfection of the right in good faith and with reasonable diligence.
7. Due to the reasons outlined above in item 4 and the water development progress to date, the Department finds that the length of time requested for completion of construction and the length of time requested for completion of the application of water should be extended to October 1, 2010 as requested by the applicant.

#### **Conclusions of Law**

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230, and ORS 537.630.
2. The applicant has submitted an extension application form and the fee required by ORS 536.050(1)(L).
3. The applicant has pursued perfection of the right in good faith and prosecuted construction with reasonable diligence.
4. The applicant has shown good cause for the untimely completion of the water development project and complete application of water to full beneficial use pursuant to ORS 537.230(2), and ORS 537.630 (1).
5. The permit extension should be approved until October 1, 2010 to complete

construction and until October 1, 2010 to complete the application of water.

### **Conditions**

The permittee must submit a written progress report to the Department by October 1, 2005. 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.

***Failure to submit a progress report by the due date above will result in cancellation of the undeveloped portion of the permit*** by the Department pursuant to ORS 537.260 or 537.410 to 537.450. Within one year after cancellation, the permittee must submit a final proof survey pursuant to ORS 537.230 and 537.250. The Department will take into consideration annual reports submitted under OAR 690, Division 86, 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 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 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.

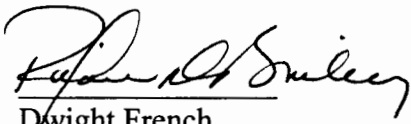
**Recommendation**

The Department proposes to issue an order to:

extend the permit time to complete construction from October 1, 2000 to October 1, 2010 and

extend the permit time to complete application of water from October 1, 2000 to October 1, 2010.

DATED: APRIL 24, 2001



Dwight French  
Water Rights Section Manager

*If you have any questions,  
please check the information  
box on the last page for the  
appropriate names and  
phone numbers.*

**Protest Rights and Comments**

1. Under the provisions of OAR 690-320-0010(8) you have the right to protest this proposed final order. Your protest must be in writing and must include the following:
  - a) Your name, address and telephone number;
  - b) Your interest in this proposed final order, and if you claim to represent the public interest, a precise statement of the public interest represented;
  - c) A detailed description of how the action in the proposed final order would impair or be detrimental to your interest;
  - d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
  - e) Any citation of legal authority supporting your protest, if known; and
  - f) The \$25 protest fee required under ORS 536.050 (1)(j).
2. Each person submitting a protest shall raise all reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the comment period.
3. The Water Resources Department must receive written protests or written comments no later than **JUNE 8, 2001**.
4. After the close of the comment and protest period, the Director will either issue a final order, or schedule a contested case hearing if the Director finds there are significant disputes related to the use of water.

**This document was prepared by Dallas Miller. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me toll free within Oregon at 1-800-624-3199 extension 272. Outside of Oregon you can dial 1-503-378-8455.**

**If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Dwight French. His extension number is 268.**

**If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 201. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97310, Fax: (503)378-2496.**

RECEIVED

## STATE OF OREGON WATER RESOURCES DEPARTMENT JAN 29 1979

Application for Permit to Appropriate Surface Water  
WATER RESOURCES DEPT  
SALEM, OREGON

I, CITY OF SUTHERLIN

(Name of Applicant)

of P.O. Box 459

(Mailing Address)

Sutherlin

(City)

State of Oregon

(Zip Code)

Phone No. 459-2856

do hereby

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is Calapooia Creek

, a tributary of Umpqua River

2. The point of diversion is to be located 1182 ft. South and 2224 ft. East

(N. or S.)

(E. or W.)

from the Northwest corner of Section 10

(Public Land Survey Corner)

(If there is more than one point of diversion, each must be described)

being within the North E. 1/4 of the N. West 1/4 of

Sec. 10 Tp. 25S R. 4 W., W. M., in the county of Douglas

(N. or S.)

(E. or W.)

3. Location of area to be irrigated, or place of use if other than irrigation.

| Township | Range | Section   | List 1/4 1/4 of Section                                                  | List use and/or number of acres to be irrigated                          |
|----------|-------|-----------|--------------------------------------------------------------------------|--------------------------------------------------------------------------|
| City     | of    | Sutherlin |                                                                          | Municipal Water                                                          |
| 25S      | 5W    | 15        | D.L.C. #40<br>NW 1/4 - NW 1/4                                            |                                                                          |
| 25S      | 5W    | 16        | NW 1/4 - NW 1/4<br>SE 1/4 - NW 1/4<br>SW 1/4 - NE 1/4<br>NW 1/4 - SE 1/4 | NE 1/4 - NW 1/4<br>SW 1/4 - NW 1/4<br>NE 1/4 - NE 1/4<br>SW 1/4 - SE 1/4 |
| 25S      | 5W    | 17        | D.L.C. #50<br>NW 1/4 - SW 1/4<br>SE 1/4 - SW 1/4<br>SE 1/4 - NE 1/4      | D.L.C. #40<br>NE 1/4 - SW 1/4<br>SW 1/4 - NE 1/4<br>D.L.C. #52           |
| 25S      | 5W    | 18        | D.L.C. #50<br>NW 1/4 - SW 1/4                                            | SW 1/4 - SW 1/4                                                          |
| 25S      | 5W    | 18        | NE 1/4 - SW 1/4<br>SW 1/4 - SE 1/4<br>NE 1/4 - SE 1/4<br>D.L.C. #53      | SE 1/4 - SW 1/4<br>SE 1/4 - NE 1/4<br>D.L.C. #52                         |
| 25S      | 5W    | 19        | D.L.C. #53<br>D.L.C. #37                                                 | D.L.C. #52<br>D.L.C. #39                                                 |

|     |    |    |                                                  |                                    |                                    |
|-----|----|----|--------------------------------------------------|------------------------------------|------------------------------------|
| 25S | 5W | 20 | NW 1/4 - SE 1/4<br>SW 1/4 - SE 1/4<br>D.L.C. #52 | NE 1/4 - SE 1/4<br>D.L.C. #39      | SE 1/4 - SE 1/4<br>D.L.C. #51      |
| 25S | 5W | 21 | NE 1/4 - NE 1/4<br>NW 1/4 - SW 1/4               | SE 1/4 - NE 1/4<br>SW 1/4 - SW 1/4 | NE 1/4 - SW 1/4<br>SE 1/4 - SW 1/4 |

OC EXT-10-1-2000