

Criteria for Evaluating Applications for Municipal and Quasi-Municipal Water Right Permit Extensions

The standards and procedures used by the Water Resources Department in evaluating applications for an extension of time for municipal and quasi-municipal water use permits to complete construction and/or apply water to full beneficial use or to begin construction are described in Oregon Revised Statutes (ORS) Chapters 537 and 539 (<http://landru.leg.state.or.us/ors/>) and in Oregon Administrative Rules (OAR) Chapter 690, Divisions 5 and 315 (<http://www.wrd.state.or.us/law/oar1999.shtml>).

This is a summary, prepared by the Water Resources Department, of criteria and procedures that are generally applicable to permit extension applications. The summary is necessarily general, and may not specifically address every applicant's fact situation. The summary is intended as general guidance for applicants, and not as a substitute for reference to applicable statutes and rules.

In reviewing permit extension applications under ORS 537.230, 537.248, and 537.630, the Department will consider the following criteria:

- Compliance with statewide planning goals [OAR-005-0030]
- Compliance with acknowledged comprehensive plans [OAR 690-005-0035]
- Completeness of application [OAR 690-315-0080]
- Adherence to construction start date if one is specified in the permit [OAR 690-315-0080]
- Ability to complete the project within time period requested for the extension [OAR 690-315-0080]
- If the request is for more than 50 years, consistency between estimated demand projection and the amount and types of lands and uses proposed to be served by the permit holder
- Good cause to approve the extension based on the following criteria [OAR 690-315-0080 (2) and OAR 690-315-0080 (3)]:
 - Demonstration of reasonable diligence in previous performance under the permit
 - Cost to appropriate and apply the water to a beneficial purpose
 - Good faith of the appropriator
 - Market for water or power to be supplied
 - Present demands for water or power to be supplied
 - Income or use that may be required to provide fair and reasonable returns on investment
 - Significant delay of construction completion or perfection of the right due to governmental requirements relating to the project
 - Delay of completion of construction or perfection of the right due to unforeseen events over which the water right permit holder had no control

- Whether denial of the extension will result in undue hardship to the applicant and that there are no other reasonable alternatives for meeting water use needs
 - Activities associated with development of the right
 - Other factors relevant to a determination of good cause
- For municipal water supply permits issued after November 2, 1998, other factors in determining good cause include [OAR 690-315-0080 (5)]:
- Amount of water available to satisfy other affected water rights and scenic waterway flows
 - Special water use designations established since permit issuance
 - Habitat needs of sensitive, threatened, or endangered species, in consultation with Oregon Department of Fish and Wildlife
 - Economic investment to date
 - Other economic interests dependent on completion of the project
 - Other factors relevant to the determination of the market and present demand for water and power.

Application Procedures and Review of Municipal and Quasi-Municipal Water Right Permit Extensions

The Water Resources Department processes an application for a municipal or quasi-municipal water right permit extension using the following procedure:

1. **Completeness Determination:**
The Department evaluates if the application contains all of the information required under OAR 690-315-0070. If the Department determines that the application is incomplete or that all fees have not been paid, the application and all fees submitted are returned to the applicant.
2. **Public Notice and Comment**
The Department gives public notice of the complete application in the weekly notice published by the Department. The public comment period is a minimum of 30 days.
3. **Proposed Final Order Issued:**
After consideration of comments received and the administrative record, the Department issues a proposed final order proposing to grant the extension request, with or without additional conditions, or deny the extension request. The Department mails the proposed final order to the applicant and a copy of the proposed final order to any person who submitted comments and has paid the copy fee required under ORS 536.050.
4. **Public Notice and Comment/Protest**
The Department gives public notice of the proposed final order in the weekly notice published by the Department. Any person may protest the proposed final order within 45 days from the date of publication of the proposed final order in the Department's weekly notice.
5. **Final Order Issued:**
Within 60 days after the close of the period for submitting a protest, the Director of the Water Resources Department determines whether to issue a final order on the extension request or to schedule a contested case hearing. After a contest case hearing or if there is no contested case hearing, a final order is issued approving, rejecting, or modifying the application.