

Oregon Water Resources Department

**Final Order
Limited License Application LL-1963**



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: JAKE MADISON; MADISON RANCHES INC.

Date Submitted: SEPTEMBER 27, 2023

Amount: 21.25 CUBIC FEET PER SECOND (CFS)

Sources: 85 PERCENT OF WATER ARTIFICIALLY RECHARGED UNDER LL-1926

Use: ARTIFICIAL GROUNDWATER RECHARGE RECOVERY FOR
SUPPLEMENTAL IRRIGATION ON 1355.85 ACRES

Duration: NOVEMBER THROUGH AUGUST; UPON EXPIRATION OF LL-1927
(FEBRUARY 24, 2024), ISSUANCE THROUGH ONE YEAR

County: UMATILLA COUNTY

Well Location: COLLECTOR (WINDMILL) WELL (UMAT 57869): 3.00N-28.00E-31 SE 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.

Findings of Fact

1. The forms, fees, and map have been submitted, as required by OAR 690-340-0030(1).
2. On October 3, 2023, 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. On April 4, 2024, the Department completed a technical review. The proposed use will, if properly conditioned, avoid injury to existing rights. A copy of this technical review is in the file and can be viewed on the Department's website.
6. The Department has determined that water is available for the requested use.
7. The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.
8. The maximum time the Department can allow is 1 year (ORS 537.143).
9. 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 (ODFW) provided recommendations on a measurement device and ODFW retaining the prerogative to pursue a future instream water right for Butter Creek. The Department's Groundwater Section provided recommendations on a totalizing flowmeter, a written annual report, and adhering to the current, approved test and monitoring plan. The authorization of LL-1963 is conditioned to satisfactorily address the recommendations.
10. Per OAR 690-350-0120 (3)(a), the Oregon Department of Fish and Wildlife (ODFW) verifies that there is currently no minimum perennial stream flow or instream water right for the protection of aquatic and fish life established for the source stream identified in the Madison Ranches limited license application 1926. Therefore, the applicant does not need to provide a copy of a minimum perennial stream flow or instream water right as an attachment to the application.
11. Pursuant to OAR 690-340-0030(4) and (5), conditions have been added with regard to notice and water-use measurement.
12. Umatilla 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-1963 is approved as conditioned below.

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

Amount: 21.25 CFS

Source: 85 PERCENT OF WATER ARTIFICIALLY RECHARGED UNDER LL-1926

Use: ARTIFICIAL GROUNDWATER RECHARGE RECOVERY FOR
SUPPLEMENTAL IRRIGATION ON 1355.85 ACRES

Duration: FROM LIMITED LICENSE ISSUANCE THROUGH AUGUST 31, 2024 AND NOVEMBER 1, 2024 THROUGH FEBRUARY 23, 2025.

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 license, the licensee shall install a totalizing flowmeter to record recovered volume at each recovery well. The totalizing flowmeters must be installed and maintained in good working order. In addition, the licensee shall maintain a record of all water use, including the total number of hours of diversion, the total volume diverted, 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 available for review by the Department upon request, and shall be submitted to the Watermaster upon request.
4. The licensee is required to provide a written annual report by April 15th of each year. This report will detail recharge testing and any subsequent recovery under a secondary limited license from the preceding water year. Reporting shall include, but is not limited to, the results of testing efforts that relate to water quality, water quantity, and operations. Water level data shall be submitted in a Department-specified digital format. The licensee shall consult with ODEQ and OWRD to identify additional specific reporting elements. The first report is due in April 2025.
5. The licensee shall adhere to the current, approved test and monitoring plan. A revised, superseding plan may be submitted to the Department at any time. The Department may approve, condition, or reject such plans.
6. In supporting this license, ODFW retains the prerogative to pursue a future instream water right for Butter Creek, and the license shall be subordinate to any such right.
7. 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.
8. 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.
9. 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.
10. 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 MAY 02 2024

Katherine Ratcliffe

Katherine Ratcliffe, Water Rights Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

Enclosures - limited license

cc: Gregory M. Silbernagel, District 5 Watermaster
Eastern, ODFW
Umatilla, DEQ

GSI Water Solutions, Inc. Attn: Robyn Cook – 55 SW Yamhill St, Suite 200, Portland, OR 97204
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
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