



## *City of Port Orford*

---

**TO:** Mayor and City Council  
**FROM:** John Huttl, City Administrator  
**DATE:** September 21, 2023  
**SUBJECT:** Water Permits R80463/R13589 and S80464/S53919

### Summary

The City received notice that the above referenced water permits have been cancelled. It is staff's recommendation that we not appeal the decision to cancel the above water right permits.

### Discussion

On July 28, 2023, the State Water Resources Department sent letters to the City cancelling two water right permits because the city failed to submit proof of appropriation. The City was given 60 days to appeal which is until September 28, 2023.

After reviewing the notice, Mayor Pat Cox and Council President Ann Vileisis participated with City Administrator John Huttl in a conference call with Region Water Master Scott Ceciliani. He advised us that the water permits in question were for waters from Garrison Lake. The water permits were for purposes other than drinking water use. They listed purposes were fish/wildlife habitat and wetlands conservation.

We asked him if these permits were required as a condition of another action. For instance, was the city required to set aside wetlands or protect fish or wildlife as a condition of approval for some other action? He could not determine that.

His review of our water rights showed that we had multiple other water rights. We asked if any of those other water rights were at risk of being cancelled. He said no, and that our other water rights were certificated, which means vested to such a degree that we would not lose them.

After the phone conference, Council President Vileisis performed research into the origin of these water permits. There was mixed history; some history involved the watershed members who lived near Garrison Lake. Other history involved ideas of placing a series of dams and weirs

at some of the feeder creeks to Garrison lake to regulate the type of water in the lake, from brackish to fresh, for instance.

It is believed that neither of the above purposes of the weir system is valid any further because of the work performed by the State to regulate the outfall of the lake. That work resolved issues of water levels and water composition.

Further, the weir system improvements contemplated by the permit applications would involve a considerable un-budgeted expense.

Therefore, because these permits are not required for the City to realize any of its other water rights, and because the purposes behind these permit applications have either been addressed by other actions or have otherwise become obsolete, and because perfecting these permits would require a considerable expense for limited or no benefit, allowing the State to cancel these permits is an option.

The other option would be to pay roughly \$850 to appeal for each cancelled permit. After filing the appeal, time and effort would have to be spent to put together an appeal and argue an appeal, etc. Then if successful – which is not guaranteed – we would have to engage in the expensive dam/weir project to appropriate the water to perfect our rights and vest our permits.

#### Recommendation

Based on the above, staff recommends that the City allow these permits to remain cancelled.

#### Conclusion

Staff requests a motion to not appeal the cancellation of the above-referenced water permits.

Respectfully,



John Hutt  
City Administrator  
City of Port Orford



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

**DATE MAILED: JUL 28 2023**  
**NOTICE**

Enclosed is an order that cancels a permit for failure to submit proof of the completion of appropriation as required by ORS 537.260.

The final order is an order in other than contested case. The order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 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.

If you request reconsideration of the final order and reinstatement of your permit, there is a \$610.00 reinstatement fee that is charged in addition to the claim of beneficial use or extension of time fee.

If you agree with the order, no response to this notice is required.

If you have any questions, please contact Tonya Miller at [Tonya.L.Miller@water.oregon.gov](mailto:Tonya.L.Miller@water.oregon.gov) or by telephone at 503-979-9983.

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON

IN THE MATTER OF THE CANCELLATION OF )  
CERTAIN PERMIT(S) TO APPROPRIATE WATER ) ORDER  
UNDER THE PROVISIONS OF ORS 537.260 )

**Findings of Fact**

1. The time within which the appropriations under the following water right permit(s) must have been perfected has expired. The owners of such permit(s) have failed or refused within the period of three months thereafter to submit proof of the completion of such appropriations as required by ORS 537.260. Consequently, notices have been addressed to each of the owners of said permit(s) by certified mail in accordance with the provisions of ORS 537.260 and ORS 174.160. The sixty-day time limit allowed in those notices has elapsed, and the owners of such permit(s) have failed or refused to submit proof of the completion of the appropriations under the terms and conditions of their respective permit(s).

PERMIT(S) TO CONSTRUCT RESERVOIRS AND STORE WATER:

<u>Name</u>	<u>Basin Number</u>	<u>Watermaster District</u>	<u>Application Number</u>	<u>Permit Number</u>
CITY OF PORT ORFORD	17	14	R-80463	R-13589

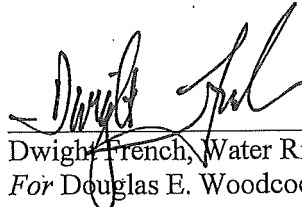
**Conclusions of Law**

1. Proof of appropriation of water under the terms and conditions of the permit(s) listed has not been made to the satisfaction of the Water Resources Director as required under ORS 537.260.

**Order**

1. NOW, THEREFORE, it is hereby ORDERED that the permit(s) are canceled in accordance with the provisions of ORS 537.260.

Dated at Salem, Oregon on JUL 28 2023

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator  
For Douglas E. Woodcock, Acting Director

PLACED IN U.S. MAIL JUL 28 2023  
BY OREGON WATER RESOURCES DEPARTMENT

**This is a final order in other than contested case.** This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 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.



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

**DATE MAILED: JUL 28 2023**  
NOTICE

Enclosed is an order that cancels a permit for failure to submit proof of the completion of appropriation as required by ORS 537.260.

The final order is an order in other than contested case. The order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 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.

If you request reconsideration of the final order and reinstatement of your permit, there is a \$610.00 reinstatement fee that is charged in addition to the claim of beneficial use or extension of time fee.

If you agree with the order, no response to this notice is required.

If you have any questions, please contact Tonya Miller at [Tonya.L.Miller@water.oregon.gov](mailto:Tonya.L.Miller@water.oregon.gov) or by telephone at 503-979-9983.

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON

IN THE MATTER OF THE CANCELLATION OF )  
CERTAIN PERMIT(S) TO APPROPRIATE WATER ) ORDER  
UNDER THE PROVISIONS OF ORS 537.260 )

**Findings of Fact**

1. The time within which the appropriations under the following water right permit(s) must have been perfected has expired. The owners of such permit(s) have failed or refused within the period of three months thereafter to submit proof of the completion of such appropriations as required by ORS 537.260. Consequently, notices have been addressed to each of the owners of said permit(s) by certified mail in accordance with the provisions of ORS 537.260 and ORS 174.160. The sixty-day time limit allowed in those notices has elapsed, and the owners of such permit(s) have failed or refused to submit proof of the completion of the appropriations under the terms and conditions of their respective permit(s).

PERMIT(S) TO USE SURFACE WATER:

<u>Name</u>	<u>Basin Number</u>	<u>Watermaster District</u>	<u>Application Number</u>	<u>Permit Number</u>
CITY OF PORT ORFORD	17	14	S-80464	S-53919

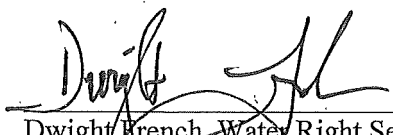
**Conclusions of Law**

1. Proof of appropriation of water under the terms and conditions of the permit(s) listed has not been made to the satisfaction of the Water Resources Director as required under ORS 537.260.

**Order**

1. NOW, THEREFORE, it is hereby ORDERED that the permit(s) are canceled in accordance with the provisions of ORS 537.260.

Dated at Salem, Oregon on JUL 28 2023

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator  
For Douglas E. Woodcock, Acting Director

PLACED IN U.S. MAIL JUL 28 2023  
BY OREGON WATER RESOURCES DEPARTMENT

**This is a final order in other than contested case.** This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 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.