

**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-17210, Water Right Application G-17699, in)
the name of Tom and Fawn Kerns)
FINAL
ORDER

Permit Information

Application: G-17699
Permit: G-17210
Basin: 9 – Powder / Watermaster District 8
Date of Priority: July 3, 2013
Source of Water: Well 1, Well 2, Well 3, and Well 4, in Salmon Creek Basin
Purpose or Use: irrigation of 301.6 acres and supplemental irrigation of 133.0 acres
Maximum Rate: 7.25 cubic feet per second (cfs), being no more than 5.03 cfs for irrigation and 2.21 cfs for supplemental irrigation

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-17210 was issued by the Department on May 9, 2014. The permit specified completion of construction and complete application of water to beneficial use by May 9, 2019. On March 1, 2021, Tom Kerns submitted an Application for Extension of Time for Permit G-17210. In accordance with OAR 690-315-0050(2), on May 11, 2021, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2031, and the time to fully apply water to beneficial use to October 1, 2031. The protest period closed June 25, 2021, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order dated May 11, 2021.

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 condition:

LIMITATIONS AND CONDITIONS

1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2025, and October 1, 2030. *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 537.630, 539.010(5) and OAR 690-315-0040(2).

continued on following page

ORDER

The extension of time for Application G-17699, Permit G-17210, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from May 9, 2019, to October 1, 2031. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from May 9, 2019, to October 1, 2031.

DATED: July 16, 2021



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 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
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