

# Oregon Water Resources Department



## **Final Order Limited License Application LL-1725**

### ***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, 2017, the Water Resources Department received completed application LL-1725 from Greg Harris; Threemile Canyon Farms Inc. for the use of 27.85 Cubic feet per second from the Columbia River, located in the NW ¼, SE ¼, Section 36, Township 4 North, Range 22, W.M., for aquifer recharge testing, for the period of issuance through December 31, 2023.

### ***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 January 9, 2018, 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 The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.200.

6. The Department can allow issue a limited license for no longer than 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 690-033. 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. The Oregon Department of Fish and Wildlife (ODFW) commented on March 8, 2018. These comments pertain to the period that water may be diverted, and flow restrictions that could impose restrictions on diversion amounts and timing of diversions. Oregon Department of Environmental Quality (ODEQ) comments are pertaining to water quality, monitoring and an approved work and monitoring plan. Based on the comments received, the Department has added conditions in the final order below.
8. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
9. Morrow and Gilliam counties have indicated that the proposed use is compatible with the applicable acknowledged comprehensive land-use plan. A copy of the land use compatibility is in the file.

### ***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-1725** is approved as conditioned below.

1. The period, rate, and volume of use for **LL-1725** shall be from April 5, 2018, through April 4, 2023, for the use of 27.85 cubic feet per second, up to 10,000 acre feet total, from the Columbia River for the purpose of Aquifer Recharge testing. The season of use shall be October 1 through April 14 of each year. The season of use and rate of diversion may further limited by the following conditions.
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. Before water use may begin under this limited license, the licensee shall install a totalizing flow meter at each point of diversion and at the entry point to each recharge test well. 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 limited license, the record of use shall be submitted to the Department annually, and shall be submitted to the Watermaster upon request. This record shall include the amount of water diverted from the Columbia River, and the amount delivered to each recharge well.

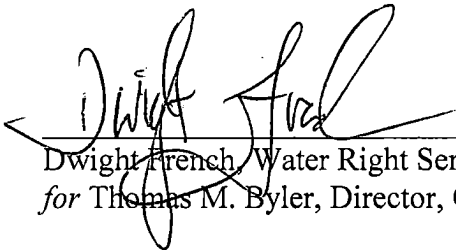
4. The licensee shall adhere to the current, approved work plan and monitoring plan. A revised, superseding plan may be submitted to the Department at any time. The Department may deny, condition or approve that plan.
5. The licensee shall comply with all ODEQ water quality requirements. If monitoring data or other information result in identification of potential water quality concerns, ODEQ may seek modifications to the monitoring and test plan and/or require a permit of its own to address the water quality concerns prior to resumption of artificial groundwater recharge testing.
6. The licensee is required to provide a written annual report by January 15 of each year. This report will detail recharge testing from the preceding year. Reporting shall include, but not be limited to, results and analysis of testing efforts that relate to water quality, water quantity, and operations. Water level data shall be submitted in a Department-specified digital format. The licensee shall consult with ODEQ and OWRD to identify additional specific reporting elements. The first report is due in January 2019. The annual report shall be sealed and signed by a professional(s) registered or allowed, under Oregon law, to practice geology.
7. Ongoing surveys indicate the importance of maintaining water levels in the Ives/Pierce Island complex below Bonneville Dam to provide for ESA-listed chum salmon spawning, incubation, and emergence. As tail water elevations below Bonneville Dam are directly correlated with the amount of chum spawning habitat available, the Federal Columbia River Power System Biological Opinion set targets for chum salmon spawning, incubation, and emergence from November through early April. The volume of unregulated flow into the Columbia River upstream of Bonneville Dam is critical in meeting the spawning elevations. Therefore, in accordance with the Biological Opinion, and to ensure spawning habitat is available, ODFW recommends the permittee divert water only during November 1 – December 31, or until a stage height set by the Action Agencies for that year has been determined, when the 7-day rolling average of the mean daily gage height, or tail water elevation, below Bonneville Dam is equal to or greater than a height of 11.5 feet or the height set by the Action Agencies. After a stage height is set by the Action Agencies (usually late December), ODFW recommends the permittee divert water only when the 7-day rolling average of the mean daily gage height, or tail water elevation, below Bonneville Dam is equal to or greater than the stage height set. The permittee should contact the Army Corps of Engineers representative of the Technical Management Team to identify when the stage height is set (contact information can be found on the meeting agendas here: <http://www.nwd-wc.usace.army.mil/tmt/>). To monitor mean daily stage at this location, the permittee will use the official project tail water elevation gage (USGS gage station #14128870 Columbia River below Bonneville Dam, OR). Real-time data from this station is available online at the United States Geological Survey website: [http://waterdata.usgs.gov/or/nwis/dv/?site\\_no=14128870&agency\\_cd=USGS&referred\\_module=sw](http://waterdata.usgs.gov/or/nwis/dv/?site_no=14128870&agency_cd=USGS&referred_module=sw). ODFW recommends the permittee maintain a spreadsheet of the 7-day rolling average of the mean daily gage height for the period when the permittee is withdrawing water from November 1 – April 14, which will be available to WRD upon request. ODFW

recommends any mitigation provided to compensate for withdrawals made when the stage height is below 11.5 feet or that set by the Action Agencies for the period November 1 through April 14 be protected instream at a point or reach above Bonneville Dam located at approximately River Mile 146.

8. 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.
9. 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.
10. The licensee shall install, operate and maintain an approved fish screen at the point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines, the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.
11. A copy of this limited 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 April 3, 2018



Dwight French, Water Right Services Division Administrator  
for Thomas M. Byler, Director, Oregon Water Resources Department

Enclosures - limited license, fish screen criteria

cc: Kenneth C. Thiemann, District 5 Watermaster  
Bill Duke, ODFW  
Phil Richerson, 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