

Instructions for Completing an Application for Extension of Time For Water Right Permit

A COPY OF YOUR PERMIT IS NECESSARY TO FULLY COMPLETE THIS APPLICATION FOR EXTENSION OF TIME. IF YOU DO NOT HAVE A COPY OF THE PERMIT, YOU MAY ACCESS ONE THROUGH THE DEPARTMENT WEB PAGE.

Permit Holder Information:

Complete this section with the most current contact information available. Providing reliable contact information allows for prompt communications from the Department if additional information is necessary.

the permit holder of:

Provide the water right permit and application information in the space provided.

do hereby request that the time in which to:

If your permit contains a date by which construction was to be completed, check the corresponding box; and complete the statement with the month, day and year indicated in the permit or previous extension Final Order, and the year you request the date for completion of construction under the permit be extended to. (NOTE: Extension of Time will only be allowed for the amount of time necessary to complete the development of the project when pursued with reasonable diligence.)

Not all permits contain a date by which complete construction is to be accomplished. If your permit does not contain this date, check the box marked N/A.

All permits contain a date by which complete application of water to the beneficial use is to be accomplished. Complete the statement with the month, day and year indicated in the permit or previous extension Final Order, and the year you request the date for complete application of water to the beneficial use under the permit be extended to. (NOTE: Extension of Time will only be allowed for the amount of time necessary to complete the development of the project when pursued with reasonable diligence.)

Signature Box:

The application must be signed by a permit holder of record.

If there are multiple permit holders of record for a single permit, only one permit holder of record needs to sign the extension application.

If you are not the permit holder(s) of record, but should be, you will need to request an assignment of the water right permit into your name(s), by providing a completed application for assignment, the statutory fee of \$100, and any other supporting documentation necessary to complete the assignment. Request for assignment forms are available on the Department web page at www.oregon.gov/owrd/Pages/pubs/forms.aspx.

Item 1

Each water right permit contains specific dates by which permit holders are to have completed a certain level of development of the right. Generally, these dates appear toward the end of a permit. Among the dates that may be cited are the following:

- A. Actual construction work shall begin on or before [date certain]; if no date for Actual construction work is specified in the permit, the applicant has five years from the permit issuance date to begin construction. ORS 537.230(2) and 537.630(2)
- B. Construction shall be completed on or before [date certain]; not all permits specify a construction completion date.
- C. Complete application of the water shall be made on or before [date certain] ALL PERMITS will specify a date for complete application of water.

By statute, a permit extension for a non-municipal water right ***cannot*** be granted when there is no evidence of actions taken to **begin construction** within 5 years of permit issuance or sooner if specified in the permit. **AN EXTENSION CANNOT BE APPROVED TO BEGIN CONSTRUCTION.** The following instructions are numbered to correspond with the APPLICATION FOR EXTENSION OF TIME. Each item from the application is shown and is followed by guidance that may help you respond to the item. When reviewing these instructions, it will be helpful to have a copy of your water right permit at hand.

1. Beginning Construction within required deadlines. [OAR 690-315-0020(3)(d)]

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun? Yes No

Date construction began Month: _____ Day: _____ Year: _____

Details of construction and attach documentation: _____

For Surface/Reservoir Permit

Has construction of the water system begun? Yes No

Date construction began Month: _____ Day: _____ Year: _____

Details of construction and attach documentation: _____

Groundwater Permits

Start of Construction ORS 537.630 (2) states in part that “the holder of a permit issued pursuant to ORS 537.625 shall prosecute the construction of a well or other means of developing and securing the ground water with reasonable diligence and complete the construction within a reasonable time fixed in the permit by the Water Resources Department, not to exceed five years after the date of approval of the application. However, the Department, for good cause shown, shall order and allow an extension of time, including an extension beyond the five-year period, for the completion of the well or other means of developing and securing the ground water or for complete application of water to beneficial use” [emphasis added]. **AN EXTENSION CANNOT BE APPROVED TO BEGIN CONSTRUCTION OF THE AUTHORIZED WELL.**

ORS 537.515(2) defines “constructing” a well to include boring, digging, drilling or excavating and installing casing or well screens.

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. OAR 690-315-0020(3)(d)(B).

Permit extensions may be granted **only** for completing construction and/ or completing application of water to a beneficial use. **AN EXTENSION CANNOT BE APPROVED TO BEGIN CONSTRUCTION.**

Surface Water or Reservoir Permits

Start of Construction ORS 537.230(2) states in part that “the holder of a permit shall prosecute the construction of any proposed irrigation or other work with reasonable diligence and complete the construction within a reasonable time, as fixed in the permit by the Water Resources Department, not to exceed five years after the date of approval of the application. However, the department, for good cause shown, shall order and allow an extension of time, including an extension beyond the five-year period, for the completion of the construction or to perfect a water right” [emphasis added]. **AN EXTENSION CANNOT BE APPROVED TO BEGIN CONSTRUCTION.**

Construction - any 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. OAR 690-315-0020(3)(d)(A)and(B).

Item 2

2a. Permits typically contain standard and special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column of CHART-A are contained within it. Some permits contain unique conditions that

are not included in this chart, and additional conditions may have been specified in a previous Order approving an Extension of Time or a Permit Amendment. Using the extra row labeled “other”, identify any other additional conditions specified in the permit, a final order approving a permit amendment, or a final order approving a prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check “Yes” if you have completed or met the permit condition. Check “No” if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation, including approval of fish screens, by-pass devices, or other suitable measuring devices. Note: a pump test condition does not need to be addressed here; however, you must submit the results of the test to the Department for approval prior to certification.

Depending on the vintage of the water right permit issued by OWRD, the location of the conditions on the permit may vary. Most, but not all, permits issued before 1990, did not include conditions. If these permits contained conditions they would generally appear on the permit just above the State Engineer’s or Water Resources Director’s signature. In the early 1990’s conditions became more common. Conditions associated with the point of diversion or point of appropriation might be listed immediately following the description of the point of diversion or appropriation. Conditions associated with the place of use, might be listed immediately following the description of the place of use. From the mid-1990’s to present, conditions may be listed under separate subtitles in the permit such as “Measurement, Recording, and Reporting Conditions” or “Standard Conditions.”

Conditions may have been added to the permit as result of an approved Final Order for a permit amendment or a Final Order approving a prior extension of time. These added conditions are binding on the original permit, and must also be also addressed in this extension request.

Conditions requiring a written response in the extension of time application include those which:

- Stipulate a specific date by which the permit holder was to have accomplished a specific action, such as a condition that requires plans and specifications for a reservoir, a groundwater monitoring plan or some other document which “...shall be submitted...within (for example) *two* years of permit issuance.”
- Are triggered by the use of water, but do not stipulate a specific date. These conditions represent a milestone in development of the project and use of water, such as the permit holder “shall install...a water meter or other suitable measuring device approved by the Director...before any use of water begins.” Another common condition triggered by the use of water is that “fish screens are to be installed according to Oregon Department of Fish and Wildlife specifications.”

TIP: Any supporting documentation submitted to demonstrate compliance with time-sensitive permit conditions or any conditions from prior permit extension(s) must be clearly referenced

and may include, but is not limited to: well construction logs; static water level measurement reports, annual water use reports; and/or a plan to monitor the effect of water use on ground water aquifers utilized under the permit.

If needed, you may contact the OWRD for assistance in identifying and/or interpreting which conditions in the water permit are pertinent to the extension application.

In responding to item 2 on the application:

- Step (1) Read your permit and when you come to a condition, check the box in the first column that corresponds to condition as listed in the 2nd column.
- Step (2) Check the Yes box to all the conditions that you have complied with and check the No box for all the conditions that you have not complied with.
- Step (3) Indicate the date the condition was met or will be met.
- Step (4) Repeat steps (1), (2), and (3) for any conditions contained in any order approving a permit amendment and/or prior final order for an approved extension of time.

(NOTE: Permits which require fish screening, fish bypass and/or mitigation conditions must demonstrate compliance with the conditions **prior** to diverting water. If water has been diverted before compliance with these conditions is satisfied, the Department cannot approve an extension of time.)

2b. *If you have NOT complied with all applicable conditions, explain the reasons why and indicate the date when, in the near future, you will be in compliance.*

If a permit holder is not in compliance with time-sensitive conditions, OWRD may take one of three actions:

1. Suspend processing of the application until the permit holder complies with unmet conditions; or
2. Establish time certain performance deadlines by which the conditions must be complied with and include these as conditions on the extension order; or
3. Deny the permit extension.

NOTE: If you are considering applying for a permit extension and you **are not** in compliance with time-sensitive conditions, you may want to hold off filing the extension application until you have complied with the conditions. If you are not in compliance, but wish to proceed with the extension application, you should explain how, and the dates by which, you will comply with the conditions in Chart-A. If the extension is allowed, OWRD will likely not grant much time (less than one year) for the permit holder to comply with time-sensitive conditions.

Item 3

3. *Provide evidence of physical progress made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B).*

Permitted Time Period - period of time between the date when the permit was signed *and* the date specified in the permit for complete application of water.

CHART-B (below) must be completed for all Application for Extension of Time requests. Use chronological order.

Chart-B must be completed regardless of how many extensions have been granted in the past. List all work accomplished, including materials and equipment purchases made within the applicable time period, the system components installed and components brought into use within the time period. Identify costs by each line item to assist in responding to Item 5 on the application for extension. Do not combine costs for multiple accomplishments in a single line item.

Item 4

4. *If a Final Order authorizing a prior extension of time has been issued, fill out CHART-C below (in addition to CHART-B above). Use chronological order.*

Time Period of the Previous Extension

For 2nd Application for Extension of Time - period of time between the date specified in the permit for complete application of water and the new “extended to date” for complete application of water specified in the 1st approved extension.

For 3rd, or 4th, or . . . nth, Application for Extension of Time - period of time between the “extended from date” for complete application of water and the “extended to date” for complete application of water specified in the most recently approved extension.

Chart-C must be filled for all permits that have been granted an extension in the past (that is, this is the 2nd, 3rd, or 4th, etc. request) List all materials and equipment purchases made within the applicable time period, the system components installed and components brought into use within the time period. Identify costs by each line item to assist in responding to Item 5 on the application for extension.

Item 5

5. *Cost of project to date _____.*

Indicate the amount invested in developing the water use system to date. This will be a total of the costs indicated on Chart-B and Chart-C from Items 3 and 4. If exact cost is not known, you must provide your best estimate.

Item 6

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX)

Surface water permits are those where the source of water is a river, stream, lake, pond, reservoir, etc. Report the rate or volume, in the units specified on the permit, of water you are beneficially using under this permit. If the permit authorized multiple points of diversion, provide the rate diverted from each point of diversion individually. The rate will be expressed in the permit as cubic feet per second (cfs), gallons per minute (gpm), and/or Acre-Feet (AF). Some permits contain multiple units of measurement, all of which must be addressed in the application.

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

A permit authorizes a specific rate of water that may be used within the terms and conditions of the permit. (For example a permit may authorize the use of 1.5 cubic feet per second (cfs) of water for irrigation of 60 acres. In this example 1.5 cfs is the authorized rate in the permit). The Department is asking you to report the portion of the full authorized rate you have beneficially used to date **UNDER THIS PERMIT ONLY**. (In this example, if a maximum of 30 acres has been placed under irrigation, the portion of the rate beneficially used to date would (likely) be 0.75 cfs).

Item 7

7. For Ground Water Permit Extensions (e.g. G-XXXX):

The source of water for ground water permit is a well. Some permits authorize the use of water from more than one well. Fill out Chart-D with information for a single well, or if applicable, for multiple wells. Give information about all the well(s) listed on your permit, even if not yet drilled; or if drilled, even if it is not being used for some reason.

- 1st Column: For each well authorized on the permit, indicate the Well # or the well name that is listed on the permit.
- 2nd Column: If naming system you use is different than what is listed on the permit, indicate the Well # or well name you use for each of the wells.
- 3rd Column: Enter a yes or no for each well listed on the permit, indicating whether or not it has been drilled yet.

The following columns relate only to wells which have been already drilled.

- 4th Column: Enter the Well Log Number for each well. Typically this is a four letter prefix (of the county) followed by 3 to 5 digits.
- 5th Column: Enter the Well Tag Number for each well (typically 5 digits). Not all wells have been assigned a well tag number.

Note: Well Log Numbers and Well Tag ID Numbers can be accessed through the Department's Website at http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

- 6th Column: The Department is asking if the actual location of each well is the same as where the permit authorizes the location of that specific well. If the actual location is not the same as the authorized location, a permit amendment will likely be necessary in order to receive approval for use of the well in the new location. If the actual location of any well is different from its authorized location, then Item 8 must also be completed. *Questions about permit amendments may be directed to the Transfer Division of the Department.*
- 7th Column: Report the rate (not the volume) of water being used to date under this permit from each well. Give the rate in cubic feet per second (CFS) or gallons per minute (GPM). If more than one well is listed on the permit, than add the rates from each individual well and enter the sum in the last box in this column for the "Total instantaneous rate from all wells utilized under this permit." If this total rate exceeds the maximum rate authorized under the permit, provide an explanation of how the system is operated to ensure that the maximum instantaneous rate is not exceeded.
- 8th Column: Enter a yes or no for each well listed on the permit, indicating if this well is authorized under any other water right(s).
- 9th Column: If a well is authorized under any other water right(s), provide the Permit Number(s), or Certificate Number(s) or Transfer Number(s) of each water right also listing that well.

Item 8

- 8. If Has a Permit Amendment Application been filed?
If yes, identify Transfer No. T- (Identify Transfer Number)**

**Has the Permit Amendment been approved?
If yes, on what date was the Permit Amendment approved?**

In some cases, a permit amendment may have been filed prior to the extension application being filed. If this is the case, please provide the transfer number that was assigned to this permit amendment request. (e.g. T-10351).

A permit amendment can only be granted if the 'C-date' specified in the permit or an extended 'C-date' granted in approved extension has not expired. Current department policy provides that, if a permit amendment is needed and the authorized 'C-date' has passed, a Final Order approving an extension of time must be approved before the Department accepts the permit amendment application.

Item 9

9. For Irrigation and Nursery Use Permits

Provide the total number of acres irrigated to date under this permit.

- a) **Total acres irrigated to date:** This is the maximum cumulative number of acres that have been irrigated under this permit.
- b) **List by year, the number of acres irrigated each year since permit issuance.**
- c) **Provide a map identifying the acres irrigated. A copy of the Application Map may be used to fulfil this requirement; however it must identify the number of acres developed to date**
- d) **Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).**

Example:

(POD/POA)# 1	Acres	32.6	(POD/POA) # 2	Acres	33.0
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Item 10; CHART-E

10. Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

Complete CHART-E by providing an inventory of work left to be accomplished, the approximate time in which the work will be accomplished; and provide an estimate of the cost to complete the work.

Item 11

11. Estimated remaining cost to complete the project _____.

Indicate your best estimate of the remaining investment necessary to fully construct the system and to fully put water to beneficial use. This will be a total of the costs indicated in Chart-E from Item 10.

Item 12

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: (List all tasks or steps needed to complete the project, and the date when each task will be completed; attach additional pages if necessary.)

Provide information about what work needs to be accomplished, how you plan to comply with permit conditions, when you intend to accomplish the work and what the cost of the work is anticipated to be. If the extension request is for five or more years, provide a summary of the schedule which includes anticipate accomplishments on an annual basis.

Item 13

13. Justify the time requested to complete the project and/or apply the water to full beneficial use.

A justification should integrate information presented in this Application for Extension of Time, but may include any other information or evidence to establish that the requested amount of time is reasonable. This can be a summary of why you need the amount of time you have requested.

Item 14

14a. Will a denial of the extension result in undue hardship?

Explain in detail what undue hardship(s) would result if this extension of time application is denied. Provide information on economic impacts, personal impacts, business impacts, etc.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs?

Are there any other sources of water which may be available to you if this permit extension is denied? This could include the potential to apply for a new water right, a transfer of a similar water right, entry into the “Allocation of Conserved Water Program”, availability of water delivered through a water or irrigation district, or purchasing water through any other source. If the response is “NO”, identify how this determination was made.

Item 15

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right?

Provide information here about issues gaining approval through other local, state, or federal agencies; time delays due to government project which your project relies upon; pending litigation affecting the development of the water system; foreclosures; tax liens; and/or any other government actions. *Conditions contained within the permit do not qualify as “Additional Government Requirements”.*

Item 16

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over.

This could include illness, death, climactic events which impact the water system, unpermitted or illegal usage by other which affected your ability to beneficially use water, discovery of cultural artifacts at the project site, etc.

Unforeseen events do not include; delays caused by business decisions, events that occurred outside of the authorized development time under the permit or previous extension, a lack of understanding of permit conditions.

Item 17

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits.

Provide information about why construction was not completed and/or full beneficial use was not accomplished within the time frame allowed in the permit or in a previous extension. It is a good idea to keep in mind that the Department likely has not visited the site and are relying on information provided in this item to “tell the story” of how the water has been developed. Include site specific information, operational changes, property ownership history, equipment issues, economic considerations or any other information you feel will aid the Department in evaluating the Extension.

Item 18

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

This is your opportunity to include any other information you want the OWRD to have when considering your extension request.

Item 19

19. Will the income or use of the water project provide a fair and reasonable return on your investment?

Describe the total investment to complete the water project and how the use of the water right will provide a reasonable return on your investment. The return on investment does not need to be entirely financial in character. For example, if you have constructed a reservoir as part of your water project, you may wish to include in your return on investment the recreational or wildlife use of the reservoir as a return on the investment.

Item 20

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project.

Are there others who are relying on the development of your water project for their economic benefit? For example, you have an industrial water right, and you have an agreement with a neighboring landowner who has a registration to use reclaimed water after it has been used in your facility.

Commonly Used Terms

A-Date – The date, specified in the permit, as the date that **Actual Construction** of the water system is to begin by.

B-Date – The date, specified in the permit or in a Final Order approving a previous extension of time, as the date to complete construction (or for completion of construction) is to be finished.

C-Date – The date, specified in the permit or in a Final Order approving a previous extension of time, as the date complete application of water to its **Beneficial Use** is to be made by.

Actual Construction – Physical work performed towards the completion of the water system. Actual Construction does not include planning, securing financing, clearing land for planting, building roads for access, surveying the ground or purchasing but not installing equipment.

Beneficial Use – The use of water to its authorized purpose while being fully in compliance with all permit conditions. Use of water without being in compliance with permit conditions is not Beneficial Use.

Permitted Time Period – The time between the date the permit was signed and the C-Date.

Time Period of the Previous Extension – The time between the last authorized C-Date and the C-Date authorized by the previous extension Final Order.