

**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-15053, Water Right Application G-15087, in )  
the name of K-Cubed, LLC ) FINAL  
ORDER

---

Permit Information

Application: G-15087  
Permit: G-15053  
Basin: 14 – Klamath / Watermaster District 17  
Date of Priority: February 4, 2000  
Source of Water: Three wells in Cabin Creek Basin  
Purpose or Use: Irrigation of 678.8 acres, supplemental irrigation of 218.0 acres, and  
supplemental irrigation to make up a deficiency in rate for 199.2 acres  
Maximum Rate: Not to exceed a maximum cumulative rate of 11.94 cubic feet per second  
(cfs), being 4.4 cfs from each well, further limited to 8.48 cfs for  
irrigation, 2.72 cfs for supplemental irrigation and 0.74 cfs for  
supplemental irrigation to make up a deficiency in rate

---

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-15053 was issued by the Department on April 16, 2002. The permit specified complete application of water to beneficial use by October 1, 2006. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 1, 2016. On June 20, 2017, K-Cubed submitted an Application for Extension of Time for Permit G-15053. In accordance with OAR 690-315-0050(2), on May 22, 2018, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2036. The protest period closed July 6, 2018, 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 15, 2018.

The following Finding of Fact is modified to correct a scrivener's error on page 9 of 12 under the LIMITATIONS AND CONDITIONS section of the PFO issued on May 29, 2018. Modifications to the Final Order are shown as follows: additions are shown in underlined text; deletions are shown in ~~striketrough~~ text.

2. OAR 690-315-0050(5) provides for extension orders to include, but are not limited to, any condition or provision needed to mitigate the effects of the subsequent development on competing demands on the resource. Based on Findings of Facts 24 and 25, the Department determined the need to place a "Annual Static Water Level Measurement Condition" on this extension of time in order to monitor the effect of subsequent development of Permit G-15053. This condition, specified under Item 2 of the "LIMITATIONS AND CONDITIONS" section of this PFO, was determined to be necessary because ~~of the use of an unauthorized point of appropriation; place of use has occurred under this permit~~ Well 2 experienced approximately 5.0 feet of decline between 2005 and 2012 and there is potential for additional decline, beyond the limits set in the permit, as a result of the additional development.

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:

### LIMITATIONS AND CONDITIONS

1. **Reference Level**  
The Reference Level by which all subsequent measurements shall be compared to is 83.08 feet below land surface for KLAM 15053.
2. **Annual Static Water Level Condition**  
The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID or Well tag ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

**3. Checkpoint Condition**

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2023, 2028, and 2033. 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.

**continued on following page**

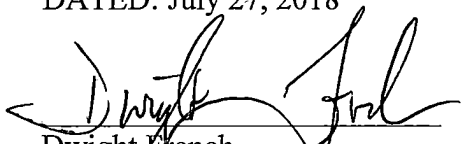
## CONCLUSION OF LAW

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-15087, Permit G-15053, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from or October 1, 2016, to October 1, 2036. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2016, to October 1, 2036.

DATED: July 27, 2018



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

- 
- If you have any questions about statements contained in this document, please contact the Permit Extension Specialist at 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
-