

Oregon Water Resources Department

Final Order
Limited License Application LL-1966



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 (as amended on November 18, 2024, and November 25, 2024)

Applicant: BRIAN KRAMER

Date Submitted: FEBRUARY 15, 2024

Amount: 0.0039 CUBIC FOOT PER SECOND (CFS) UP TO 0.5 ACRE-FEET (AF) ANNUALLY

Source: WELL 1 (B) (YAMH 59593)

Use: IRRIGATION TO ESTABLISH GRAPE VINES ON 4.5 ACRES

Duration: JULY 1 THROUGH SEPTEMBER 30 OF EACH YEAR; FROM JULY 1, 2025 THROUGH SEPTEMBER 30, 2029

County: YAMHILL COUNTY

Well Location: 3.00S-2.00W-5 SW SE

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 February 20, 2024, the Department provided public notice of the application, as required by OAR 690-340-0030(2).
3. The Department has received public comment related to the possible issuance of the limited license from Karyn G. Hanson, and from Juliette W. Wait on behalf of Save Chehalem Mountain, Inc.

In summary, the comments received expressed concern regarding water availability. The authorization of 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. 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 or to the groundwater resource. The Department has stipulated conditions pertaining to measurement and reporting, decline in static water level, and groundwater production only from the Basaltic Megalandslide Complex. A copy of this review is in the file.
6. On November 18, 2024, the applicant's agent amended the application by reducing the proposed rate to 0.0039 cubic foot per second in order to avoid the potential for substantial interference with surface water.
7. The application proposed the use of water from one well, to be drilled in one of two locations. On November 18, 2024, the agent amended the application by proposing water from a drilled well, Well 1 (B) (YAMH 59593).
8. On November 25, 2024, the applicant's agent amended the application by revising the proposed project schedule to the date water use will begin as July 2025, and the date water use will be completed as September 30, 2029.
9. The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.
10. In this location, grape vines do not necessarily require continuing irrigation after establishment. This limited license is issued to establish grape vines. The Department may issue a limited license for irrigation if the sole purpose of the use is to provide water necessary to establish a crop for which no further irrigation will be required after the crop is established. ORS 537.143 (6)(a).
11. The Department may not issue a limited license for the same use for more than five consecutive years. (ORS 537.143)(8).
12. Pursuant to OAR 690-340-0030(4) and (5), conditions have been added with regard to notice and water-use measurement.
13. Yamhill 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-1966 is approved as conditioned below.

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

Amount: 0.0039 CFS UP TO 0.5 AF ANNUALLY

Source: WELL 1 (B) (YAMH 59593)

Use: IRRIGATION TO ESTABLISH GRAPE VINES ON 4.5 ACRES

Duration: JULY 1 THROUGH SEPTEMBER 30 OF EACH YEAR; FROM JULY 1, 2025 THROUGH SEPTEMBER 30, 2029

Well Location: 3.00S-2.00W-5 SW SE

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. Before water use may begin, the water user shall install a totalizing flow meter at each point of appropriation. The totalizing flow meter must be installed and maintained in good working order. In addition, the water user shall maintain a record of all water used each month, 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 annually, or more frequently as may be required by the Director, and shall be submitted to the Watermaster upon request.
4. Groundwater production shall only be allowed from the Basaltic Megalandslide Complex.
5. For each well on this authorization, beginning on the limited license signature date for existing wells or in the year well construction is completed for new wells, and each year thereafter, the licensee must report a static water-level measurement ("measurement") taken in March. The measurement is required whether the well is used or not. If pumping is to commence following completion of the well and prior to the next March, then a measurement must be made at least one week following well completion and before pumping commences.

Measurements must be properly reported within 30 days of measurement using forms specified by the Department. A measurement will be properly reported if the submission includes all required information as listed in the document attached. Measurements must be made with equipment that is accurate to the standards specified in Oregon Administrative Rule (OAR) 690-217-0045.

Measurements must be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed land surveyor, licensed well constructor, pump installer licensed by the Construction Contractors Board, or Department staff. The Department is not responsible for regular measurement of the static water level, but Department staff may measure the well during the normal course of groundwater level monitoring or to confirm the submitted measurement(s).

For each well on this limited license, the Department will establish a reference groundwater level using the best available data. The reference level is intended to represent the highest elevation

(shallowest depth) static water level that has been measured or can be reasonably estimated to have existed within each well at any time before its reference level is set. If Annual High Water Levels have been increased measurably by human activity, then the Department may set a different reference level using best available information. If the licensee fails to measure and report the static water level within 12 months of limited license issuance, or of completion of the well(s), then Department staff will estimate the static water level using available data, including measurements in surrounding wells.

All water use authorized under this limited license must immediately stop if any of the following occur:

- A. Any annual high elevation static groundwater level in any well on this limited license declines 25 or more feet below the reference level for that well, or
- B. Groundwater levels are not measured and properly reported as specified above for any completed well that is authorized on the limited license for two consecutive years, or
- C. Hydraulic interference contributes to a decline of 25 or more feet in any neighboring well with senior priority, at any time during the year.

The Department will determine when any of the above conditions have occurred and may order the licensee to stop all water use under this limited license. The licensee is also responsible for stopping all water use if they become aware that any of the conditions have occurred, even without notice from the Department. Following such a stop, water use under this limited license will not be allowed and may only resume once the licensee receives notice from the Department. If the licensee fails to stop use, then the Department may take control of the controlling works of any wells authorized under this limited license and may reduce the amount of groundwater pumped until the unlawful use is eliminated.

The licensee acknowledges that that one or more of the conditions requiring stoppage of use may occur prior to any use of any well on this limited license.

The Department may allow the licensee to pause annual water level measurement and reporting requirements from some of the authorized wells if measurements from those wells are redundant with other data being collected by the Department. The licensee must receive written notification of such an allowance before stopping measurements. If this happens, the Department may reinstate the measurement requirements at any time.

6. Water may be used under this limited license only to establish a crop for which no future irrigation will be required after the crop is established (ORS 537.143(6)(a)).
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 DEC 05 2024

Katherine Ratcliffe

Katherine Ratcliffe
Water Rights Section Manager, for
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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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