

**Oregon Water Resources Department
Water Rights Division**

Water Right Permit Extension Application
for Permit Number G 12064

Water Right Application Number G 13656

Proposed Final Order

This Proposed Final Order applies only to permit number G 12064.

Summary of Recommendation

The Department proposes to:

DENY the extension for complete construction of the water system from October 1, 1997 to October 1, 1999, and

DENY the extension for complete application of water from October 1, 1998 to October 1, 1999.

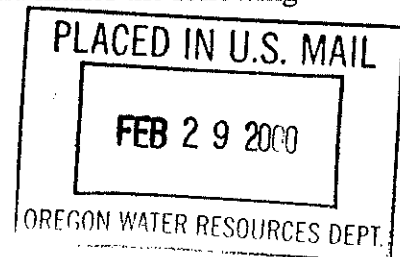
Application History

Permit no. G 12064 was granted by the Water Resources Department on JULY 25, 1995. The permit authorizes use of 30 GPM of water from A WELL for AGRICULTURAL AND IRRIGATION USE ON 15.4 ACRES in the DAIRY CREEK basin. It specified that construction must be completed by October 1, 1997, and water applied to full beneficial use by October 1, 1998. A copy of permit no. G 12064 is attached.

On SEPTEMBER 4, 1998, the Department received an application from RICHARD KRUEGER for an extension of time to complete construction and to apply water to full beneficial use. The applicant has requested until October 1, 1999 to complete construction of the water system and until October 1, 1999 to apply water to full beneficial use. This is the first permit extension request.

Findings of Fact

ORS 537.230(2) and 537.630 (1) allows the Department to grant an extension of time to perfect a water right for good cause. In evaluating good cause, the Department has considered the written record in the permit application file in relation to the requirements of ORS 537.230(2), ORS 537.630 (1) and ORS 539.010(5) and makes the following findings.



1. The applicant is legally entitled to apply for an extension on this permit.
2. The applicant has NOT submitted a completed permit extension form, but has submitted the required fee.
3. The water project development made to date has NOT been accomplished in accordance with the terms and conditions contained in the permit.
4. Progress in perfecting the permit is being held up by unknown reasons. The information submitted by the applicant on the discontinued application form is insufficient. The Department notified the applicant that the updated extension application must be submitted to the Department by letters September 16, 1998, October 29, 1998 and certified letter August 25, 1999. The certified letter and receipt service card sent was signed by applicant. Since the applicant has failed to submit the required extension of time application the Department finds that the extension should be denied.
5. The applicant has NOT SUBMITTED INFORMATION INDICATING the applicant pursued perfection of the right in good faith and with reasonable diligence.
 - a) Work on the water development project completed to date HAS NOT BEEN SUBMITTED TO THE DEPARTMENT.
 - b) The applicant has NOT GIVEN the amount invested in the project.
 - c) The work remaining to be completed consists of the remaining construction of the water delivery system and complete application of water.
6. Based on the written record, the Department finds there is NOT good cause to approve the extension request. The applicant has NOT pursued perfection of the right in good faith and with reasonable diligence.
7. Due to the reasons outlined above in item 4 and the water development progress to date, the Department finds that the length of time requested for completion of construction should NOT be extended to October 1, 1999 and the length of time requested for completion of the application of water should NOT be extended to October 1, 1999 as requested by the applicant.

Conclusions of Law

1. The applicant 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, and ORS 537.630.
2. The applicant has submitted an extension application form and the fee required by ORS 536.050(1)(L).
3. The applicant has NOT pursued perfection of the right in good faith and prosecuted construction with reasonable diligence.
4. The applicant has NOT shown good cause for the untimely completion of the water development project and complete application of water to full beneficial use pursuant to ORS 537.230(2), and ORS 537.630 (1).

5. The permit extension should NOT be approved until October 1, 1999 to complete construction and until October 1, 1999 to complete the application of water.

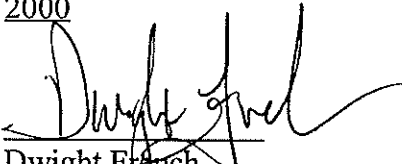
Recommendation

The Department proposes to issue an order to:

DENY the permit time to complete construction from October 1, 1997 to October 1, 1999 and

DENY the permit time to complete application of water from October 1, 1998 to October 1, 1999.

DATED: FEBRUARY 29,
2000


Dwight French
Water Rights Section Manager

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

Protest Rights and Comments

1. Under the provisions of OAR 690-320-0010(8) you have the right to protest this proposed final order. Your protest must be in writing and must include the following:
 - a) Your name, address and telephone number;
 - b) Your interest in this proposed final order, and if you claim to represent the public interest, a precise statement of the public interest represented;
 - c) A detailed description of how the action in the proposed final order would impair or be detrimental to your 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 your protest, if known; and
 - f) The \$25 protest fee required under ORS 536.050 (1)(j).
2. Each person submitting a protest shall raise all reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the comment period.
3. The Water Resources Department must receive written protests or written comments no later than **APRIL 14, 2000**.
4. After the close of the comment and protest period, the Director will either issue a final order, or schedule a contested case hearing if the Director finds there are significant disputes related to the use of water.

This document was prepared by Dallas Miller. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me toll free within Oregon at 1-800-624-3199 extension 272. Outside of Oregon you can dial 1-503-378-8455.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Adam Sussman. His extension number is 262.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 499. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97310, Fax: (503)378-2496.