

Water Right Services Division

Water Rights Application
Number S-84101

FINAL ORDER

Extension of Time for Permit Number S-53648
Permit Holder: Knapp Ranches Inc.

Permit Information

Application:	S-84101
Permit:	S-53648
Basin:	17 – South Coast / Watermaster District 19
Date of Priority:	March 24, 1999
Source of Water:	A reservoir constructed under application R 84100, A tributary of Elk Creek
Purpose of Use:	Irrigation of 189.5 acres and mining
Maximum Volume:	100.0 acre-feet (AF) of stored water, being 60.0 AF for irrigation and 40.0 AF for mining

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

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 S-53648 was issued by the Department on January 31, 2000. The permit called for complete application of water to beneficial use by October 1, 2004. On April 18, 2014, Knapp Ranches Inc. submitted to the Department an Application for Extension of Time for Permit S-53648. In accordance with OAR 690-315-0050(2), on November 25, 2014, the Department issued a Proposed Final Order proposing to deny the time to apply water to full beneficial use

from October 1, 2004 to October 1, 2017. The protest period closed January 9, 2015, in accordance with OAR 690-315-0060(1). Knapp Ranches, Inc. filed a timely protest. On January 9, 2015, WaterWatch of Oregon and Oregon Coast Alliance filed requests for standing. On June 4, 2015, the permit holder requested an administrative hold for additional time for the purpose of pursuing settlement discussion. On November 25, 2015 the Department received the request for a second administrative hold. On March 31, 2016 the Department received a request from the permit holder to resume processing the application for an extension of time, with additional voluntary conditions from the permit holder. The permit holder requested the following language be added to permit S-83648:

1. The use of water for irrigation under Permit S-53648 is further limited to on ranch irrigation and shall not include irrigation for, related to, or supporting of golf course use or development.
2. The permittee shall demonstrate compliance with all permit conditions.

FINDINGS OF FACT

Except as expressly stated herein, the findings of fact and conclusion of law of the Proposed Final Order are adopted and incorporated by reference as if set fully set out in this final order. Following the issuance of the Proposed Final Order, the applicant provided additional background information. The following Finding of Facts of the Proposed Final Order are corrected to reflect the new information (additions are shown in "underline" text, deletions are shown in "~~strikethrough~~" text):

6. Actual construction of the water system did ~~not~~ begin prior to the December 15, 2000 deadline specified in the permit. According to the ~~application for extension of time~~ the permit holder, construction of the water system began in the ~~spring of 2001~~ summer of 2000. ~~The permit holder stated in the application in question 1, "In the spring of 2001, the irrigation system was installed" and then again in question 3 Chart C it states "4/2001 installed 1000 feet of mainline."~~

According to the new information submitted to the Department January 9, 2015, actual construction began in the summer of 2000. The Department has determined the permit holder has satisfied the condition requiring beginning of construction of the water works.

8. The Department has determined that the permit holder's request to have until October 1, 2017, to accomplish the application of water to beneficial use under the terms and

~~conditions of Permit S-53648 must be denied, the permit holder is not able to comply with the terms and conditions of Permit S-53648. Construction of the water system did not begin prior to December 15, 2000; the permit cannot be extended per OAR 690-315-0040(b).~~ is both reasonable and necessary.

9. Work was accomplished within the time allowed in the permit or previous extension as follows:

- a. Construction of the water system ~~did not~~ begin prior to the December 15, 2000 deadline specified in the permit. The permit holder began construction of the irrigation system on this permit in the ~~spring of 2001~~ summer of 2000. The irrigation systems consists of a 60 horse powered 600 gpm Berkeley pump with a 6 inch screened intake, and 1000 feet of mainline heading two directions, 400 feet East to the quarry, and 600 feet West North West to the pastures.

The Department has determined that work has been accomplished within the time allowed in the permit, which provides evidence of good cause and reasonable diligence from the appropriator towards the complete application of water to a beneficial use.

10. The following beneficial use was made of the water during the permit or previous extension time limits:

- ~~b. Since the issuance of Permit S-53648 on January 31, 2000, the permit holder has not applied any water to beneficial use as allowed in the Permit S-53648.~~

The permit holder states a maximum rate of 100.0 AF of water has been diverted from the reservoir for irrigation of 162.0 acres and mining.

Beneficial use of water has not yet been demonstrated under this permit because not all permit conditions were satisfied by the October 1, 2004.

11.

- a. The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) ~~actual construction under this permit did not begin prior to the December 15, 2000 deadline specified in the permit,~~ (2) annual reports of the amount of water used each month for irrigation have not been received by the Department annually.

13. The Department has found ~~a lack of good faith of the appropriator under Permit S-53648. Construction of the water system did not began prior to the deadline specified in the permit and reporting annual water use for irrigation has not~~

occurred.

CONDITIONS

1. Last Extension Condition

This is to be the last extension of time granted for Permit S-53648. Any future extensions of time requests will be denied.

2. Permit Condition

A. The use of water for irrigation under Permit S-53648 is further limited to on ranch irrigation and shall not include irrigation for, related to, or supporting of golf course use or development.

B. The permittee shall demonstrate compliance with all permit conditions.

CONCLUSION OF LAW

1. The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).
2. The applicant did comply with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
3. Complete application of the water to beneficial use under the terms and conditions of Permit S-53648 can be completed by October 1, 2017 as required by OAR 315-0040(1)(c)

Continued on the following page

ORDER

The extension of time for Application S-53648, 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, 2004 to October 1, 2017.

DATED: April 15, 2016



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

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- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503) 986-0802.
 - 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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