

# Oregon Water Resources Department



## **Final Order Limited License Application LL-1685**

### ***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 January 19, 2017, the Water Resources Department received completed application **LL-1685** from Paul Kuehne; Willamette Valley Land LLC for the use of 6.2 gallons per minute from a well, located in the SE ¼, SE ¼, Section 8, Township 6 South, Range 5 West, W.M., for irrigation to establish a hazelnut orchard, for the period April 1, 2017 through October 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 31, 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 The Department has determined that the proposed source has not been withdrawn from further appropriation.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. 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.
8. The Department has not received comments related to the possible issuance of the license.
9. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
10. Polk 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***

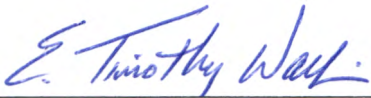
Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, application **LL-1685** is approved as conditioned below.

1. The period and rate of use for **LL-1685** shall be from May 22, 2017, through May 21, 2022, for the use of 6.2 gallons per minute from a well, for the purpose of irrigation to establish a hazelnut orchard.
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 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. 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 license, the record of use shall be submitted to the Department annually, and shall be submitted to the Watermaster upon request.
4. Water may be used under this license only to establish a crop for which no future irrigation will be required once the crop is established (ORS 537.144(6)(a)). This license is void once an application for permit for irrigation is submitted for any of the same lands.
5. 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.
6. 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.

7. 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 7, 2017



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

Enclosures - limited license

cc: Joel M. Plahn, District 16 Watermaster  
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Nancy Gramlich, 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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