

## Oregon Water Resources Department

### Final Order Limited License Application LL-1941



#### *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:** HITECH MINERALS, INC.

**Date Submitted:** SEPTEMBER 16, 2022

**Amount:** 75 GALLONS PER MINUTE (0.167 CUBIC FOOT PER SECOND (CFS)) UP TO 41,250 GALLONS PER DAY

**Source:** A WELL (PROPOSED)

**Use:** ROAD CONSTRUCTION OR MAINTENANCE (DUST ABATEMENT AT DRILLING PADS/ACCESS ROADS) AND MINERAL EXPLORATION  
DRILLING WATER SUPPLY

**Duration:** MARCH 1 THROUGH NOVEMBER 30 OF EACH YEAR; FROM LIMITED LICENSE ISSUE DATE THROUGH OCTOBER 31, 2027

**County:** MALHEUR COUNTY

**Well Location:** 41.00S-40.00E-9 SE SW; LATITUDE: 42.020578 / LONGITUDE: -118.035543  
THE WELL SHALL BE DRILLED IN A LOCATION CONSISTENT WITH THE LIMITED LICENSE MAP SUBMITTED TO THE DEPARTMENT

#### *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 September 20, 2022, the Department provided public notice of the application, as required by OAR 690-340-0030(2). The Department re-noticed the application on June 27, 2023, to correctly identify the proposed uses.
3. The Department has received public comments related to the possible issuance of the limited license. Comments described concerns about Lahontan Cutthroat Trout; drought; lack of data; impacts to streamflow, the environment, and wildlife; water quality; water availability; and cultural resources. Many of these concerns assume that the proposed groundwater use will affect the quality and quantity of surface water flows. The Department determined that the proposed use does not have the potential for substantial interference with surface water sources. Some comments expressed concern about impacts to the groundwater resource. The authorization of the limited license, as conditioned below, will satisfactorily address the issues raised in those comments.
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 the proposed source has not been withdrawn from further appropriation per ORS 538.200.
6. As part of its review to determine groundwater availability, the Department has determined that groundwater is not over appropriated, and is available for the requested use. The proposed use will, if properly conditioned, avoid injury to existing groundwater rights. The Department has stipulated conditions pertaining to well construction, measurement and reporting, water level reporting, and groundwater production limitations. A copy of this review is in the file.
7. Pursuant to OAR 690-340-0030(4) and (5), conditions have been added with regard to notice and water-use measurement.
8. The Department has determined that the source of water and the proposed use are located on federal lands and therefore, land use approval by a local government is not required.

### ***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-1941 is approved as conditioned below.

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

**Amount:** 75 GPM (0.167 CFS) UP TO 41,250 GALLONS PER DAY

**Source:** A WELL (PROPOSED)

**Use:** ROAD CONSTRUCTION OR MAINTENANCE (DUST ABATEMENT AT DRILLING PADS/ACCESS ROADS) AND MINERAL EXPLORATION  
DRILLING WATER SUPPLY

**Duration:** MARCH 1 THROUGH NOVEMBER 30 OF EACH YEAR; FROM LIMITED LICENSE ISSUE DATE THROUGH OCTOBER 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. In the case of this application, this order serves as the notice described above.
3. Before water use may begin under this limited license, the licensee shall install a totalizing flow meter at each point of appropriation. The totalizing flow meter must be installed and maintained in good working order.
4. 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.
5. Groundwater production shall only be allowed from the Volcanic Rock Groundwater Reservoir between approximately 400 feet and 600 feet below land surface.
6. Construction of the proposed well shall be completed in a manner that protects ground water resources as required under OAR 690-200 through 690-240. During construction of the well, specific attention should be paid to ensure sealing requirements are met and that the well does not commingle aquifers.
7. During construction of the well, cuttings shall be collected at 10-foot intervals and at changes in lithology, to be submitted to the Department whenever possible.
8. The water level within the well shall be measured and reported to the Department as water level below land surface before use of the well commences for that year.
9. 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.
10. 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.
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 August 8, 2023

*Katherine Ratcliffe*

Katherine Ratcliffe, Water Rights Section Manager, *for*  
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Oregon Water Resources Department

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