

Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time)	PROPOSED
for Permit G-17749, Water Right Application G-11640, in)	FINAL
the name of Thomas MacDonald)	ORDER

Permit Information

Application:	G-11640
Permit:	G-17749
Basin:	13 – Goose and Summer Lakes / Watermaster District 12
Date of Priority:	April 7, 1987 for 10.0 cubic feet per second (cfs) for fish culture and 7.73 cfs for irrigation; and June 14, 1989 for 7.8 cfs for fish culture
Source of Water:	Nine wells in the Ana River Basin
Purpose or Use:	Fish culture, irrigation use of 50.1 acres and supplemental irrigation of 569.6 acres
Maximum Rate:	17.80 cfs, being 7.73 cfs for irrigation and 17.80 cfs for fish culture

Please read this Proposed Final Order in its entirety as it contains additional conditions not included in the original permit.

In Summary, the Department proposes to:

- Grant an extension of time to complete construction of the water system from October 1, 2020, to October 1, 2025
- Grant an extension of time to apply water to full beneficial use from October 1, 2020, to October 1, 2025¹.
- Make the extension subject to certain conditions set forth below.

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.

¹Pursuant to ORS 537.630(5), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and a new or revised claim of beneficial use as deemed appropriate by the Department.

ACRONYM QUICK REFERENCE

Agent for Western Development Group LP – Steve Shropshire
Application – Application for Extension of Time
Department – Oregon Department of Water Resources
FOF – Finding of Fact
PFO – Proposed Final Order
cfs - cubic feet per second

WELLS

Well 1 – LAKE 3030	Well 2 – LAKE 1507	Well 3 – LAKE 4444
Well 4 – LAKE 3029	Well 5 – LAKE 52764	Well 6 – LAKE 52368
Well 7 – LAKE 52369	Well 8 – LAKE 52487	Well 9 – Not Constructed

AUTHORITY

Generally, see ORS 537.630 and OAR Chapter 690 Division 315.

ORS 537.630(2) provides in pertinent part that the Oregon Water Resources Department (Department) for good cause shown shall order and allow an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is “good cause” to approve the extension. OAR 690-315-0040(2)-(4) contains the factors that the Department must consider to make findings that support a “good cause” determination.

OAR 690-315-0050(5) states that extension orders may include, but are not limited to, any condition or provision needed to: ensure future diligence; mitigate the effects of the subsequent development on competing demands on the resource; and periodically document the continued need for the permit.

OAR 690-315-0050(6) requires the Department, for extensions exceeding five years, to establish checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between checkpoints will not exceed five year periods.

FINDINGS OF FACT

1. On April 30, 1990, Permit G-11024 was issued by the Department. The permit authorizes the use of up to 17.80 cfs of water, being 7.73 cfs for irrigation of 50.1 acres and supplemental irrigation of 569.6 acres, and 17.80 cfs for fish culture from a well in the Ana River Basin. The permit specified actual construction of the well to begin by April 30, 1991, construction of the water system was to be completed by October 1, 1992, and complete application of water was to be made on or before October 1, 1993.
2. On December 10, 2008, the Department approved Permit Amendment T-10716 (Special Order Volume 76, Page 833) authorizing four additional points of appropriation (POA) under Permit G-11024 (modified by Permit Amendment T-10716) which is hereafter referred to simply as Permit G-11024.
3. On September 20, 2010, an assignment from Northwest Farm Credit Services FLCA/PCA and Thomas A. MacDonald to Thomas A. MacDonald was recorded in the records of the Water Resources Department.
4. On October 24, 2016, the Department approved Permit Amendment T-11749 (Special Order Volume 103, Page 268) authorizing a change in the location of one POA and to add an additional POA under Permit G-11024 (modified by Permit Amendment T-10716). Superseding Permit G-17282 was issued by the Department on October 24, 2016, to reflect the changes.
5. Five prior permit extensions have been granted for Permit G-17749. The most recent extension request resulted in the completion dates for construction and full application of water being extended from October 1, 2016, to October 1, 2020.
6. On May 18, 2020, the permit holder, Thomas MacDonald, submitted an “Application for Extension of Time” (Application) to the Department, requesting both the time to complete construction of the water system and the time to apply water to full beneficial use under the terms and conditions of Permit G-17749 be extended from October 1, 2020, to October 1, 2025.
7. On June 2, 2020, notification of the Application for Permit G-17749 was published in the Department’s Public Notice. No public comments were received regarding the Application.
8. On June 25, 2020, the permit holder submitted additional information to supplement their Application. The additional information was to provide a timeline for construction benchmarks to be achieved during this extension of time period.

Review Criteria [OAR 690-315-0040]

In order to approve an Application for an Extension of Time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

9. On May 18, 2020, the Department received a completed Application and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

10. Actual construction of the well began prior to the April 30, 1991 deadline specified in the permit. According to the permit holder, construction of LAKE 1507 (Well 2) began April 15, 1985.
11. According to the well log received by the Department on February 2, 1986, construction of Well 2 began April 15, 1985.

Based on Findings of Fact (FOF) 10 and 11, the Department has determined that the prosecution of the construction of the well began prior to April 30, 1991.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is “good cause” to approve the extension. In making a “good cause” finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

In order to make a finding of “good cause” to approve the extension, the Department shall consider whether the applicant has demonstrated “reasonable diligence” in previous performance under the permit. OAR 690-315-0040(2)(a). In determining “reasonable diligence”, the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

Amount of Construction [OAR 690-315-0040(3)(a)]

The amount of construction completed within the time allowed in the previous extension.²

12. The ongoing litigation has delayed completion of the additional work necessary to complete the development of this water use. Coupled with the need to replace failing wells and to add previously developed fishways to the permit; and the delay in the complete review of Permit Amendment T-13337, completion of construction and full application of water was not achievable.

² “Actual Construction” is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder’s good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

The Application provides evidence of progress of physical work made towards completion of the water system, enough to qualify as the minimum necessary for the Department to find good cause and reasonable diligence towards complete application of water to a beneficial use.

Compliance with Conditions [OAR 690-315-0040(3)(c)]

The water right permit holder's conformance with the permit conditions.

13. The Department has considered the permit holder's compliance with conditions placed on the permit with the approval of Permit Amendment T-11749 and included in the superseding Permit G-17749, and has identified the following concerns: (1) the record does not show that a totalizing flowmeter or other suitable measuring device has been installed on each point of appropriation; (2) Well 5 is not constructed to obtain water only from volcanic/basalt unit below basin fill unit, and is not cased and sealed into volcanic/basalt unit; (3) all well are not equipped with a useable access port; and (4) LAKE 4444 (Well 3) and LAKE 3029 (Well 4) do not meet current well construction standards.

Based on FOF 13, the Department has determined that the permit holder has not demonstrated compliance with following permit conditions as required by Permit G-17749:

- “**Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).”;
- “The Additional Point of Appropriation Well #9 and the new Point of Appropriation Well #5 shall obtain groundwater from the predominately volcanic/basalt unit below the predominately basin-fill unit and both wells shall have continuous casing and continuous seal from land surface through the basin-fill unit into the predominantly volcanic/basalt unit.”; and
- The wells shall be constructed in accordance with the General Standards for the Constitution and Maintenance of Water Wells in Oregon. The Works shall be equipped with a useable access port, and may include an airline and pressure gage adequate to determine water level elevations in the well at all times.

In order to legally perfect the use of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]

The amount of beneficial use made of the water during the permit time limits and previous extensions.

14. A maximum cumulative rate of 17.8 cfs of water has been appropriated from the wells fish culture, irrigation use of 50.1 acres and supplemental irrigation of 569.6 acres, being a maximum of 2.56 cfs from LAKE 3030 (Well 1); 1.81 cfs from Well 2; 2.42 cfs from Well 3; 2.08 cfs from Well 4; 4.46 cfs from LAKE 52764 (Well 5); 1.36 cfs from LAKE 52368 (Well 6); 4.74 cfs from LAKE 52369 (Well 7); and 3.75 cfs from LAKE 52487 (Well 8).

15. Delay of beneficial use of water under Permit G-17749 was due, in part, to litigation over a dispute in ownership, which has delayed completion of the necessary work. Additionally, a number of the original wells constructed for use under this permit have either failed or begun to fail. Permit Amendment T-13337 was submitted proposing a change in point of appropriation to replace the failing wells, which has not been approved as of October 1, 2020.

Beneficial use of water, in compliance with the terms and conditions of the permit has not been demonstrated from all wells under this permit as permit conditions were not satisfied by October 1, 2020.

Financial Investments to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

16. An approximate total of \$863,600 has been invested. The costs included items associated with testing and planning, which are not “actual construction” under this permit and therefore are not counted towards development. After deducting these costs, the approximate total investment for “actual construction” to date is approximately \$852,600 which is about 80 percent of the total projected cost for complete development of this project. An additional \$216,500 investment is needed to complete this project, which includes developing any additional wells proposed under Permit Amendment T-13337, installing meters on each authorized point of appropriation, properly reconstructing and/or abandoning currently permitted wells, and addressing any well construction issues necessary to bring well into current well construction standards.

Based on FOF 16, the Department has determined that the permit holder had made an investment, which provides evidence of good cause and reasonable diligence towards the complete application of water to a beneficial use.

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Application provides evidence that work has been accomplished towards completion of the water system; the permit holder has demonstrated compliance with permit conditions, a financial investment has been made, and; beneficial use of water has been demonstrated. The Department has determined the applicant has demonstrated reasonable diligence in previous performance under Permit G-17749.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- *(a) The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) Special water use designations established since permit issuance, including but not*

limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);

- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

OAR 690-315-0040(4)(a)

The amount of water available to satisfy other affected water rights and scenic waterway flows.

17. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-17749; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

OAR 690-315-0040(4)(b)

Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

18. The points of appropriation for Permit G-17749, located within the Ana River Basin, are not located within a limited or critical groundwater area.
19. Ana River are not located within or above any state or federal scenic waterway.
20. The points of appropriation are not in an area listed by the Department of Environmental Quality as a water quality limited stream.

OAR 690-315-0040(4)(c)

The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

21. Ana River is located within an area ranked “low” for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

OAR 690-315-0040(4)(d)

Economic interests dependent on completion of the project.

22. An approximate total of \$852,600 has been invested in the project.

OAR 690-315-0040(4)(e)

Other economic interests dependent on completion of the project.

23. Fish reared at the facility are critical to mitigation efforts of Oregon Department of Fish and Wildlife, California Department of Fish and Wildlife, Nevada Department of Fish and Wildlife, and US Army Corps of Engineers.

OAR 690-315-0040(4)(f)

Other factors relevant to the determination of the market and present demand for water and power.

24. 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 2 of the “Limitations and Conditions” section of this PFO to meet this condition.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

25. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

26. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events [OAR 690-315-0040(2)(h)]

27. Unforeseen events were identified that contributed to the extended the length of time needed to fully develop and perfect Permit G-17749. As described in FOF 12, and 15, litigation associated with an ownership dispute delayed essential work needed to be accomplished under this permit. Additionally, concerns surrounding well construction have been identified for a number of the wells authorized by the permit. The water user has worked with the Department to develop conditions to be included in any new permit resulting from Permit Amendment T-13337, requiring these concerns be addressed for all permitted wells.

Denial of the Extension Will Result in Undue Hardship [OAR 690-315-0040(2)(i)]

28. A denial of the extension would result in undue hardship, and that there are no other reasonable alternatives exist for meeting water use needs. A substantial financial investment has been made in the development of the water use authorized under this permit. A denial of the extension could result in the loss of production of hatchery fish, which would result in a hardship to mitigation efforts.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

29. On July 28, 2017, a Final Order approving an Extension of Time for Permit G-17749 was issued by the Department. This Extension of Time was conditioned to be the last extension that would be approved for the permit. The condition was placed on the order due to the amount of time already provided for development of the water use. The Department recognizes that the delay in completion of the necessary work was due, in part, to a dispute of ownership which is under litigation.
30. The Application provides evidence of good faith of the appropriator under Permit G-17749.

Based on FOF 10, 11, 12, 14, 15, 16, and 22, the Department has determined that the applicant has shown good faith and reasonable diligence, however concerns over the length of time allowed for the development of this water use persist. As such, the Department has determined the Extension of Time may be granted only for the time necessary to complete development.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

31. As of May 18, 2020, the remaining work to be completed consists of completing construction of the water system, meeting all permit conditions, which include installing totalizing flow meters, or other suitable measuring devices on all permitted wells, ensuring all wells are constructed in accordance with General Standards for the Constitution and Maintenance of Water Wells in Oregon, and ensuring all wells are constructed in accordance with any permit conditions; and applying water to full beneficial use.
32. The water user has proposed a timeline for work to be accomplished, and the Department has determined that it is necessary to set specific benchmarks for work to be accomplished during this extension of time period.
33. Though ongoing litigation pertaining to ownership of the land, the parties have entered into an agreement to allow access to pursue completion of the work necessary to complete the project.
34. More than twenty years has already been allowed for the development of this water use. Due to the amount of time already authorized to complete development of this water use, and as provided by OAR 690-315-0050(5), the Department has determined it is necessary to place benchmarks on work to be accomplished during the duration of this extension. These benchmarks have been determined in cooperation with the water user, and progress towards achieving these benchmarks will be reported to the Department annually.

Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2025, to complete construction of the water system and

to accomplish the application of water to beneficial use under the terms and conditions of Permit G-17749 is both reasonable and necessary.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is “good cause” to approve the extension. In making a “good cause” finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to complete construction and apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

LIMITATIONS AND CONDITIONS

1. OAR 690-315-0050(5) provides for extension orders to include, but are not limited to, any condition or provision needed to ensure future diligence, and/or mitigate the effects of the subsequent development on competing demands on the resource. Based on FOF 30 and 34, the Department determined the need to place a “Last Extension Condition” on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. This condition, specified under Item 1 of the “Conditions” section of this PFO, was determined to be necessary due to the time allowed for the complete development of the water use, and the exception being made to the “Last Extension” condition included in the Final Order for Extension of Time issued July 28, 2017.
2. OAR 690-315-0050(6) requires 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 2 of the “Limitations and Conditions” section of this PFO to meet this condition.

CONCLUSIONS OF LAW

1. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
2. The applicant has complied with the construction timeline requirements to begin actual construction as required by ORS 537.630, OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

3. Based on Finding of Facts 10 through 30, completion of construction and full application of water to beneficial use can be accomplished by October 1, 2025, as required by OAR 690-315-0040(1)(c).
4. The applicant can complete the project within the time period requested for the extension on the project, but the extension is conditioned to ensure future diligence and is granted only for the reasonable time necessary to complete water development and apply water to beneficial use. OAR 690-315-0050(5).
5. The applicant has demonstrated good cause for the extension, but the extension must be conditioned to ensure this is the last extension granted in order to ensure future diligence; OAR 690-315-0050(5).
6. For extensions exceeding five years, the Department shall establish progress checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between progress check points will not exceed five year periods, as required by OAR 690-315-0050(6).

PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time to complete construction of the water system under Permit G-17749 from October 1, 2020, to October 1, 2025.

Extend the time to apply water to beneficial use under Permit G-17749 from October 1, 2020, to October 1, 2025.

Subject to the following conditions:

LIMITATIONS AND CONDITIONS

1. **Last Extension Condition**
This may be the last extension of time granted for Permit G-17749. Any future extensions of time request may be denied, unless the permit holder can provide the Department with evidence that diligence is shown during this extension period. Diligence will be determined based on the permit holder's adherence to the benchmark achievements detailed below, and reported on annually. The annual reports will be in the form of Progress Reports submitted in accordance with Item 2 in this Conditions and Limitations section. In addition, all normal extension standards and rules will be evaluated. ORS 539.010(5); OAR 690-315-0040.

BENCHMARKS:

- By October 1, 2021, installation of totalizing flow meters or other suitable measuring devices on all existing permitted wells; completion of first proposed well replacement in accordance with the conditions of the permit

resulting from Permit Amendment T-13337; and submitting the first annual progress report.

- By October 1, 2022, completion of second proposed well replacement in accordance with the conditions of the permit resulting from Permit Amendment T-13337; and submit the second annual progress report.
- By October 1, 2023, complete reconstruction or decommissioning of the wells replaced by the wells proposed by Permit Amendment T-13337; and submit third annual progress report.
- By October 1, 2024, submit fourth annual progress report describing how compliance with all permit conditions has been achieved.

2. **Checkpoint Condition**

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2021, 2022, 2023, and 2024**. *A complete Claim of Beneficial Use submitted prior to the due date of any of these progress reports may substitute for any subsequent progress report. Forms 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.

DATED: October 6, 2020



Dwight French, Administrator,
Water Right Services Division

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

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100 and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **November 20, 2020**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
 - c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's 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 the petitioner, if known;
 - f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The applicant or non-applicant protest fee required under ORS 536.050.
3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
 - a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a protest has been submitted, and:
 - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - 2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

