

Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number R-73963

Final Order

Extension of Time for Permit Number R-12177
Permit Holder: City of Seaside

Permit Information

Application File R-73963 Permit R-12177

Basin: 1 – North Coast / Watermaster District 1

Date of Priority: March 28, 1994

Authorized Use of Water

Source of Water:	South Fork and Main Stem of Necanicum River, tributary to the Pacific Ocean
Storage Facility:	Peterson Point Reservoir
Purpose of Use:	Storage of Water for Municipal Use
Maximum Rate:	132.0.0 Acre-Feet (AF)

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 R-12177 was issued by the Department on May 14, 1997. The permit called for construction to begin by May 14, 1998, and for construction to be completed and complete application of water to beneficial use by October 1, 2001. On December 30, 2015, City of Seaside submitted to the Department an Application for Extension of Time for Permit R-12177. In accordance with OAR 690-315-0050(2), on February 16, 2016, the Department issued a Proposed Final Order proposing to extend the time to complete construction to and the time to apply water to full beneficial use to October 1, 2021. The protest period closed April 1, 2016, 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 Proposed Final Order dated February 16, 2016.

Finding of Fact 4, as shown in the Proposed Final Order is corrected as follows (additions are shown in "underline" text, deletions are shown in "~~striketrough~~" text):

4. Notification of the Application for Extension of Time for Permit R-12177 was published in the Department's Public Notice dated January 12, 2016. ~~No public comments were received regarding the extension application.~~ One comment was received from Water Watch of Oregon during the thirty day comment period.

The following concerns were raised in the comment: (1) the extension for Permit R-12177 should be considered a permit for municipal use, as the permit specifies, "Purpose or use of the stored water: to be appropriated under Application S-74880, Permit 53159, for municipal use," (2) this would be the first extension issued pursuant to ORS 537.230(2) after June 29, 2005, which makes the extension subject to the standards set forth in ORS 537.230(2)(c) (fish persistence), and (3) the extension must also be conditioned pursuant to ORS 537.230(2)(b) (Water Management and Conservation Plan).

The Department has considered the comment and has affirmed its determination the standards in ORS 537.248(2), apply to reservoir permits that were issued by the department pursuant to ORS 537.248 (1) after July 5, 1995. Permit R-12177 was issued on May 14, 1997, and was processed under ORS 537.248(1). Therefore, this extension of time was processed in accordance with OAR 690-315-0030 through 0060.

The Department found a scrivener's error in the Proposed Final Order that was issued February 16, 2016. The following condition was omitted from the PFO:

OAR 690-315-0050(6) requires the Department to place a checkpoint condition on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. A "Checkpoint Condition" is specified under Item 1 of the "Conditions" section of this FO to meet this condition.

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 no additional conditions.

CONDITIONS

1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2020**. ***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.

CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.248 and OAR 690-315-0040(2).

Continued on the following page

ORDER

The extension of time for Application R-73963, Permit R-12177, therefore, is approved. The deadline for completing construction is extended from October 1, 2011 to October 1, 2021. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2011 to October 1, 2021.

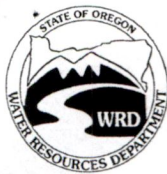
DATED: May 20, 2016



Dwight French

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

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- If you have any questions about statements contained in this document, please contact Corey Courchane at (503) 986-0825.
 - 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
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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 Reporting Form
For Checkpoints

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: City of Seaside

Application R-73963 Permit R-12177

Progress Report Form for 2020

Report Due no later than October 1, 2020

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

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 R-12177. **FAILURE TO SUBMIT THIS REPORT WILL MOST LIKELY RESULT IN ANY FUTURE EXTENSION BEING DENIED.**

DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between December 30, 2015 and October 1, 2020	FINANCIAL INVESTMENT
	Submit a Claim of Beneficial Use	

2. Describe actions taken to comply with terms/conditions of the permit and/or previous extension.

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

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.***

INCOMPLETE REPORTS WILL BE RETURNED. AN ANSWER IS REQUIRED IN EACH ITEM.

Signature _____ Date _____

Printed Name/Title _____

For OWRD use only

Diligence Shown ☐ Yes ☐ No

Date Public Noticed: _____

Reviewed by: _____

Date: _____