

**Oregon Water Resources Department
Water Right Services Division**

Application for Extension of Time

In the Matter of the Application for an Extension of Time)
for Permit G-11134 (modified by Permit Amendment T-)
10751), Water Right Application G-11241, in the name of)
Iseli Nursery, Inc.) FINAL ORDER

Permit Information

Application:	G-11241
Permit:	G-11134 (modified by Permit Amendment T-10751)
Basin:	3 – Sandy / Watermaster District 20
Date of Priority:	March 5, 1984
Source of Water:	Eight wells in the Tickle Creek Basin
Purpose of Use:	Nursery operations on 416.5 acres
Maximum Rate:	1,650 gallons per minute (gpm)

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-11134 was issued by the Department on November 13, 1990, and modified by Permit Amendment T-10751 on March 25, 2009. The permit called for actual construction of the well to begin by November 13, 1991, completion of construction by October 1, 1992 and complete application of water to beneficial use by October 1, 1993. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 1, 2013. On March 29, 2016, Iseli Nursery, Inc. submitted an Application for Extension of Time for Permit G-11134. In accordance with OAR 690-315-0050(2), on May 10, 2016, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2023, and the time to fully apply water to beneficial use to October 1, 2023. The

protest period closed June 24, 2016, 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 May 10, 2016.

Finding of Fact 1, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

Permit G-11134 was issued by the Department on November 13, ~~1991~~ 1990. The permit authorizes the use of up to 1,650 gpm of water, being 100 gpm from Well 1, 350 gpm from Well 2, 750 gpm from Well 3, 350 gpm from Well 4, and 100 gpm from Well 5 from five Wells in the Tickle Creek Basin for nursery operations on 416.5 acres. The permit specified actual construction of the well to begin by November 13, 1991, construction of the water system was to be completed by October 1, 1992, and complete application of water was to be made on or before October 1, 1993.

Finding of Fact 4, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "strikethrough" text):

On behalf of the permit holder, ~~Gary~~ Gregory R. Elwell, General Manager of Iseli Nursery, Inc., submitted an "Application for Extension of Time" to the Department on March 29, 2016, requesting both the time to complete construction of the water system and the time to apply water to full beneficial use under the terms and conditions of Permit G-11134 be extended from October 1, 2013 to October 1, 2023.

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):

Since October 1, 1993, the permit holder has installed a flow meter on Well 3 and Well 7.

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. **Checkpoint Condition**

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2021**. ***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-11241, Permit G-11134, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from October 1, 2013 to October 1, 2023. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2013 to October 1, 2023.

DATED: July 29, 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 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
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