

Oregon Water Resources Department



Final Order **Limited License Application LL-1683**

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 December 27, 2016, the Water Resources Department received completed application **LL-1683** from Rick and Jody Hale for the storage and use of 29.53 acre-feet from springs and Brown Creek, located in the SE ¼, SE ¼, Section 9 and the NW ¼, NW ¼, Section 15, Township 6 South, Range 24 East, W.M., for multipurpose use in 8 existing reservoirs, for the period January 1, 2017, through January 1, 2022.

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 January 10, 2017, 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 The Department has determined that the proposed source has not been withdrawn from further appropriation.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. The Department can allow issue a license for only five years (ORS 537.143).
7. 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.

8. 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.
9. The Department has not received comments related to the possible issuance of the license.
10. The Department has determined that the storage of water may be allowed, December 1 through March 31 of each year when the Watermaster determines water is available.
11. The Department has determined that staff gages, headgates with lockable control valves, and lower conduits will be required as specified in the order below.
12. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
13. Wheeler County has indicated that the proposed use is compatible with the applicable acknowledged comprehensive land-use plan.

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

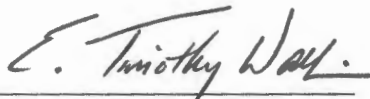
Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, application **LL-1683** is approved as conditioned below.

1. The period and volume of storage and use for **LL-1683** shall be from January 30, 2017, through January 1, 2022. Storage is allowed December 1 through March 31 of each year when the Watermaster determines water is available, for the storage of 29.53 acre-feet from springs and Brown Creek, for multipurpose use. Use of the stored water may be made at any time
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 storing the water under the 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 install staff gages in reservoirs 1 and 3 as described in certificate 70284 and coordinated with the Watermaster. The installation of headgates with lockable control valves on diversions from Brown Creek for reservoirs 3, and 6 as described by certificate 70284 is to be coordinated with the Watermaster. Reservoirs 1, 2, and 4 shall have lower conduits with bank accessible valve controls or other means as approved by the Watermaster to pass inflow.
4. Access to the property shall be granted the Watermaster with one day's notice to verify compliance.
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. 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.
7. 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.
8. The licensee shall install, use, and maintain 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.
9. The use of water under this license is contingent upon the applicant submitting an application for a water right for the same use(s) by January 1, 2018. If no such application is filed by that date, this license will no longer be in effect.
10. 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.

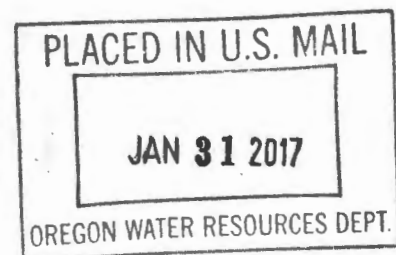
Issued January 27, 2017



E. Timothy Wallin, Water Rights Program Manager
for Director, Oregon Water Resources Department

Enclosures - limited license, fish screen criteria

cc: Kenneth C. Thiemann, District 21 Watermaster
Trevor Watson, ODFW
Smita Mehta, 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

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:

Statewide Fish Screening Coordinator
Oregon Dept. Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303
(503) 947-6229