

# Oregon Water Resources Department



## **Final Order Limited License Application LL-1441**

### ***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 November 21, 2012, the Water Resources Department received completed application **LL-1441** from Davenport Newberry Holdings for the use of 187 gallons per minute, up to 435 acre-feet from any combination of 3 wells, located in the NE ¼, SW ¼, Section 16, the NE ¼, SW ¼, Section 21, and the SW ¼, NE ¼, Section 29, all in Township 21 South, Range 12 East, W.M., for geo-thermal testing (energy production), for the period January 1, 2013, through December 31, 2017.

### ***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 November 27, 2012, as required by OAR 690-340-0030(2).
3. This 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 The Department has determined that the proposed source has not been withdrawn from further appropriation.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 has determined that the use is subject to its rules under OAR 690-33-0310. 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.

In accordance with OAR 690-505, the Department will require that mitigation be provided by the applicant in the amount of **217.5 acre-feet** annually for the life of the license. The mitigation must be produced in the Deschutes general zone of impact as defined in OAR 690-505-0605.

7. As part of its review to determine ground water availability, the Department's Ground Water/Hydrology Section has stipulated conditions pertaining to measurement and reporting, interference, allowing groundwater production from the Newberry lava aquifer only, and allowing POA # 3 for monitoring and not production to avoid diminishment of flow in Paulina Creek.
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-1441** is approved as conditioned below.

1. Use of water under this license is not authorized until proof of acceptable mitigation<sup>1</sup> in the amount of **217.5 acre-feet** in the Deschutes general zone of impact as defined in OAR 690-505-0605, has been submitted to the Department, and accepted in writing by the Department.
2. The period and rate and volume of use for **LL-1441** shall be from January 10, 2013, through December 31, 2017, for the use of 187 gallons per minute, up to 435 acre-feet, from one or any combination of two wells, for the purpose of geo-thermal testing (energy production).
3. 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 this 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.

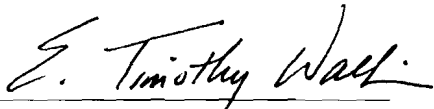
---

<sup>1</sup> Mitigation opportunities may include, but are not limited to; instream leases, purchasing credits, water-right transfers, and stored water releases. Contact the local watermaster for details; for assistance in locating the watermaster see [http://www.wrd.state.or.us/OWRD/offices.shtml#Region\\_Watermaster\\_Map](http://www.wrd.state.or.us/OWRD/offices.shtml#Region_Watermaster_Map).

4. Before water use may begin under this license, the licensee shall install a totalizing flow meter at each point of diversion/appropriation. The totalizing flow meter must be installed and maintained in good working order.
5. 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 license, the record of use shall be submitted to the Department annually, and shall be submitted to the Watermaster upon request.
6. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this license, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
7. This limited license is conditioned to allow groundwater production only from the Newberry lava groundwater reservoir.
8. Due to potential diminishment of flow in Paulina Creek, POA # 3 (DESC 10060) shall not be used for production, but monitored continuously as a proxy to judge potential interference with Paulina Creek. The continuous monitoring shall be with a data logger and transducer that meet Department standards. The data from the data logger shall be reported on a monthly schedule while pumping is occurring.
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. A copy of this 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 January 9, 2013



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

Enclosures - limited license, fish screen criteria

cc: Jeremy T. Giffin, District 11 Watermaster  
Brett Hodgson, ODFW  
Bonnie Lamb, 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.

Water Rights Section  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem OR 97301-1271  
Phone: (503) 986-0817      Fax: (503) 986-0901