

Oregon Water Resources Department

Final Order Limited License Application LL-1908



Appeal Rights

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 either 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.

Requested Water Use

Applicant: RICK AND JODY HALE

Date Submitted: NOVEMBER 17, 2021

Volume: 29.53 ACRE-FEET (AF)

Sources: SPRINGS AND BROWN CREEK, A TRIBUTARY OF LONE ROCK CREEK

Use: STORAGE OF WATER FOR FIRE PROTECTION, LIVESTOCK, WILDLIFE
USE IN EIGHT RESERVOIRS

Duration: JANUARY 1, 2022 THROUGH JANUARY 1, 2027

County: WHEELER COUNTY

POD Locations: POD 1: 6.00S-24.00E-9-NE SE
POD 2: 6.00S-24.00E-15-NW NW

Authorities

The Department may approve a limited license pursuant to its authority under ORS 537.143, 537.144 and OAR 690-340-0030.

ORS 537.143(2) authorizes the Director to revoke the right to use water under a limited license if it causes injury to any water right or a minimum perennial streamflow.

A limited license will not be issued for more than five consecutive years for the same use, as directed by ORS 537.143(8).

Findings of Fact

1. The forms, fees, and map have been submitted, as required by OAR 690-340-0030(1).
2. On November 23, 2021, the Department provided public notice of the application, as required by OAR 690-340-0030(2).
3. The Department has not received public comment related to the possible issuance of the limited license.

4. This limited license request is limited to an area within a single drainage basin, as required by OAR 690-340-0030(3).
5. The Department has determined that water is available for the requested use, as limited in findings described below.
6. The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.200.
7. The Department may not issue a limited license for the same use for more than five consecutive years. (ORS 537.143)(8).
8. Because the use requested is longer than 120 days and because the use is in an area that has sensitive, threatened or endangered fish species, the use is subject to the Department's statewide rules under OAR 690-033-0310. These rules aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species. The Oregon Department of Fish and Wildlife recommend that the season of use be limited to February and March of each year.
9. Because this use is from surface water and has the potential to impact fish, the Department finds that fish screening is required to protect the public interest.
10. The Department has determined that the storage of water may be allowed February 1 through March 31 of each year contingent on water being available, and with no injury to other water users downstream. This water use authorization has no priority date and is subject to regulation by the Watermaster if downstream senior water rights are deficient at any time.
11. The Department has determined that staff gages, headgates with lockable control valves, and lower conduits will be required as specified in the order below.
12. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
13. Wheeler County has indicated that the proposed use is compatible with the applicable acknowledged comprehensive land-use plan. A copy of the land use compatibility statement is in the file.

Conclusions of Law

The proposed water use will not impair or be detrimental to the public interest pursuant to OAR 690-340-0030(2), as limited in the order below.

Order

Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, Application LL-1908 is approved as conditioned below.

1. The authorized use of water under this limited license is as follows:

Amount: 29.53 AF

Source: SPRINGS AND BROWN CREEK, A TRIBUTARY OF LONE ROCK CREEK

Use: STORAGE OF WATER FOR FIRE PROTECTION, LIVESTOCK, WILDLIFE
USE IN EIGHT RESERVOIRS

Duration: FEBRUARY THROUGH MARCH OF EACH YEAR; FROM LIMITED
LICENSE ISSUE DATE THROUGH MARCH 31, 2027

2. The licensee shall give notice to the Watermaster in the district where use is to occur not less than 15 days or more than 60 days in advance of using the water under the limited license. The notice shall include the location of the diversion, the quantity of water to be diverted, and the intended use and place of use.
3. The licensee shall install staff gages in reservoirs 1 and 3 as described by Certificate 70284, and as approved and coordinated with the Watermaster.
4. The licensee shall install headgates with lockable control valves on the diversions from Brown Creek to reservoirs 3, and 6 as described by Certificate 70284, and as approved and coordinated with the Watermaster.
5. Reservoirs 1, 2, and 4 shall have lower conduits with bank accessible valve controls or other means as approved by the Watermaster, to pass inflow.
6. Access to the property shall be granted the Watermaster with one day's notice to verify compliance.
7. The licensee shall maintain a record of all water use, including the total number of hours of pumping, the total quantity pumped, and the categories of beneficial use to which the water is applied. During the period of the limited license, the record of use shall be submitted to the Department upon request.
8. The Director may revoke the right to use water for any reason described in ORS 537.143(2), and OAR 690-340-0030(6). Such revocation may be prompted by field regulatory activities or by any other information.
9. Use of water under a limited license shall not have priority over any water right exercised according to a permit or certificate, and shall be subordinate to all other authorized uses that rely upon the same source.
10. The licensee shall install, use, and maintain fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. See copy of enclosed fish screening criteria for information.
11. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
12. A copy of this limited license shall be kept at the place of use, and be made available for inspection by the Watermaster or other state authority.

NOTE: This water-use authorization is temporary. Applicants are advised that issuance of this final order does not guarantee that any permit for the authorized use will be issued in the future; any investments should be made with that in mind.

Issued **NOV 21 2022**



Dwight French, Water Right
Services Division Administrator, *for*
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

Enclosures - fish screen criteria

cc: Kenneth C. Thiemann, District 21 Watermaster
East Region, ODFW
John Day, DEQ
Dale VanSchoiack, DGV Consulting, PLLC
David Fillippi, Stoel Rives LLP
Surface Water Section
File

If you need further assistance, please contact the Water Rights Section at the address, phone number, or fax number below. When contacting the Department, be sure to reference your limited license number for fastest service.

Remember, this limited license does not provide a secure source of water. Water use can be revoked at any time. Such revocation may be prompted by field regulatory activities or many other reasons.

Water Rights Section
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem OR 97301-1271
Phone: (503) 979-9895 Fax: (503) 986-0901

FISH SCREENING CRITERIA FOR WATER DIVERSIONS

This summary describes ODFW fish screening criteria for all fish species.

Screen material openings for ditch (gravity) and pump screens must provide a minimum of 27% open area:

Perforated plate: Openings shall not exceed 3/32 or 0.0938 inches (2.38 mm).

Mesh/Woven wire screen: Square openings shall not exceed 3/32 or 0.0938 inches (2.38 mm) in the narrow direction, e.g., 3/32 inch x 3/32 inch open mesh.

Profile bar screen/Wedge wire: Openings shall not exceed 0.0689 inches (1.75 mm) in the narrow direction.

Screen area must be large enough to prevent fish impact. Wetted screen area depends on the water flow rate and the approach velocity.

Approach velocity: The water velocity perpendicular to and approximately three inches in front of the screen face.

Sweeping velocity: The water velocity parallel to the screen face.

Bypass system: Any pipe, flume, open channel or other means of conveyance that transports fish back to the body of water from which the fish were diverted.

Active pump screen: Self cleaning screen that has a proven cleaning system.

Passive pump screen: Screen that has no cleaning system other than periodic manual cleaning.

Screen approach velocity for ditch and active pump screens shall not exceed 0.4 fps (feet per second) or 0.12 mps (meters per second). The wetted screen area in square feet is calculated by dividing the maximum water flow rate in cubic feet per second (1 cfs = 449 gpm) by 0.4 fps.

Screen sweeping velocity for ditch screens shall exceed the approach velocity. Screens greater than 4 feet in length must be angled at 45 degrees or less relative to flow. An adequate bypass system must be provided for ditch screens to safely and rapidly collect and transport fish back to the stream.

Screen approach velocity for passive pump screens shall not exceed 0.2 fps or 0.06 mps. The wetted screen area in square feet is calculated by dividing the maximum water flow rate by 0.2 fps. Pump rate should be less than 1 cfs.

For further information please contact:

Statewide Fish Screening Coordinator
Oregon Dept. Fish and Wildlife
4034 Fairview Industrial Drive SE
Salem, OR 97302
(503) 947-6229