

**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 S-54741, Water Right Application S-87564 ) FINAL ORDER  
in the name of Carlton Nursery Company, LLC )

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**Permit Information**

Application: S-87564  
Permit: S-54741  
Basin: Willamette / Watermaster District 16  
Date of Priority: December 28, 2009  
Source of Water: Palmer Creek, a Tributary of Yamhill River, and Gordon Farm  
Irrigation Reservoir, constructed under Permit R-14933  
Purpose or Use: Nursery Use on 261.8 Acres  
Maximum Rate/Volume: 1.0 cubic foot per second (cfs) from Palmer Creek, and 60.0 Acre-  
Feet (AF) from Gordon Farm irrigation Reservoir

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**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 final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition 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-54741 was issued by the Department on January 5, 2012. The permit specified completion of construction and complete application of water to beneficial use by January 5, 2017. On October 19, 2016, Carlton Nursery Company, LLC submitted an Application for Extension of Time for Permit S-54741. In accordance with OAR 690-315-0050(2), on November

29, 2016, the Department issued a Proposed Final Order proposing to extend the time to complete construction from January 5, 2017, to October 1, 2027 and the time to apply water to full beneficial use from January 5, 2017, to October 1, 2027. The protest period closed January 13, 2017, in accordance with OAR 690-315-0060(1). No protest was filed.

## FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 29, 2016.

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. 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.

### 2. Water Use Condition

If no water is applied to beneficial use under the terms and conditions of Permit R-14933 on or before October 1, 2026, this will be the be the last extension of time granted for Permit S-54741.

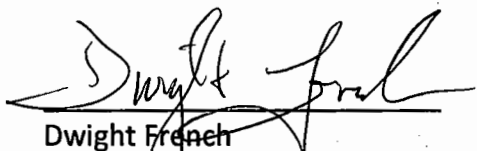
## CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

## ORDER

The extension of time for Application S-87564, Permit S-54741, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from January 5, 2017, to October 1, 2027. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from January 5, 2017, to October 1, 2027.

DATED: January 20, 2017



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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