

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 S-53694, Water Right Application S-73857) FINAL ORDER
in the name of Jack, Sheri, or Barbra Fugate)

Permit Information

Application:	S-73857
Permit:	S-53694
Basin:	South Coast / Watermaster District 15
Date of Priority:	January 21, 1994
Source of Water:	three unnamed streams and Reservoir R-1, to be constructed under Application R-73854, Permit R-12893, Reservoirs R-2, R-4, R-5, R-6, and R-7, to be constructed under Application R-73855, Permit R-12894, and Reservoir R-1(R-3) ¹ , to be constructed under Application R-73856, Permit R-12895, tributaries of Twomile Creek; and Twomile Creek, a tributary of the Pacific Ocean
Purpose of Use:	cranberry operations
Maximum Rate and Volume:	2.0 cubic feet per second (cfs), being 1.7 cfs from Twomile Creek, 0.1 cfs from each of three unnamed streams (#2, 4 and 5); and 110.0 acre feet (AF) of water stored in 7 reservoirs, being 30.0 AF in Reservoir #1; 5.0 AF in Reservoir #2; 48.0 AF in Reservoir #3; 5.0 AF in Reservoir #4; 4.0 AF in Reservoir #5; 9.0 AF in Reservoir #6; 9.0 AF in Reservoir #7

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 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.

¹ The permit contains a scrivener's error in identifying R-1 as the reservoir authorized under Application R-72896, Permit R-12895.

Application History

Permit S-53694 was issued by the Department on August 15, 2000. The permit specified complete application of water to beneficial use by, October 1, 2004. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 1, 2015. On May 13, 2021, Jack Fugate submitted an Application for Extension of Time for Permit S-53694. In accordance with OAR 690-315-0050(2), on November 30, 2021, the Department issued a Proposed Final Order proposing to extend the time to complete construction from October 1, 2015, to October 1, 2031, and the time to apply water to full beneficial use from October 1, 2015, to October 1, 2031. The protest period closed January 14, 2022, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 9, 2021.

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 the following conditions:

LIMITATIONS AND CONDITIONS

1. Permit Amendment Condition

The permit holder shall submit an Application for Permit Amendment by no later than June 1, 2022, requesting authorization of the point of diversion developed on Twomile Creek. If the Application for Permit Amendment is not submitted by June 1, 2022, the Extension of Time to October 1, 2024, will be terminated.

2. Development Limitation Condition

The use of water under Permit S-53694, shall be limited to no more than 37.52 acres of cranberry use developed by October 1, 2015, further limited to no more than 1.7 cfs of water from Twomile Creek; a maximum of 8.42 AF of water stored in Reservoir #1 under Permit R-12893; and a maximum of 5.0 AF of stored water in Reservoir #2, and 9.0 AF of stored water in Reservoir #6, authorized under Permit R-12984.

CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

ORDER

The extension of time for Application S-73857, Permit S-53694, therefore, is approved subject 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, 2015, to October 1, 2031.

DATED: January 28, 2022



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 Permit Extension Specialist at (503)979-3213.
 - 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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Mailing List for Extension FO Copies

FO Date: January 28, 2022

Copies Mailed

Application: S-73857
Permit: S-53694

By: _____
On: _____

Original mailed to permit holder

Jack, Sheri, or Barbra Fugate
P.O. Box 426
Bandon, OR 97411

Copies sent to:

1. WRD - App. File S-73857/ Permit S-53694
2. Other permit holders of record besides applicant

CASEWORKER: JDP