

Oregon Water Resources Department



Final Order Limited License Application LL-1160

Appeal Rights

This is a final order in other than a 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

On July 23, 2008, the Water Resources Department received completed application **LL-1160** from Ash Grove Cement Co. for the use of 0.86 cubic foot per second from two wells, located in the NW ¼, NW ¼, Section 11, Township 12 South, Range 43 East, W.M., for industrial/manufacturing uses, and mining uses, for the period Limited License Issuance through the time required to correct Transfer T-10235.

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. The Department provided public notice of the application, on July 29, 2008, as required by OAR 690-340-0030(2).
3. This limited license request is limited to an area within a single drainage basin as required by OAR 690-340-0030(3).
4. The Department has determined that there is water available for the requested use.
5. The Department has determined that the proposed source has not been withdrawn from further appropriation.

6. The Department can allow only 5 years time, per ORS 537.143.
7. The Department has not received comments related to the possible issuance of the limited license.
8. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.

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-1160** is approved as conditioned below.

1. The period and rate of use for **LL-1160** shall be from August 22, 2008, through August 21, 2011, for the use of 0.86 cubic feet per second from two wells, for the purpose of industrial/manufacturing uses, and mining uses, or until Transfer T-10235 can be corrected, whichever occurs first.
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 flow meter at each point of appropriation. The totalizing flow meter 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 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, and shall be submitted to the Watermaster upon request.
4. 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.
5. 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.
6. The licensee shall install, maintain and operate 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.

7. A copy of this limited license shall be kept at the place of use, and be 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 22, 2008



E. Timothy Wallin, Water Rights Program Manager, *for*
Phillip C. Ward, Director
Water Resources Department

Enclosures - limited license

cc: Rick Lusk, District 8 Watermaster
Tim Bailey, ODFW
Mitch Wolgamott, DEQ
Hydrographics
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.

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