

Oregon Water Resources Department



Final Order Limited License Application LL-1469

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 May 22, 2013, the Water Resources Department received completed application **LL-1469** from the Bureau of Reclamation - Umatilla Field Office for the use of 418 acre-feet of stored water annually under certificate 76087 from McKay Reservoir, located in the NW ¼, SE ¼, Section 34, Township 2 North, Range 32 East, W.M., for instream fishery enhancement, for the period of license issuance through 5 years.

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 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 May 28, 2013, as required by OAR 690-340-0030(2).
3. This 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 The Department has determined that the proposed source has not been withdrawn from further appropriation.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. 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 rules under OAR 690-33. 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. No comments were received that would cause the Department to require additional conditions or limitations.
7. The Department has received comments related to the possible issuance of the license from the local watermaster. The comments did cause the Department to add additional conditions or limitations. The comments pertain to notifying the watermaster 3 days in advance of each release of water, and the amount to be released. The authorization of license **LL-1469**, as conditioned below, will satisfactorily address the issues raised in those comments.
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.

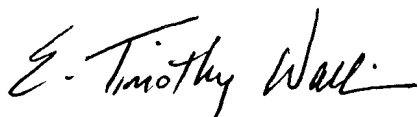
Order

Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, application **LL-1469** is approved as conditioned below.

1. The period and volume of use for **LL-1469** shall be from June 13, 2013, through June 12, 2018, for the use of 418 acre-feet of stored water annually under certificate 76087 from McKay Reservoir, for the purpose of instream fishery enhancement.
2. The licensee shall give notice to the Watermaster in the district where use is to occur not less than 3 days in advance of each release. The notice shall include the quantity of water to be released and the dates of release.
3. The licensee shall maintain a record of all water released, including the total quantity released, and the dates of release. 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.
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. 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 June 13, 2013



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

Enclosures - limited license, fish screen criteria

cc: Tony G. Justus, District 5 Watermaster
Bill Duke, ODFW
Cheryl Hutchens Woods, DEQ
Adam Sussman, GSI
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