

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

Application for Extension of Time

In the Matter of the Application for an Extension of Time)	SUPERSEDING
for Permit R-1118, Water Right Application R-24210,)	PROPOSED
in the name of the City of Medford)	FINAL ORDER

Permit Information

Application File R-24210/ Permit R-1118

Basin 15 – Rogue Basin / Watermaster District 13

Date of Priority: October 17, 1949

Authorized Use of Water

Source of Water:	Willow Creek and Four Bit Creek, tributaries of Big Butte Creek
Purpose or Use:	Storage for Municipal Use
Maximum Volume:	10,000 AF Acre-Feet (AF)

**This Extension of Time request is being processed in accordance with Oregon
Administrative Rule Chapter 690, Division 315.**

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

This Proposed Final Order applies only to Permit R-1118, water right Application R-24210 and supersedes the Proposed Final Order issued December 27, 2011.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- Grant an extension of time to complete construction from October 1, 1998, to October 1, 2056.
- Grant an extension of time to apply water to full beneficial use from October 1, 1998, to October 1, 2056.
- Make the extension of time subject to certain conditions as set forth below.

ACRONYM QUICK REFERENCE

Application – Application for Extension of Time
Department – Oregon Department of Water Resources
City – City of Medford
FOF – Findings of Fact
ODFW – Oregon Department of Fish and Wildlife
PFO – Proposed Final Order
URA – Urban Reserve Areas
WMCP – Water Management and Conservation Plan

Units of Measure

cfs – cubic feet per second
gpm – gallons per minute
mgd – million gallons per day

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(2) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order and allow an extension to complete construction or perfect a water right. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0080 provides in pertinent part that the Department shall make findings to determine if an extension of time for municipal and/or quasi-municipal water use permit holders may be approved to complete construction and/or apply water to full beneficial use. Under specific circumstances, the Department may condition extensions of time for municipal water use permit holders to provide that use of the undeveloped portion of the permit maintains the persistence of listed fish species in the portions of the waterways affected by water use under the permit.

OAR 690-315-0050(5) authorizes the Department to include in an extension order, but is not limited to, any condition or provision needed to: ensure future diligence; mitigate the effects of the subsequent development on competing demands on the resource; and periodically document the continued need for the permit.

OAR 690-315-0090(3) authorizes the Department, under specific circumstances, to condition an extension of time for municipal and/or quasi-municipal water use permit holders to provide that diversion of water beyond the maximum rate diverted under the permit or previous extension(s) shall only be authorized upon issuance of a final order approving a WMCP Plan under OAR Chapter 690, Division 86 which grants access to water under this extended permit.

FINDINGS OF FACT

Background

1. On June 15, 1951, Permit R-1118 was issued by the Department. The permit authorizes the storage of up to 10,000 AF of water from the Willow Creek and Four Bit Creek, tributaries of Big Butte Creek, in Willow Creek Reservoir for municipal use, of which 8,230 AF from Willow Creek has been perfected under Certificate 86309. The remaining authorized amount under Permit R-1118 is 1,680 AF. The permit specified that construction of reservoir was to be completed on or before October 1, 1953.
2. Nine prior permit extensions have been granted for Permit R-1118. The most recent extension request resulted in the completion dates for construction and full application of water being extended to October 1, 1998.
3. Due to an ongoing permit extension rulemaking, in 1998 the Department stopped processing pending Applications for Extension of Time for municipal and quasi-municipal permits, and did not require municipal and quasi-municipal water use permit holders to submit Applications for Extension of Time during the rulemaking process.
4. Municipal and quasi-municipal water use permit extension rules OAR 690-315-0070 through 690-315-0100 became effective on November 1, 2002. The rules were subsequently amended, and the amended rules became effective on November 22, 2005.
5. On December 29, 2003, City of Medford (City) submitted an "Application for Extension of Time" (Application) to the Department requesting the time to complete construction and the time to apply water to full beneficial use under the terms and conditions of Permit R-1118 be extended from October 1, 1998, to October 1, 2020.
6. On January 6, 2004, notification of the City's Application for Permit R-1118 was published in the Department's Public Notice. No public comments were received regarding the extension application.
7. On May 11, 2005, the City submitted supplemental information and update revisions to their pending Application.

8. On December 27, 2011, the Department issued a Proposed Final Order (PFO) proposing to grant an Extension of Time to store and apply water to full beneficial use from October 1, 1998, to October 1, 2008.
9. On December 27, 2013, the Department issued a letter to the City notifying them that the PFO issued on December 27, 2011, was incorrectly issued under the authority of ORS 537.248, and since Permit R-1118 was issued in 1951, the extension should have been review under the authority of ORS 537.230(c), which requires the Department to find that development of the undeveloped portion of the permit is conditioned to maintain the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. Because of this, the Department will issue a Superseding PFO under the Authority of ORS 537.230(c).
10. On July 15, 2016, the City submitted an amendment and additional information to supplement and update their Application. The amendment requested the extended time to complete construction be changed from October 1, 2033, to October 1, 2056.

Review Criteria for Municipal and Quasi-Municipal Water Use Permits [OAR 690-315-0080(1)]

The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0080(1). This determination shall consider the applicable requirements of ORS 537.230¹, 537.630² and/or 539.010(5)³

Complete Extension of Time Application [OAR 690-315-0080(1)(a)]

11. On December 29, 2003, the Department received a completed Application and the fee specified in ORS 536.050.

Start of Construction [OAR 690-315-0080(1)(b)]

12. Permit R-1118 was issued prior to June 29, 2005; therefore, the permit holder is not required to provide evidence of actions taken to begin actual construction of the project.⁴

Duration of Extension [OAR 690-315-0080(1)(c) and (1)(d)]

Under OAR 690-315-0080(1)(c) and (1)(d), in order to approve an extension of time for municipal and quasi-municipal water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

¹ ORS 537.230 applies to surface water permits only.

² ORS 537.630 applies to ground water permits only.

³ ORS 537.010(5) applies to surface water and ground water permits.

⁴ Section 5, Chapter 410, Oregon Laws 2005 and OAR 690-315-0070(3)(d).

13. The remaining work to be accomplished under Permit R-1118 consists of planning and conducting studies including Flood Routing Study, cultural resource evaluation, Emergency Action Planning and Operations and Maintenance Planning; meeting regulatory and permitting requirements including preparation of Environmental Impact Statements, wetland mitigation, acquiring the required special use permits from the Forrest Service and Jackson County, and fish passage review from ODFW; expanding Willow Lake Reservoir and constructing a diversion canal from Four Bit Creek; and applying water to full beneficial use.
14. Permit R-1118 authorized the storage of 10,000 AF of water for municipal purposes, of which 8,320 AF has been perfected under Certificate 87645. There is an undeveloped portion of 1,680 AF of water under Permit R-1118 as per OAR 690-315-0010(6)(g).
15. In addition to the remaining 1,680 AF of water authorized under Permit R-1118 the City holds the following municipal use water right certificates and permits:
 - Certificate 53323 for 30.0 cfs of water from Big Butte Creek;
 - Certificate 86994 for 10.8 cfs of water from Big Butte Springs;
 - Certificate 86832 for 60.85 cfs of water from the Rogue River;
 - Certificate 86995 for 46.5 cfs of water from Willow Lake Reservoir;
 - Certificate 87017 for 8,320 AF of water from Willow Creek;
 - Permit S-6703 for 19.2 cfs of water from Big Butte Springs;
 - Permit S-23210 for 39.15 cfs of water from the Rogue River;
 - Permit S-20177 for 48.5 cfs of stored water from Willow Lake Reservoir and 7.0 cfs of water from Big Butte Springs; and
 - Permit S-54935 for exclusive right to use waters from Big Butte Creek and of the springs at the head of and which form said stream, and of tributaries of said stream.

These water rights and permits total 167.0 cfs of live flow (surface) water, the storage of 10,000 AF of water and the use of 95.0 cfs of stored water. The City of Medford has not yet made use of 1,680 AF of water under Permit R-1118, 19.2 cfs of water under Permit S-6703, 39.15 cfs of water under Permit S-23210, and 48.5 cfs of stored water and 7.0 cfs of live flow water under Permit S-20177.

16. The City's 2009 Water Management and Conservation Plan identifies limitations to the City's water system which include:
 - the existing maximum transmission capacity from Big Butte Springs is approximately 41.0 cfs;
 - the existing transmission capacity from the Rogue River is approximately 141.0 cfs; and

- the existing treatment capacity at the Duff Water treatment Plant is approximately 110.0 cfs.
17. Additionally, the City also holds Certificates 11255, 12304 and 14200 for camp ground purposes, and Permit S-44058 for effluent treatment for irrigation purposes.
 18. According to the Application, in 2005 the population within the service boundary of the City was 120,000. The City estimates the population will increase at a growth rate of 1.6 percent per year, reaching an estimated population of 273,247 by the year 2056.
 19. According to the City's 2016 Draft Water Management and Conservation Plan, the City projects growth into the Urban Reserve Areas (URA) adopted as part of the Greater Bear Creek Valley Regional Plan on August 6, 2012. The types of lands and uses proposed to be served within the URA are expected to retain a mix of uses that is relatively consistent with the City's existing mix in its service population. These uses include residential, commercial, industrial and municipal uses.
 20. The City's peak water demand within its service area boundaries was 92.40 cfs in 2005. This includes water supplied to the cities of Phoenix, Jacksonville, Talent, Central Point, Eagle Point, Butte Falls, White City and other unincorporated areas and water districts, collectively referred to as "other cities".
 21. The City's peak day demand is projected to be approximately 161.50 cfs of water by the year 2056. This projection includes the other cities.
 22. The City supplies water to other cities that are outside of the place use authorized by Permit R-1118. However, ORS 540.510(3)(a) allows water use under a permit issued to a municipality to be applied to beneficial use on lands to which the right is not appurtenant if the use continues to be for municipal purposes and would not interfere or impair prior vested water rights.
 23. Full development of Permit R-1118 is needed to address the present and future water demand of the City of Medford, including system redundancy and emergency use. Due to projected maximum daily demands and anticipated limitations of the development of the City's other water rights as a result of "fish persistence" conditions, the City anticipates that full development of Permit R-1118 is necessary as part of a strategy for meeting long term municipal demand.
 24. In accordance with OAR 690-315-0080(1)(d) and as described by Findings of Fact (FOF) 18, 19 and 20, the City demonstrated that their estimated demand projection is consistent with the amount and types of lands and uses proposed to be served by the water user.

25. Based on FOF 13 through 24, the Department finds that the City's request for an extension of time until October 1, 2056, to complete construction and to apply water to full beneficial use under the terms of Permit R-1118 is both reasonable and necessary.

Good Cause [OAR 690-315-0080(1)(e) and (3)(a-g)]

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0080(3).

Reasonable Diligence and Good Faith of the Appropriator [OAR 690-315-0080(3)(a), (3)(c) and (4)]

Reasonable diligence and good faith of the appropriator must be demonstrated during the permit period or prior extension period as a part of evaluating good cause in determining whether or not to grant an extension. In determining the reasonable diligence and good faith of a municipal or quasi-municipal water use permit holder, the Department shall consider activities associated with the development of the right including, but not limited to, the items set forth under OAR 690-315-0080(4) and shall evaluate how well the applicant met the conditions of the permit or conditions of a prior extension period.

26. Work was accomplished (specified in the Application for Extension of Time) during the original development time frame being June 15, 1951, to October 1, 1953.
27. During the last extension period, being October 1, 1993, to October 1, 1998, the City accomplished the following:
- refurbished outflow structure;
 - installed Willow Dam valves;
 - installed data loggers for weirs; and
 - installed buoys for spillway;
28. Since October 1, 1998, the city has accomplished the following:
- performed analysis of dam modification options;
 - developed Willow Lake Recreation/Resort Master plan;
 - completed Big Butte feasibility study;
 - conducted Cyanobacteria and Limnological assessment;
 - installed real-time continuous gaging stations in South Fork Big Butte Creek and North Fork Big Butte Creek; and
 - installed cattle fence around Willow Lake Property.
29. According to the Application, as of December 29, 2003, they have invested approximately \$1,470,000, which is about 16 percent of the total projected cost for complete development of this project. The City estimates a \$7,900,000 investment is needed for the completion of this project. The Department recognizes that while some of these investment costs are unique to construction and development solely under R-1118, other costs included in this accounting are not partitioned out for R-1118 because (1) they are incurred under the development of a water supply system jointly utilized under other rights held by the City, and (2) they are generated from individual

activities counted towards reasonable diligence and good faith as listed in ORS 690-315-0080(4) which are not associated with just this permit, but with the development and exercise of all the City's water rights.

30. As of October 1, 1998, the City has perfected 8,320 AF of the 10,000 AF allowed for municipal purposes under the terms of this permit under Certificate 87017. There is an undeveloped portion of 1,680 AF of water under permit R-1118.
31. The Department has considered the City's compliance with conditions, and did not identify any concerns.

Based on FOF 26 through 31, the Department finds that work has been accomplished since the beginning of the last authorized extension time period, which provides evidence of good cause and reasonable diligence in developing the permit.

Financial Investment and Cost to Appropriate and Apply Water to a Beneficial Purpose

[OAR 690-315-0080(3)(b)]

32. According to the Application, as of December 29, 2003, they have invested approximately \$1,470,000, which is about 15 percent of the total projected cost for complete development of this project. The City estimates a \$7,900,000 investment is needed for the completion of this project.

The Market and Present Demands for Water *[OAR 690-315-0080(3)(d)]*

33. As described in FOF 18 through 23 above, the City has indicated, and the Department finds that the City must rely on full development of their Permit R-1118.
34. The City estimates an annual population growth rate of 1.6 percent per year over a 51 year period, being the years 2005 to 2056. The City projects growth into the URA, the types of lands and uses proposed to be served within the URA are expected to retain a mix of uses that is relatively consistent with the City's existing mix in its service population. These uses include residential, commercial, industrial and municipal uses.
35. Given the current water supply situation of the City, including current and expected demands, the need for system redundancy, and emergency water supply, there is a market and present demand for the water to be supplied under Permit R-1118.
36. OAR 690-315-0090(3) requires the Department to place a condition on this extension of time to provide that any diversion of the remaining unperfected portion of water under the permit, being 1,680 AF, shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of diversion of water under the permit consistent with OAR 690-086-0130(7). The amount of water used under Permit

R-1118 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, on file with the Department. A "Development Limitation" condition" is specified under Item 1 of the "Conditions" section of this PFO to meet this requirement.

Fair Return Upon Investment [OAR 690-315-0080(3)(e)]

37. The City expects to obtain a fair and reasonable return on investment by continuing development of Permit R-1118.

Other Governmental Requirements [OAR 690-315-0080(3)(f)]

38. Delays caused by any other governmental requirements in the development of this project have not been identified.

Events which Delayed Development under the Permit [OAR 690-315-0080(3)(g)]

39. Delay of development under Permit R-1118 was due, in part, to the size and scope of the municipal water system, which was designed to be phased in over a period of years, financial considerations and the full rate has not yet been in demand.

Maintaining the Persistence of Listed Fish Species [OAR 690-315-0080(1)(f) and (2)]

The Department's determination regarding maintaining the persistence of listed fish species shall be based on existing data and advice of the Oregon Department of Fish and Wildlife (ODFW). The determination shall be limited to impacts related to stream flow as a result of use of the undeveloped portion of the permit and further limited to where, as a result of use of the undeveloped portion of the permit, ODFW indicates that stream flow would be a limiting factor for the subject listed fish species.

40. The pending municipal Application for Extension of Time for Permit R-1118 was delivered to ODFW on May 1, 2013, for ODFW's review under OAR-690-315-0080.
41. Notification that the pending municipal Application for Extension of Time for Permit R-1118 was delivered to ODFW for review was sent to the City on May 2, 2013.
42. Notification that the pending municipal Application for Extension of Time for Permit R-1118 was delivered to ODFW for review was published in the Department's Public Notice dated November 22, 2011. On November 22, 2011, Water Watch of Oregon submitted a comment requesting copies of ODFW advice and proposed fish persistence conditions.
43. On February 14, 2017, the Department received ODFW's Division 315 Fish Persistence Evaluation and Proposed Fish Persistence Conditions for Permit R-1118.

44. Summary and Excerpts of Advice from ODFW:

- a. ODFW has determined that Willow Creek and Fourbit Creek, as well as South Fork Big Butte Creek and Big Butte Creek will be affected by water use developed under this permit. ODFW's advice is based on the best available information and existing data.
- b. Water from Willow Creek that is diverted for storage in Willow Creek Reservoir (Reservoir), under the portion of this permit that is undeveloped as of October 1, 1998, which was the completion date for application of water to full beneficial use authorized in the most recent extension of time, should be conditioned to maintain the persistence of listed fish species in the portions of waterways affected by water use under the permit.
- c. Due to the potential for diversion from Fourbit Creek under this permit to impact fish passage of salmon and steelhead over falls located on South Fork Big Butte Creek and due to the impacts of such diversion on adult steelhead spawning distribution in Fourbit Creek, ODFW recommends that no water from Fourbit Creek be diverted for storage in the Reservoir under this permit.
- d. ODFW recognizes that long term climatic variations will affect the amount of water in the system. In favorable water years, fish populations tend to increase and in unfavorable water years, fish populations contract. The long term objective for a listed species is to have the population increase to a sustainable level over time and to be able to maintain itself through natural fluctuations in the environment.
- e. ODFW recommends conditions that allow municipalities to meet their water needs while maintaining the persistence of listed fish species.
- f. The target flows, in Table 1, below, are ODFW's recommended flows measured at four locations. In order to store water in the Reservoir under the undeveloped portion of this permit from Willow Creek, target flows must be met at all locations on South Fork Big Butte Creek, Big Butte Creek, and at the outflow from Willow Creek Reservoir into Willow Creek. The maximum rate at which water can be stored equals the inflow into the Reservoir minus the target flow at the outflow, further limited to the smallest amount water of available at South Fork Big Butte Creek or Big Butte Creek measurement locations.

continued on following page

Table 1

ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN SOUTH FORK BIG BUTTE CREEK BELOW EPID'S POD #1^a (1) SOUTH FORK BIG BUTTE CREEK AT APPROX. RM 1	
Month	Cubic Feet per Second
Jan 1 – Jan 31	70
Feb 1 – May 15	120
May 16 – Jun 30	70
July 1 – Oct 31	47
Nov 1 – Nov 30	60
Dec 1 – Dec 31	70
ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN BIG BUTTE CREEK (2) NEAR CONFLUENCE OF NORTH AND SOUTH FORK BIG BUTTE CREEK BELOW EPID'S POD 2^b AND (3) NEAR MCLEOD, OREGON	
Month	Cubic Feet per Second
Jan 1 – May 15	135
May 16 – Jun 30	80
Jul 1 – Aug 15	54
Aug 16 – Dec 31	135
ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS (4) AT THE OUTFLOW FROM WILLOW CREEK RESERVOIR INTO WILLOW CREEK	
Month	Cubic Feet per Second
Jan 1 – Jan 31	15
Feb 1 – May 15	26
May 16 – Jun 30	15
Jul 1 – Nov 30	10
Dec 1 – Dec 31	15

^aEagle Point Irrigation District's (EPID) POD #1 is located within the NENE, Section 10, Township 35 South, Range 2 East, W.M.

^bEagle Point Irrigation District's (EPID) POD #2 is located within the NWNW, Section 3, Township 35 South, Range 2 East, W.M.

Streamflow Measurement Points:

After analysis of flow records, ODFW has determined that streamflows must be measured or determined by the water user at four locations for determining if target flows are met in Willow Creek, South Fork Big Butte Creek and Big Butte Creek. The first location is on South Fork Big Butte Creek at approximately RM 1, below the Eagle Creek Irrigation District's (EPID) POD #1. The second location is on Big Butte Creek a short distance downstream from the confluence of the North and South Forks of Big Butte Creek, below EPID's POD #2. The third location is near the mouth of Big Butte Creek at USGS Gage No. 14337500. The fourth location is on Willow Creek below Willow Creek Reservoir at the outlet USGS Gage No. 14335250.

When necessary, inflows into the Reservoir must be measured or determined by the water user at USGS Gage No. 14335230 on Willow Creek and USGS Gage No. 14335235 on Bieberstedt Creek, located above the Reservoir.

45. Department's Findings Based on Review of ODFW's Advice:

The Department is proposing conditions in this extension of time consistent with ODFW's advice (See Item 2 of the "Conditions" section of this PFO). When ODFW's recommended flows targets are not met, the Department's proposed conditions will reduce the permit holder's access to the maximum total amount of the undeveloped portion of Permit R-1118 that legally can be diverted. The conditions are based on the following findings:

- a. There is an undeveloped portion of 10,000 AF of water diverted from Fourbit Creek⁵, for storage in the Reservoir under Permit R-1118 as per OAR 690-315-0010(6)(g). To date, this source of water has not been developed under this permit. ODFW recommends that no flows from Fourbit Creek be diverted for storage in the Reservoir under this permit. Per OAR 690-315-0080(1)(f)(B) and (C) an application for an extension may only be approved if the Department finds that it is determined that use of the undeveloped portion of the permit, with or without conditions, will maintain the persistence of listed fish species in the portions of waterways effected by water use under the permit. Because ODFW could not find that, even if conditioned, the persistence of listed fish species will be maintained if any water is diverted from Fourbit Creek under Permit R-1118, the request for an extension of time from October 1, 1998 to October 1, 2056, to apply water from Fourbit Creek to full beneficial use and any related construction must be denied.

⁵ In combination with water diverted for storage from Willow Creek under Permit R-1118 and Certificate 87017, not to exceed 10,000 AF.

- b. There is an undeveloped portion of 1,680 AF of water diverted from Willow Creek⁶ for storage in the Reservoir under Permit R-1118 as per OAR 690-315-0010(6)(g). For the purpose of conditioning this permit to maintain the persistence of fish, the Department finds that the amount of the undeveloped portion of water diverted from Willow Creek for storage under Permit R-1118 is 1,680 AF. Therefore, 1,680 AF is the amount of water diverted from Willow Creek for storage under Permit R-1118 that must be conditioned for the persistence of listed fish species.
- c. Authorization to store any water from Willow Creek up to the 1,680 AF remaining under this permit can only be granted through the Department's review and approval of the municipal water user's future WMCPs (OAR 690-086).
- d. The proposed conditions for use of water from Willow Creek may result in no storage, or a limit on storage, of the amount of water conditioned for fish persistence under Permit R-1118. The proposed conditions for are based on the following findings:
 - i. **South Fork Big Butte and Big Butte Creeks**
 - 1. Target flows on South Fork Big Butte and Big Butte Creeks needed to maintain the persistence of fish must be measured at the three following locations:
 - a. On South Fork Big Butte Creek at approximately RM 1, below the EPID's point of diversion (POD) located within the NENE, Section 10, Township 35 South, Range 2 East, W.M.
 - b. On Big Butte Creek a short distance downstream from the confluence of the North and South Forks of Big Butte Creek, below EPID's POD located within the within the NWNW, Section 3, Township 35 South, Range 2 East, W.M.
 - c. On Big Butte Creek near McLeod, Oregon, USGS Gage No.14337500, or its equivalent.
 - 2. Target flows (Q_T) must be compared to the mean daily flow at the point of interest (Q) at each of the three measurement locations on South Fork Big Butte and Big Butte Creeks as listed above.

⁶ The permit authorized the storage of 10,000 AF of water from Willow Creek and Fourbit Creek in Willow Creek Reservoir (based on an annual fill), of which 8,320 AF of storage from Willow Creek has been perfected under Certificate 87017. Under this permit, 1,680 AF is remaining to be perfected. (See ORDER: IN THE MATTER OF PARTIAL PERFECTION OF WATER RIGHT PERMIT R-1118 IN THE NAME OF THE CITY OF MEDFORD, VOL 83, PAGE 990.) Diversion of water for storage under Certificate 87017 is not subject to these Conditions to Maintain the Persistence of Listed Fish.

- a. When $Q \leq Q_T$ at any of the three locations on South Fork Big Butte and Big Butte Creeks:

No water conditioned for fish persistence may be diverted from Willow Creek for storage in the Reservoir under this water right.

- b. When $Q > Q_T$ at each location on South Fork Big Butte and Big Butte Creeks:

The maximum rate that could be diverted from Willow Creek for storage in the Reservoir under this fish persistence condition may be limited to the *smallest* difference of $(Q - Q_T)$, where Q is the flow at the point of interest, Q_T is the target flow (from Table 1).

ii. **Willow Creek and Willow Creek Reservoir**

1. In addition to the target flows established on South Fork Big Butte and Big Butte Creeks, target flows needed to maintain the persistence of fish are also established at the outflow from the Reservoir on Willow Creek.

2. Target flows on Willow Creek (Q_{T-WC}) from Table 1 must be compared to the inflow into the Reservoir (Q_{IN}) as measured at USGS Gage No. 14335230.

- a. When $Q_{IN} - Q_T \leq 0$, *even if* target flows are met on South Fork and Big Butte Creeks:

No water conditioned for fish persistence may be diverted from Willow Creek for storage in Willow Creek Reservoir. The outflow from the Reservoir (Q_{OUT}) must equal the inflow into the Reservoir (Q_{IN}).

- b. When $Q_{IN} - Q_T > 0$, *and* target flows are met on South Fork and Big Butte Creeks:

The maximum rate at which water can be diverted for storage in the Reservoir under this fish persistence condition is limited to amount of inflow into the Reservoir (Q_{IN}) minus the Willow Creek target flow (Q_{T-WC}), and is further limited to the smallest difference of $(Q - Q_T)$ as determined in i.2.b., above. When diverting water for storage, the outflow from the Reservoir (Q_{OUT}) must be equal to or greater than the target flow (Q_T). The rate and conditions for diversion are expressed as:

$Q_{IN} - Q_{T-WC}$, not to exceed the smallest $(Q - Q_T)$, and $Q_{OUT} \geq Q_{T-WC}$,
where:

Q_{IN} is the inflow into the Reservoir as measured at USGS Gage No. 14335230, located on Willow Creek above the Reservoir;

Q_{T-WC} is the Willow Creek target flow (from Table 1);

Q is the mean daily flow at the point of interest on South Fork Big Butte or Big Butte Creeks;

Q_T is the corresponding target flow (from Table 1) on South Fork Big Butte or Big Butte Creeks; and

Q_{OUT} is the outflow from the Reservoir as measured at outlet USGS Gage No. 14335250, located below the Reservoir.

- c. The total volume stored may not exceed the amount of water from Willow Creek conditioned for fish persistence (E), being 1,680 AF of water stored annually. (Note: this assumes the certificated portion of 8,320 AF has already been stored).
 - iii. ODFW's advice recognizes that storage of the undeveloped portion of the permit from Willow Creek could represent a significant part of the existing flow in South Fork and Big Butte Creeks, and also could affect streamflows in Willow Creek since diverting water for storage in the Reservoir is not subject to any rate limitation under the permit.
46. The Department finds, based on ODFW's advice, that in the absence of conditions, the use of the undeveloped portion of Permit R-1118 will not maintain the persistence of listed fish species in the portions of the waterways affected by water use under the permit, and as a result of the use of the undeveloped portion of the permit, stream flows would be a limiting factor for the listed fish species.
 47. Based on ODFW's advice, the Department proposes to require conditions to maintain, in the portions of the waterways affected by water use under Permit R-1118, the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. (See Item 2 of the "Conditions" section of this PFO.)⁷
 48. On February 14, 2017, ODFW notified the Department that the proposed "Conditions to Maintain the Persistence of Listed Fish" for Permit R-1118 are consistent with their advice.

⁷ The Department, based on advice from the ODFW, finds that the conditions contained in this PFO are appropriate for this extension. In other municipal extensions that require conditions to maintain the persistence of listed species, different conditions may be warranted depending on the advice received from ODFW and communications with the particular extension applicant.

49. On February 15, 2017, the Department notified the City as per OAR 690-315-0080(2)(f) of ODFW's written advice and the "Conditions to Maintain the Persistence of Listed Fish" proposed in this PFO for the pending municipal Application for Extension of Time for Permit R-1118.

CONCLUSIONS OF LAW

1. The City 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(2).
 2. The City has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0080(1)(a).
 3. As required by OAR 690-315-0080(1)(b), the permit holder was able to demonstrate that actual construction of the project began (commenced) within the time period required by ORS 537.230(2), being no later than June 15, 1952, as specified in the permit.
 4. Pursuant to ORS 540.510(3)(a) and (b), water under Permit R-1118 may be applied to beneficial use on land to which the right is not appurtenant.
 5. The time requested to complete construction and apply water to full beneficial use is reasonable, as required by OAR 690-315-0080(1)(c).
 6. Completion of construction and full application of water to beneficial use can be completed by October 1, 2056⁶. The estimated demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder pursuant to OAR 690-315-0080(1)(d).
 7. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and the fair return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the water right permit holder had no control, and the Department finds that the City has shown good cause for an extension of time to complete construction and to apply the water to full beneficial use pursuant to OAR 690-315-0080(1)(e).
 8. As required by OAR 690-315-0090(3) and as described in FOF 36, above, and specified under Item 1 of the "Conditions" section of this PFO, any diversion of the remaining
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unperfected portion of water under the permit, being 1,680 AF, shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of diversion of water under the permit consistent with OAR 690-086-0130(7).

9. In accordance with OAR 690-315-0080(1)(f), and as described in FOF 40 through 49, above, the persistence of listed fish species will not be maintained in the portions of the waterways affected by water use of the undeveloped portion under this municipal use permit, in the absence of special conditions. Therefore, the diversion of water beyond the perfected 8,320 AF of water from Willow Creek under Permit R-1118 will be subject to the conditions specified under Item 2 of the "Conditions" section of this PFO.

Proposed Order

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time to complete construction under Permit R-1118 from October 1, 1998, to October 1, 2056.

Extend the time to apply the water to beneficial use under Permit R-1118 from October 1, 1998, to October 1, 2056.

Subject to the following conditions:

CONDITIONS

1. Development Limitations

No diversion of water is currently allowed under the unperfected portion of Permit R-1118.⁸ Any diversion of the remaining unperfected portion of water under the permit, being 1,680 AF, shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of diversion of water under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. The amount of water used under Permit R-1118 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, on file with the Department.

⁸ Permit R-1118 authorized the storage of 10,000 AF of water from Willow Creek and Fourbit Creek in Willow Creek Reservoir (based on an annual fill), of which 8,320 AF of storage from Willow Creek has been perfected under Certificate 87017.

The Development Limitation established in the above paragraph supersedes any prior limitation of the diversion of water under Permit R-1118 that has been established under a prior WMCP or Extension final order issued by the Department.

The deadline established in the Extension Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of the final order may also meet the WMCP submittal requirements of other Department orders.

2. Conditions to Maintain the Persistence of Listed Fish

The undeveloped portion of the permit diverted from Willow Creek⁹ for storage in Willow Creek Reservoir (Reservoir), is established as 1,680 AF¹⁰ in accordance with 537.230(2)(c). The diversion of 1,680 AF from Willow Creek for storage in the Reservoir as authorized under this permit must be hereafter conditioned with these fish persistence conditions. Therefore, all subsequent water right(s) originating from Permit R-1118 must include these Conditions to Maintain the Persistence of Listed Fish. If more than one resulting water right is subject to these Conditions to Maintain the Persistence of Listed Fish, then the legal diversion of 1,680 AF of water from Willow Creek conditioned to maintain the persistence of listed fish species (for storage in the Reservoir) shall be determined among all the permit/water right holders of record; all the permit/water right holders of record subject to these Conditions to Maintain the Persistence of Listed Fish must ensure that these fish persistence conditions are met.

A. Fish Persistence Target Flows

Fish persistence target flows for South Fork Big Butte Creek, Big Butte Creek and Willow Creek, as recommended by ODFW are in Table 1, below. Flows are to be measured or determined by the water user at four locations, being (1) below Eagle Point Irrigation District's (EPID) POD #1 on South Fork Big Butte Creek at approximately River Mile (RM) 1, (2) below EPID's POD #2 on Big Butte Creek – near the confluence of North and South Forks of Big Butte Creek, (3) on Big Butte Creek near McLeod, Oregon (USGS Gage No. 14337500, or its equivalent), and (4) on Willow Creek at the Reservoir outlet USGS Gage No.1433250, or its equivalent.

⁹ There is no developed portion of water from Fourbit Creek. ODFW determined that the persistence of listed fish species will not be maintained with the diversion of any water from this source under Permit R-1118. Therefore, diversion of water from Fourbit Creek for storage in Willow Creek Reservoir under the permit is not authorized.

¹⁰ Permit R-1118 authorized the storage of 10,000 AF of water from Willow Creek and Fourbit Creek in Willow Creek Reservoir (based on an annual fill), of which 8,320 AF of storage from Willow Creek has been perfected under Certificate 87017.

Table 1

ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN SOUTH FORK BIG BUTTE CREEK BELOW EPID'S POD #1^a (1) SOUTH FORK BIG BUTTE CREEK AT APPROX. RM 1	
Month	Cubic Feet per Second
Jan 1 – Jan 31	70
Feb 1 – May 15	120
May 16 – Jun 30	70
July 1 – Oct 31	47
Nov 1 – Nov 30	60
Dec 1 – Dec 31	70
ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN BIG BUTTE CREEK (2) NEAR CONFLUENCE OF NORTH AND SOUTH FORK BIG BUTTE CREEK BELOW EPID'S POD 2^b AND (3) NEAR MCLEOD, OREGON	
Month	Cubic Feet per Second
Jan 1 – May 15	135
May 16 – Jun 30	80
Jul 1 – Aug 15	54
Aug 16 – Dec 31	135
ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS (4) AT THE OUTFLOW FROM WILLOW CREEK RESERVOIR INTO WILLOW CREEK	
Month	Cubic Feet per Second
Jan 1 – Jan 31	15
Feb 1 – May 15	26
May 16 – Jun 30	15
Jul 1 – Nov 30	10
Dec 1 – Dec 31	15

^a Eagle Point Irrigation District's (EPID) POD #1 is located within the NENE, Section 10, Township 35 South, Range 2 East, W.M.

^b Eagle Point Irrigation District's (EPID) POD #2 is located within the NWNW, Section 3, Township 35 South, Range 2 East, W.M.

B. Inflow and Outflow Reservoir Measurements

- a. Inflow into the Reservoir (Q_{IN}) is to be measured or determined by the water user at USGS Gage No. 14335230 on Willow Creek and USGS Gage No. 14335235 on Bieberstedt Creek, both located above the Reservoir.
- b. Outflow from the Reservoir (Q_{OUT}) is to be measured or determined by the water user at USGS Gage No. 14335250, located below the Reservoir.

C. Determining Water Use Reductions – Generally

South Fork Big Butte and Big Butte Creeks

- a. Target flows (Q_T) must be compared to a seven-day rolling average of the mean daily flow (Q_A) at each of the three measurement locations on South Fork Big Butte and Big Butte Creeks as listed above.

- i. When $Q_A \leq Q_T$ (target flow missed) at any of these three locations:

No water conditioned for fish persistence may be diverted from Willow Creek for storage in the Reservoir.

- ii. When $Q_A > Q_T$ (target flow met) at all three locations:

Under these fish persistence conditions, the maximum rate of water that could be diverted from Willow Creek for storage may be limited to the *smallest* difference of $(Q_A - Q_T)$, where Q_A is a seven-day rolling average of the mean daily flow at designated location, and Q_T is the corresponding target flow (from Table 1).

Willow Creek and Willow Creek Reservoir

- b. Target flows on Willow Creek (Q_{T-WC}) from Table 1 must be compared to the inflow into the Reservoir (Q_{IN}).

- i. When $Q_{IN} - Q_{T-WC} \leq 0$, the Willow Creek target flow is missed:

No water conditioned for fish persistence may be diverted from Willow Creek for storage in the Reservoir *even if* target flows are met on South Fork Big Butte and Big Butte Creeks. The outflow from the Reservoir (Q_{OUT}) should equal the inflow into the Reservoir (Q_{IN}).

- ii. When $Q_{IN} - Q_{T-WC} > 0$, the Willow Creek target flow is met; *and* when target flows are met on South Fork Big Butte and Big Butte Creeks:

Under these fish persistence conditions, the maximum rate of water that can be diverted from Willow Creek for storage may be limited to the amount of inflow into the Reservoir (Q_{IN}) minus the Willow Creek target flow (Q_{T-WC}), and is further limited to the smallest difference of ($Q_A - Q_T$) as determined in 2.C.a.ii., above. When diverting water from Willow Creek for storage, the outflow from the Reservoir (Q_{OUT}) must be equal to or greater than the target flow (Q_T). The rate and conditions for diversion are expressed as:

$$Q_{IN} - Q_{T-WC}, \text{ not to exceed the smallest } (Q_A - Q_T), \text{ and } Q_{OUT} \geq Q_{T-WC},$$

where:

Q_{IN} is the total combined inflow into the Reservoir as measured above the Reservoir at USGS Gage No. 14335230 (located on Willow Creek) and USGS Gage No. 14335235 (located on Bieberstedt Creek). Q_{IN} is determined by adding the flow as measured at Gage 14335230 to the flow as measured at Gage 1433235;

Q_{T-WC} is the Willow Creek target flow (from Table 1);

Q_A is a seven-day rolling average of the mean daily flow at the locations described above on South Fork Big Butte and Big Butte Creeks;

Q_T is corresponding target flow from Table 1 for a seven-day rolling average of the mean daily flow at the locations described above on South Fork Big Butte and Big Butte Creeks.

Q_{OUT} is the outflow from the Reservoir as measured at outlet USGS Gage No. 14335250, located below the Reservoir.

D. Examples

Example 1: Target flows met at all four locations, storage allowed at a rate limited to $Q_A - Q_T$:

Step 1: Determine $Q_A - Q_T$ on South Fork Big Butte and Big Butte Creeks:

If on March 15, a seven-day rolling average of the mean daily flow (Q_A) at South Fork Big Butte Creek below EPID's POD #1 was 125 cfs, and the target flow (Q_T) is 120, then $Q_A - Q_T = \underline{5.0 \text{ cfs}}$. This target flow is met.

$$125 - 120 = 5$$

AND, on March 15, a seven-day rolling average of the mean daily flow (Q_A) in Big Butte Creek below EPID's POD #2 was 145 cfs, and the target flow (Q_T) is 135, then $Q_A - Q_T = \underline{10.0 \text{ cfs}}$. This target flow is met.

$$145 - 135 = 10$$

AND, on March 15, a seven-day rolling average of the mean daily flow (Q_A) in Big Butte Creek at Gage 14337500 was 150 cfs, and the target flow (Q_T) is 135, then $Q_A - Q_T = \underline{15.0 \text{ cfs}}$. This target flow is met.

$$150 - 135 = 15$$

In this example, $Q_A > Q_T$ at all three locations.

Step 2: Determine $Q_{IN} - Q_{T-WC}$ on the Reservoir and Willow Creek:

If on March 15, the seven-day rolling average of flow at Gage 14335230 was 25 cfs and the seven-day rolling average of flow at Gage 14335235 was 15 cfs the total combined seven-day rolling average of the mean daily inflow into the Reservoir (Q_{IN}) was 40 cfs,

$$25 + 15 = 40$$

and the March target flow on Willow Creek (Q_{T-WC}) is 26, then $Q_{IN} - Q_{T-WC} = \underline{14.0 \text{ cfs}}$. This target flow is met.

$$40 - 26 = 14$$

In this example, $Q_{IN} - Q_{T-WC} > 0$.

Step 3: Determine the limits to the rate of diversion from Willow Creek:

As shown in Steps 1 and 2, the target flows are met at all four locations. Although the inflow is 14 cfs greater than the rate needed to meet the target flow at the outflow of the Reservoir, target flows also need to be maintained downstream in South Big Butte and Big Butte Creeks. In this example, the maximum rate that can be diverted from Willow Creek for storage under this fish persistence condition is limited to the smallest difference ($Q_A - Q_T$) among the three measurement locations from Step 1, which in this example is 5.0 cfs.

On March 15, up to 5.0 cfs could be diverted from Willow Creek for storage in the Reservoir under this fish persistence condition, not to exceed 1,680 AF of water stored annually.

Step 4: Consider Development Limitations on Volume of Water Stored

The maximum volume of water that could be stored under these fish persistence conditions may not exceed the amount of water to which the City is legally entitled to store. In this example, if the amount of water legally authorized for storage under this permit or subsequent water right is 500 AF (for example, authorization provided through a WMCP and enlargement of the reservoir or partial perfection), then 500 AF would be the maximum volume of storage allowed under the water right, regardless of the rate water is available for diversion from Willow Creek for storage in the Reservoir as determined in Steps 1-3, above.

Example 2: Target flows met at all four locations, storage allowed at a rate limited to

$$Q_{IN} - Q_{T-WC}:$$

Step 1: Determine $Q_A - Q_T$ on South Fork Big Butte and Big Butte Creeks:

If on December 15, a seven-day rolling average of the mean daily flow (Q_A) at South Fork Big Butte Creek below EPID's POD #1 was 92 cfs, and the target flow (Q_T) is 70, then $Q_A - Q_T = \underline{22.0 \text{ cfs}}$. This target flow is met.

$$92 - 70 = 22$$

AND, on December 15, a seven-day rolling average of the mean daily flow (Q_A) in Big Butte Creek below EPID's POD #2 was 160 cfs, and the target flow (Q_T) is 135, then $Q_A - Q_T = \underline{25.0 \text{ cfs}}$. This target flow is met.

$$160 - 135 = 25$$

AND, on December 15, a seven-day rolling average of the mean daily flow (Q_A) in Big Butte Creek at Gage 14337500 was 168 cfs, and the target flow (Q_T) is 135, then $Q_A - Q_T = \underline{33.0 \text{ cfs}}$. This target flow is met.

$$168 - 135 = 33$$

In this example, $Q_A > Q_T$ at all three locations.

Step 2: Determine $Q_{IN} - Q_{T-WC}$ on the Reservoir and Willow Creek:

If on December 15, the seven-day rolling average of flow at Gage 14335230 was 25 cfs and the seven-day rolling average of flow at Gage 14335235 was 10 cfs the seven-day rolling average of the mean daily inflow into the Reservoir (Q_{IN}) was 35 cfs,

$$25 + 10 = 35$$

and the December target flow on Willow Creek (Q_{T-WC}) is 15, then $Q_{IN} - Q_{T-WC} = \underline{20.0 \text{ cfs}}$. This target flow is met.

$$35 - 15 = 20$$

In this example, $Q_{IN} - Q_{T-WC} > 0$.

Step 3: Determine the limits to the rate of diversion from Willow Creek:

As shown in Steps 1 and 2, the target flows are met at all four locations. The inflow is 20 cfs greater than the rate needed to meet the target flow at the outflow of the Reservoir. Because 20 cfs is less than the smallest difference ($Q_A - Q_T$) among the three measurement locations from Step 1, target flows will be maintained downstream in South Big Butte and Big Butte Creeks even if Willow Creek is diverted for storage at the 20 cfs. In this example, $Q_{IN} - Q_{T-WC}$ limits the rate of diversion for storage.

On December 15, up to 20.0 cfs could be diverted from Willow Creek for storage in the Reservoir under this fish persistence condition, not to exceed 1,680 AF of water stored annually, providing this amount of water is legally authorized for storage under this permit or subsequent water right (for example, authorization provided through a WMCP and enlargement of the reservoir or partial perfection).

Example 3: Actual flows are less than target flows at one measurement location, no storage allowed.

If on November 15, a seven-day rolling average of the mean daily flows (Q_A) at South Fork Big Butte Creek below EPID's POD #1 was 65 cfs, and the target flow (Q_T) is 60, then $Q_A > Q_T$. The target flow is met at this location.

AND, on November 15, a seven-day rolling average of the mean daily flows (Q_A) in Big Butte Creek below EPID's POD #2 was 128 cfs, and the target flow (Q_T) is 135, then $Q_A \leq Q_T$. The target flow is NOT met at this location.

AND, on November 15, a seven-day rolling average mean daily flows (Q_A) in Big Butte Creek at Gage 14337500 was 138 cfs, and the target flow (Q_T) is 135, then $Q_A > Q_T$. The target flow is met at this location.

AND, on November 15, the seven-day rolling average of flow at Gage 14335230 was 12 cfs and the seven-day rolling average of flow at Gage 14335235 was 6 cfs a seven-day rolling average of the mean daily inflow into the Reservoir (Q_{IN}) was 18 cfs, and the November target flow on Willow Creek (Q_{T-WC}) is 10, then $Q_{IN} - Q_{T-WC} = 8.0$ cfs. In this example, $Q_{IN} - Q_{T-WC} > 0$; this target flow is met.

In this example, no water conditioned for fish persistence may be diverted from Willow Creek for storage because the target flow was missed at one of the four measurement locations.

DATED: March 28, 2017



Dwight French
Water Right Services Division Administrator

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

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **May 12, 2017**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
 - c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's 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 the petitioner, if known;

- f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The applicant or non-applicant protest fee required under ORS 536.050.
3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
- a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a protest has been submitted, and:
 - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - 2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>

If you have any questions about statements contained in this document, please contact Jeffrey D. Pierceall at 503-986-0802.

If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.

If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.

Address any correspondence to: Water Right Services Division
725 Summer St NE, Suite A
Salem, OR 97301-1266

Fax: 503-986-0901
