

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

Application for Extension of Time

| | | |
|---|---|---------------|
| In the Matter of the Application for an Extension of Time |) | FINAL ORDER |
| for Permit G-15965, Water Right Application G-16411, |) | INCORPORATING |
| in the name of Jesse Van De Stroet and |) | SETTLEMENT |
| Tanya Van De Stroet |) | AGREEMENT |

Permit Information

| | |
|-------------------|---|
| Application: | G-16411 |
| Permit: | G-15965 |
| Basin: | 12 – Malheur Lake / Watermaster District 10 |
| Date of Priority: | March 10, 2005 |
| Source of Water: | Well 1 and Well 2 in Malheur Slough Basin |
| Purpose or Use: | Irrigation use on 255.2 Acres |
| Maximum Rate: | 3.19 cubic feet per second (cfs) |

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 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 G-15965 was issued by the Department on September 22, 2005. The permit called for complete application of water to beneficial use by October 1, 2009. On October 25, 2017, Jesse and Tanya Van De Stroet submitted to the Department an Application for Extension of Time for Permit G-15965. In accordance with OAR 690-315-0050(2), on February 20, 2018, the Department issued a Proposed Final Order proposing to deny the time to fully apply water to beneficial use to October 1, 2020. The protest period closed April 6, 2018, in accordance with OAR 690-315-0060(1). The applicants filed a timely protest.

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 February 20, 2018.

ADDITIONAL FINDINGS OF FACT

On June 13, 2019, the Department, Jesse Van De Stroet and Tanya Van De Stroet signed a Settlement Agreement, which is incorporated herein and made a part of this order. By the terms of the Agreement, the extension of time to apply water to full beneficial use is October 1, 2016 to October 1, 2017; a March 2007 water level measurement establishes the reference level measurement for Permit G-15965; the permit holder shall submit an acceptable pump test and claim of beneficial use no later than October 1, 2020, or no extension shall be granted. No further extensions of time for Permit G-15965 will be requested.

On April 3, 2019, the permit holder submitted information about the actual locations of Well 1 (HARN 50789) and Well 2 (HARN 50285)¹, which differs from the locations stated in the Water Right Application. The locations in the application were in error. The actual locations are:

Well 1 (HARN 50789): NESE, Section 20, Township 24 South, Range 32.5 East, W.M.; 2385 Feet North and 2630 Feet East from the South $\frac{1}{4}$ Corner, Section 20.

Well 2 (HARN 50285): NESE, Section 21, Township 24 South, Range 32.5 East, W.M.; 1130 Feet South and 50 Feet West from the East $\frac{1}{4}$ Corner, Section 21.

The permit holder also requested that the Department confirm the locations are acceptable for purposes of the claim of beneficial use. The Department has confirmed that the locations are acceptable and this has been noted in the application file.

CONCLUSION OF LAW

The Department finds there is good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

Development of the remaining portion of this permit is not within the capacity of the resource, pursuant to OAR 690-400-0010(11)(a)(B).

ORDER

The extension of time for Application G-16411, Permit G-15965, therefore, is approved subject

¹ The Extension Proposed Final Order erroneously identified the well log for this well as HARN 50282, instead of HARN 50285. It is corrected here.

to conditions contained herein. 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, 2017.

LIMITATIONS AND CONDITIONS

1. Reference Water Level

The reference level against which future annual measurements will be compared is as follows:

HARN 50789 (Well 1) reference level is 28.33 feet below land surface
HARN 50285 (Well 2) reference level is 25.00 feet below land surface

2. Development Limitation

The use of water under Permit G-15965 is limited to a maximum rate of 800 gallons per minute (gpm) (1.78 cfs), further limited to 500 gpm (1.11 cfs) from HARN 50789 (Well 1), and 300 gpm (0.67 cfs) from HARN 50285 (Well 2), for irrigation of a maximum of 255.2 acres.

3. Last Extension

This shall be the last extension of time granted for Permit G-15965. Any future request for an extension of time shall be denied.

DATED at Salem, Oregon on JUN 21 2019



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 (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
-

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

Application for Extension of Time

| | | |
|---|---|---------------|
| In the Matter of the Application for an Extension of Time |) | **DRAFT** |
| for Permit G-15965, Water Right Application G-16411, |) | FINAL ORDER |
| in the name of Jesse Van De Stroet and |) | INCORPORATING |
| Tanya Van De Stroet |) | SETTLEMENT |
| |) | AGREEMENT |

Permit Information

| | |
|-------------------|---|
| Application: | G-16411 |
| Permit: | G-15965 |
| Basin: | 12 – Malheur Lake / Watermaster District 10 |
| Date of Priority: | March 10, 2005 |
| Source of Water: | Well 1 and Well 2 in Malheur Slough Basin |
| Purpose or Use: | Irrigation use on 255.2 Acres |
| Maximum Rate: | 3.19 cubic feet per second (cfs) |

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 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 G-15965 was issued by the Department on September 22, 2005. The permit called for complete application of water to beneficial use by October 1, 2009. On October 25, 2017, Jesse and Tanya Van De Stroet submitted to the Department an Application for Extension of Time for Permit G-15965. In accordance with OAR 690-315-0050(2), on February 20, 2018, the Department issued a Proposed Final Order proposing to deny the time to fully apply water to beneficial use to October 1, 2020. The protest period closed April 6, 2018, in accordance with OAR 690-315-0060(1). The applicants filed a timely protest.

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 February 20, 2018.

ADDITIONAL FINDINGS OF FACT

On ~~DATE~~, the Department, Jesse Van De Stroet and Tanya Van De Stroet signed a Settlement Agreement, which is incorporated herein and made a part of this order. By the terms of the Agreement, the extension of time to apply water to full beneficial use is October 1, 2016 to October 1, 2017; a March 2007 water level measurement establishes the reference level measurement for Permit G-15965; the permit holder shall submit an acceptable pump test and claim of beneficial use no later than October 1, 2020, or no extension shall be granted. No further extensions of time for Permit G-15965 will be requested.

On April 3, 2019, the permit holder submitted information about the actual locations of Well 1 (HARN 50789) and Well 2 (HARN 50285)¹, which differs from the locations stated in the Water Right Application. The locations in the application were in error. The actual locations are:

Well 1 (HARN 50789): NESE, Section 20, Township 24 South, Range 32.5 East, W.M.; 2385 Feet North and 2630 Feet East from the South ¼ Corner, Section 20.

Well 2 (HARN 50285): NESE, Section 21, Township 24 South, Range 32.5 East, W.M.; 1130 Feet South and 50 Feet West from the East ¼ Corner, Section 21.

The permit holder also requested that the Department confirm the locations are acceptable for purposes of the claim of beneficial use. The Department has confirmed that the locations are acceptable and this has been noted in the application file.

CONCLUSION OF LAW

The Department finds there is good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

Development of the remaining portion of this permit is not within the capacity of the resource, pursuant to OAR 690-400-0010(11)(a)(B).

ORDER

The extension of time for Application G-16411, Permit G-15965, therefore, is approved subject

¹ The Extension Proposed Final Order erroneously identified the well log for this well as HARN 50282, instead of HARN 50285. It is corrected here.

to conditions contained herein. 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, 2017.

LIMITATIONS AND CONDITIONS

1. Reference Water Level

The reference level against which future annual measurements will be compared is as follows:

HARN 50789 (Well 1) reference level is 28.33 feet below land surface
HARN 50285 (Well 2) reference level is 25.00 feet below land surface

2. Development Limitation

The use of water under Permit G-15965 is limited to a maximum rate of 800 gallons per minute (gpm) (1.78 cfs), further limited to 500 gpm (1.11 cfs) from HARN 50789 (Well 1), and 300 gpm (0.67 cfs) from HARN 50285 (Well 2), for irrigation of a maximum of 255.2 acres.

3. Last Extension

This shall be the last extension of time granted for Permit G-15965. Any future request for an extension of time shall be denied.

DATED at Salem, Oregon on _____

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 (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
-

Mailing List for Extension FO Copies

FO Date: [REDACTED], 2019

Copies Mailed

Application: G-16411
Permit: G-15965

By: _____
On: _____

Original mailed to permit holder

Jesse and Tanya Van De Stroet
1524 290th St.
Inwood, IA 51240

Copies sent to:

1. WRD - App. File G-16411/ Permit G-15965
2. Schwabe, Williamson, & Wyatt
Attn: Shonee D. Langford
530 Center St NE, Suite 730
Salem, OR 97301

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving notification via e-mail - FO available in WRIS for review
(DONE BY EXTENSION SPECIALIST)

4. WRD - Watermaster District 10, JR Johnson
5. WRD – ER Regional Manager, Jason Spriet

CASEWORKER: JDP

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

In the Matter of the Application for an Extension of)
Time for Permit G-15965, Water Right Application) **SETTLEMENT AGREEMENT**
G-16411 in the name of Jesse Van De Stroet and)
Tanya Van De Stroet)
Applicant, Protestant)

The Oregon Water Resources Department (“Department”) and Jesse Van De Stroet and Tanya Van De Stroet (“Van De Stroet”) (“parties”) do hereby stipulate and agree in this Settlement Agreement as follows:

A. Background

1. On October 25, 2017, Van de Stroet submitted an “Application for Extension of Time” to the Department, requesting the time to apply water to full beneficial use under the terms and conditions of Permit G-15965 be extended from October 1, 2016, to October 1, 2020.
2. On January 20, 2018, the Department issued a Proposed Final Order recommending denial of the application.
3. On April 5, 2018, Van de Stroet filed a timely protest.
4. The Department and Van de Stroet agree that the protest is resolved solely on the terms set forth in this Agreement.

B. Consent

1. Each Party to this Agreement certifies that it has read the entire Settlement Agreement, including the draft Final Order Incorporating Settlement Agreement, and understands and agrees with the contents thereof.
2. Each Party to this Agreement understands and agrees that this Agreement and all documents incorporated by reference set forth the entire agreement of the parties.
3. Each Party to this Agreement understands and agrees that this Agreement and the Final Order Incorporating Settlement Agreement constitute the complete and final resolution of the protest.
4. Effective upon the signing of this Agreement by the Parties, Van de Stroet waives any and all right to petition for judicial review of this Agreement, and waives any and all right to request reconsideration, petition for judicial review, or appeal the Final Order Incorporating Settlement Agreement.

C. Terms of the Agreement

1. The Department will accept the water level measurements performed by Kenneth E. Smith on March 7, 2007, as the reference level measurement for Permit G-15965.
2. The Department has determined that the location of HARN 50789 (Well 1), described as being located within the NE ¼, SE ¼, Section 20, Township 24 South, Range 32.5 East, W.M.; 2385 Feet North and 2630 Feet East from the South ¼ Corner, Section 20, is acceptable for making proof to the satisfaction of the Department.
3. The Department has determined that the location of HARN 50285 (Well 2), described as being located within the NE ¼, SE ¼, Section 21, Township 24 South, Range 32.5 East, W.M.; 1130 Feet South and 50 Feet West from the East ¼ Corner, Section 21, is acceptable for making proof to the satisfaction of the Department.
4. Permit G-15965 shall have a development limitation of 800 gpm (1.78 cfs) of water, being 500 gpm (1.11 cfs) from HARN 50789 (Well 1), and 300 gpm (0.67 cfs) from HARN 50285 (Well 2), for irrigation of 255.2 acres.
5. No later than October 1, 2020, the permit holder (Van de Stroet, at the time of this Agreement) shall submit a pump test and claim of beneficial use consistent with applicable statutes and regulations to the Department.
6. A Final Order Incorporating Settlement Agreement on the Application for an Extension of Time for Permit G-15965, consistent with the attached draft Final Order Incorporating Settlement Agreement, will be issued if an acceptable pump test and claim of beneficial use is submitted on or before October 1, 2020.
7. Van de Stroet withdraws the request for hearing included in the protest.
8. Each Party to this Agreement represents, warrants, and agrees that the person who executes this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to the terms of this Agreement.
9. Each Party to this Agreement certifies that it has had a reasonable opportunity to review and request changes to the Agreement, and that it has signed this Agreement of its own free will and accord.
10. The Parties agree that nothing in this Agreement or the Final Order Incorporating Settlement Agreement establishes factual, legal, or policy precedent.
11. This Agreement may be signed in counterparts.

Signatures on page 3



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


May 30, 2019
Date

Jesse Van De Stroet


Date

Tanya Van De Stroet


Date


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

May 30, 2019
Date


Jesse Van De Stroet

6-13-19
Date


Tanya Van De Stroet

6-13-19
Date