



**Final Order
Limited License Request 963**

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 April 12, 2006, the Water Resources Department received completed LL request 963 from Western Federal Lands Highway Division – Federal Highway Administration, for the use of 1.0 cubic feet per second from the Donner und Blitzen River, located in the NW1/4, NE1/4, Section 15, Township 30 South, Range 31 East, W.M., for the purpose of road construction or maintenance, for the period of September 5, 2006, through November 30, 2006.

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 other 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 April 18, 2006, 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 there is no statutory prohibition, such as a statutory withdrawal under ORS Chapter 538, that would cause the Department to deny or further condition the proposed limited license.
6. 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.
7. The Department has determined that the use is not subject to any other rules of the Department that would cause additional limitations, conditions or denial of the request
8. The Department has not received comments related to the possible issuance of the limited license

9. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.

Conclusions of Law

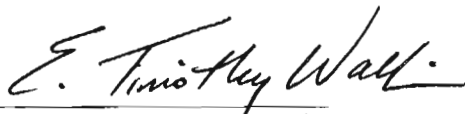
The proposed water use will not impair or be detrimental to the public interest pursuant to OAR 690-340-0030(2), as limited in the order below.

Order

Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, application for Limited License **963** is approved as conditioned below.

1. The period and rate of use for Limited License **963** shall be from September 5, 2006, through November 30, 2006, for the use of 1.0 cubic feet per second from the Donner und Blitzen River, for the purpose of road construction or maintenance.
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 meter all water use and maintain a record of use, including the total number of hours of use, the total quantity used, 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 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 reason.
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.

Issued May 3, 2006



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

Enclosures - limited license, fish screen criteria

cc: June Miller, Watermaster, District 10
Tim Walters, ODFW
Mitch Wolgamott, DEQ
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 better service.

Remember, the use of water under the terms of this limited license is not 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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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:

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