

**Final Order**  
**Extension of Time for Permit Number S-53011**

**Appeal Rights**

**This is a final order in other than contested case.** This order is subject to judicial review under ORS 183.484. Any petition 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 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**

On February 22, 2002, McKenzie Cranberries, Inc. submitted an application to the Department for an extension of time for permit number S-53011. The Department issued permit number S-53011 on January 31, 1997. The permit called for completion of construction by October 1, 1999, and complete application of water to beneficial use by October 1, 2000. In accordance with OAR 690-315-0050(2), on April 19, 2005, the Department issued a Proposed Final Order proposing to extend the time to complete construction of the water development project to October 1, 2011, and the time to fully apply water to beneficial use to October 1, 2011. The protest period closed June 3, 2005, in accordance with OAR 690-315-0060(1). No protest was filed.

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. **In accordance with OAR 690-315-0050(6), the permittee must submit a written progress report to the Department by October 1, 2010.** 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 may jeopardize continued development under the permit.***

The Department will take into consideration annual reports submitted under OAR Chapter 690, Division 86 or 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 right 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 any 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.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 537.248, 537.630, 539.010(5) and/or OAR 690-315-0040(2).

**Order**

The extension of time for Application Number S-80645, Permit Number S-53011, therefore, is approved. The deadline for completing construction is extended to October 1, 2011. The deadline for applying water to full beneficial use is extended to October 1, 2011.

**DATED: June 8, 2004**

  
Phillip C. Ward, Director

Final Order: Permit #S-53011

**If you have any questions about statements contained in this document, please contact Lisa Juul at (503) 986-0808.**

**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.**



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

**Extension of Time  
 Progress Report Form  
 For Checkpoints**

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: MCKENZIE CRANBERRIES INC.

Application S-80645  
 Permit S-53011

Report Due no later than October 1, 2010

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

**Progress Report Form for 2010**

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfection of Permit S-53011

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 1999 and October 1, 2010	FINANCIAL INVESTMENT

2. Compliance with terms and conditions of the permit and/or previous extension.

3. Total number of acres irrigated to date= \_\_\_\_\_ (if applicable)

4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit, if any, made to date.

Maximum rate used to date = \_\_\_\_\_ cfs (cubic feet per second)

Maximum rate used to date = \_\_\_\_\_ gpm (gallons per minute)

Acre-feet stored to date = \_\_\_\_\_ AF

*Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet). Do not provide daily, monthly or annual water volume totals.*

Signature \_\_\_\_\_ Date \_\_\_\_\_

*For OWRD use only*

Diligence Shown  Yes  No

Date Public Noticed: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_



# Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

June 22, 2011

MCKENZIE CRANBERRIES INC.  
PO BOX 1362  
PORT ORFORD, OR 97465

REFERENCE: Application S-80645 / Permit S-53011

Dear Permit Holder:

On June 8, 2005, the Department issued a Final Order approving an Extension of Time for Permit S-53011. This Final Order included a condition that required the permit holder to submit a written progress report to the Department by October 1, 2010.

This letter is being sent to you because the Department has not yet received the progress report that was due on October 1, 2010.

For your convenience, I have enclosed a **Progress Report Form** for you to fill out and submit. In order to maintain the ability to continue developing water under this permit, you should submit your overdue progress report immediately.

As per your most recent extension, the date by which water must be applied to full beneficial use within the terms and conditions of your permit is October 1, 2011. ***Failure to submit a written progress report may jeopardize continued development of your permit beyond October 1, 2000. Furthermore, future extensions are evaluated on past due diligence, and consequently may not be granted.***

If you have any questions concerning this matter, you may contact me by telephone at (503) 986-0827.

Sincerely,

Ann Reece

Extensions

Water Rights Services Division

Enclosure

cc: Application S-80645  
Watermaster District 19 – Mitch Lewis