

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON**

In the Matter of Renewal of Aquifer Storage )  
and Recovery (ASR) Limited License #010, )  
Washington County

FINAL ORDER  
APPROVING RENEWED ASR TESTING

**AUTHORITY**

Oregon Revised Statute (ORS) 537.534 and Oregon Administrative Rule (OAR) 690-350-0020 establish the process by which an application for ASR testing under an ASR limited license may be submitted and approved. Oregon Administrative Rule (OAR) 690-350-0010 describes general provisions for ASR under Oregon law.

**BACKGROUND**

On April 28, 2004, the Department issued ASR Limited License #010 to the City of Tualatin. That license authorized ASR testing for five years at five wells in a basalt aquifer. Condition 1 of ASR Limited License #010 provides for renewal pursuant to OAR 690-350-0020(5)(c). Condition 1 of ASR Limited License #010 sets out the following terms for renewal: The limited license may be renewed if the licensee demonstrates to the Director's satisfaction that further testing is necessary and that the licensee complied with the terms of the limited license.

**FINDINGS OF FACT**

1. On MARCH 11, 2009, the CITY OF TUALATIN, submitted a request for a five-year time extension for ASR Limited License #010.
2. The Department published notice of the extension request in the Department's weekly public notice.
3. The Department received no adverse comments related to the possible renewal of the ASR limited license.
4. The Department sought comments and recommendations from Oregon Department of Environmental Quality and Oregon Department of Human Services related to the possible renewal of the ASR limited license.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an 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.

5. Department staff commented that additional data should be submitted that would afford the Department access to all data collected in conjunction with ASR testing. Proper formatting of that data was also requested. The Department may further condition an ASR limited license as a condition of renewal (OAR 690-350-0020(5)(a)).

### DISCUSSION

The Department has evaluated the renewal request and associated comments and recommendations and finds that the proposed renewal satisfies the requirement of Condition 1 and OAR 690-350-0020(5)(c). The licensee has demonstrated to the Director's satisfaction that further testing is necessary and that the licensee complied with the terms of the limited license. The renewal request letter from the City of Tualatin presented the reasons for the extension (renewal) and provided specific details that addressed compliance with the ASR limited license.

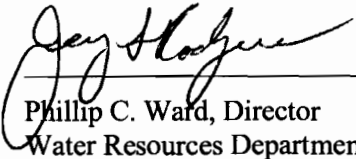
### CONCLUSIONS OF LAW

The request to renew ASR Limited License #010 for five years is consistent with the requirements of OAR 690-350-0020(5)(c) and Condition 1 of ASR Limited License #010. The Department may further condition the renewed ASR limited license consistent with the requirements of OAR 690-350-0020.

### ORDER

Now, THEREFORE, IT is ordered, ASR Limited License #010 is renewed pursuant to ORS 537.534, OAR 690-350-0020(5)(c), and Condition 1 of the ASR limited license.

Dated at Salem, Oregon on April 27 2009.

*For*   
Phillip C. Ward, Director  
Water Resources Department

This order was produced by Donn Miller. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your question. You may reach me at 503-986-0845 or [Donn.W.Miller@wrdd.state.or.us](mailto:Donn.W.Miller@wrdd.state.or.us)

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to: Ground Water Section, Oregon Water Resources Department, 725 Summer St NE, Suite A, Salem OR 97301-1266, Fax: 503-986-0902.

**AQUIFER STORAGE and RECOVERY (ASR) LIMITED LICENSE #010**  
**(This instrument renews a prior authorization)**

The Oregon Water Resources Commission issues this limited license for ASR TESTING to:

City of Tualatin	Telephone: 503.691.3030
Mike McKillip, P.E., City Engineer	
18800 SW Martinazzi Avenue	
Tualatin, OR 97062-7092	

The licensee may divert up to 3000 gpm from the Bull Run River, a tributary of the Sandy River, using authorization of ORS 538.420.

The points of diversion on the Bull Run River under ORS 538.420 are located at T1S/R5E, Section 25, SW1/4 SW1/4.

The licensee may store up to 475 million gallons in a basalt aquifer using five injection wells. The maximum injection rate at each well is 550 gpm. The licensee may recover up to 700 gpm of stored water per well through the same five wells. The maximum storage duration is the five-year duration of this limited license.

With the authorization of individual ASR well test plans, up to FIVE ASR wells are potentially allowed at a combined rate up to 2750 gpm (550 gpm per well) for injection and up to 3500 gpm (700 gpm per well) for recovery. These wells consist of the following:

<u>Well Name</u>	<u>Well Location within T2S/R1W WM.</u>
Site 1	T2S/R1W - Section 34, SE1/4 NE1/4
Site 2	T2S/R1W - Section 35, NE1/4 SE1/4
Site 3	T3S/R1W - Section 1, NW1/4 NW1/4
Site 4	T2S/R1W - Section 26, SW1/4 SE1/4
Site 5	T2S/R1W - Section 25, SW1/4 NE1/4

The duration of this limited license is five years. This time was the requested limited license duration. This limited license expires on the fifth anniversary of issuance.

**This is a final order in other than contested case.** Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition the Director for reconsideration of this order or petition for judicial review of this order. As provided in ORS 536.075, this order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 day time period specified by ORS 183.484(2).

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Except as it conflicts with other provisions of this limited license, the licensee is authorized to pursue the project schedule, monitoring, and other features noted in the ASR test plan for Site 1. That plan may be amended and approved pursuant to condition (4)(A)(iii) and condition 7. The project schedule in the ASR test plan may be reasonably adjusted by the licensee to reflect the license issuance date or other delays. Features of that ASR testing plan are provided in the application documents entitled:

City of Tualatin  
Aquifer Storage and Recovery  
Limited License Application  
and  
Pilot Test Plan  
Prepared by  
Murray, Smith & Associates, Inc.  
In association with  
Groundwater Solutions, Inc.  
December, 2003

This limited license is issued with the following conditions:

- 1) License Renewal. The limited license may be renewed if the licensee demonstrates to the Director's satisfaction that further testing is necessary and that the licensee complied with the terms of the limited license.
- 2) Notice Prior to Injection and Recovery. The licensee shall give notice, in writing, to the watermaster not less than 15 days in advance of either initiating any injection under the limited license or recovering stored water. The injection notice shall include the limited license number, the location of the injection source water diversion, the quantity of water to be diverted from that source, the time of injection, and the place of injection. The recovery notice shall include the limited license number, the location of the recovery well(s), the time of recovery, and the quantity of water to be recovered.
- 3) Record of Use. The permittee shall maintain a record of injection and recovery, including the total number of hours of injection and recovery and the total metered quantity injected and recovered. The record of use may be reviewed by Department staff upon request.

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4) Modification/Revocation. The Department shall notify the licensee in writing and allow the licensee to respond when considering the following actions:

(A) The Director may modify the ASR limited license for any of the following reasons:  
(i) to reflect changes in Oregon Department of Human Services (ODHS) and Oregon Department of Environmental Quality (DEQ) water quality or treatment standards;  
(ii) to address needed technological changes as requested by DEQ or ODHS to minimize constituents regulated under OAR 333-61-030 (ORS 448.131 and .273) or OAR 340-40 (ORS 468B.165);  
(iii) upon written request from the applicant for minor adjustments to the authorization in the limited license. (For purposes of this license, a well location change to an adjacent 1/4 1/4 section is a minor adjustment.)

(B) The Director may revoke or modify the ASR limited license for any of the following reasons:  
(i) to prevent or mitigate injury to other water rights, minimum perennial streamflows or aquifer water quality;  
(ii) to address any other unintended, injurious effects of the ASR activity; or  
(iii) failure to maintain compliance with all conditions of this limited license.

(C) The Department may offer an additional public comment opportunity consistent with the notice and comment provisions of OAR 690-350-020 prior to modifying the limited license.

5) Priority/Protection. This limited license does not receive a priority date and is not protected under ORS 540.045

6) Compliance with Other Laws. The injection of acceptable water into the aquifer as well as its storage and recovery under this limited license shall comply with all applicable local, state or federal laws. This shall include but not be limited to compliance with the Oregon Department of Environmental Quality's (DEQ's) Underground Injection Control registration program as authorized under the Safe Drinking Water Act (40 CFR 144.26). Also, all pilot test discharges to waterways must be covered by a DEQ National Pollution Discharge Elimination System (NPDES) permit.

7) Detailed Testing Plans. The licensee shall submit a detailed plan of testing for each injection well as the project develops. The licensee shall obtain Department approval of a detailed plan before injection testing at a well may begin. The Department may approve, condition, or reject a detailed plan.

**8) Water Quality Conditions and Limits:**

(A) The licensee shall minimize, to the extent technically feasible, practical and cost-effective, the concentration of constituents in the injection source water that are not naturally present in the aquifer;

(B) Except as otherwise provided in (C) of this condition, if the injection source water contains constituents regulated under OAR 333-61-030 (ORS 448.131 and .273) or OAR 340-40 (ORS 468B.165) that are detected at greater than 50 percent of the established levels (MCLs or MMLs in the cited rules), the licensee shall employ technically feasible, practical and cost-effective methods to minimize concentrations of such constituents in the injection source water;

(C) Constituents that have a secondary contaminant level or constituents that are associated with disinfection of the injection source water may be injected into the aquifer up to the standards established under OAR 333-61-030 (ORS 448.131 and .273);

(D) The Department may, based upon valid scientific data, further limit certain constituents in the injection source water if the Department finds that those constituents will interfere with or pose a threat to the maintenance of the water resources of the state for present or future beneficial uses;

(E) If during the course of ASR testing, a constituent which is regulated under OAR 333-61-030 (ORS 448.131 and .273) or OAR 340-40 (ORS 468B.165) is detected above the 50% level prescribed in condition (8)(B) or the 100% level prescribed in condition (8)(C), the licensee shall immediately stop injection activities upon receipt of lab data and notify the Department within five days;

**9) Water Quality Sampling.**

(A) Injection Water. The licensee shall sample and analyze injection water for the constituents regulated under OAR 333-61-030 (ORS 448.131 and .273) or OAR 340-40 (ORS 468B.165) as well as other constituents as described in the pilot test plan dated December 2003.

(B) Wells. The licensee shall sample receiving aquifer water at the well prior to any storage at the well. The licensee shall sample for the constituents regulated under OAR 333-61-030 (ORS 448.131 and .273) or OAR 340-40 (ORS 468B.165) as well as other constituents as described for wells in the pilot test plan dated December 2003.

(C) Withdrawal of Stored Water. The licensee shall analyze water withdrawn from storage for the constituents regulated under OAR 333-61-030 (ORS 448.131 and .273) or OAR 340-40 (ORS 468B.165) as well as other constituents as described in the pilot test plan December 2003 and OAR 690-350-020(3)(b)(F)(iv).

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10) Water Level Monitoring. The licensee shall monitor water levels in wells in the manner described in the pilot test plan dated December 2003. The licensee shall submit a detailed water level monitoring plan for testing at each subsequent injection well.

11) Recovery. The availability of stored water for recovery is based on the following factors:

(A) Available stored water is determined on a well-by-well basis. The licensee may recover up to 95% of the quantity injected under this limited license during the water year that the water was injected. After that water year, the availability of stored water shall be further diminished each water year such that the licensee may only recover up to 95% of any water year-to-water year storage carryover. (For example, water year 2004 lasts from October 1, 2003 through September 30, 2004.) (Data collected by the licensee may be useful in consideration of modifications to this recovery provision under the limited license.)

(B) Any water withdrawn from an ASR well identified in this limited license shall first be debited against the quantity available in the aquifer by virtue of ASR storage. When the ASR storage is depleted at an ASR well, any water withdrawn from an ASR well shall be considered a draft of natural ground water, requiring separate or additional authorization. This limited license does not authorize withdrawal of more water than was injected.

(C) The availability of stored water is a running account that is subject to determination at any time.

12) Reporting. Except as otherwise noted, the licensee shall provide the Department a written report of the results of ASR testing for each water year by February 15th of the following water year. The first report shall be due in 2005 and include results from water year 2004. The report shall detail the several kinds of data collected during the water year (including the water quality results in condition 9), analyze those data to show the ASR project impacts on the aquifer, indicate the testing/development progress made under the terms of the limited license, and account for the injection of stored water, withdrawals of stored and natural water, and the new-year carryover storage at each well.

13) Protection for Existing Users. In the event of conflicts with existing appropriators, the licensee shall conduct all testing so as to mitigate the injurious effects. In addition, the licensee shall cooperate with the efforts of the Department to protect existing water rights and the water quality of existing users that rely upon the receiving aquifer and the injection source water.

14) Use of Recovered Water. The licensee shall use any recovered water for the purposes described in ORS 538.420.

15) Periodic Meetings. The licensee shall alert the Ground Water/Hydrology Section of the Department of the meetings of the licensee's technical review group of the ASR project in order that Department staff may attend and track the periodic progress of the testing project.

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16) Additional Conditions on an Informal Basis. The Department may suggest additional conditions to the licensee. Provided that those conditions are agreed to and undertaken by the licensee, the Department may forego formal changes to this license. This informal process does not extend to condition reductions. These additional conditions may be part of any license renewal or permit.

17) Publicity. The licensee shall maintain a public information program about the ASR project, which may include press releases, neighborhood meetings, brochures, or other activities. This program shall include information on potential project impacts and how to report possible impacts to the licensee. The licensee shall share such reports with the watermaster within five days of receipt.

18) Other Measures. The licensee shall take any additional measures appropriate to address the ASR-related issues of landslide activation, seepage, streamflow increases, aquifer boundary determination, aquifer storage efficiency, and water quality protection so that these issues can be addressed during review of the ASR permit application.

19) Carryover Storage. At the end of testing under this limited license, the licensee shall provide an accounting to the Department of the residual stored water based on the methods of determination given in this license. The Department shall consider this residual for carryover to a permanent ASR permit based on information, which discloses the aquifer's ability to retain stored water.

20) Special Reporting Condition. The co-licensees shall provide the following information to the Department, pursuant to the second renewal in 2009:

(A) Submission of any and all hydrogeologic data collected and reports developed for the project, including but not limited to cuttings analysis, video logs, geophysical logs, aquifer tests and step tests.

(B) Submission of digital water level data for all ASR wells and any other wells measured in conjunction with the project (in a Department specified format) with a provision for annual updates.

(C) Submission of annual updates, in GIS form, of locations and elevations for all project wells (actual locations of built wells and proposed locations for proposed locations) and locations and elevations for all non-project wells that have been used for collecting water levels or other data pertinent to the project (in a Department specified format).

(D) Notification in the annual report of any changes in well construction to the ASR limited license file.

(E) Associating all project well data with the Department Well Identification Number (Well ID Number), the Department Well Log ID, if available, and the project Well Name.



21) Well Tag Condition for Licensee Wells. Prior to Water Year 2010, the licensees shall ensure that their wells have been assigned a Department Well Identification Number (Well ID Number). A tag showing the Well ID Number shall be permanently attached to the well. If a well does not have a Well ID Number, the licensees shall apply for one from the Department and attach it to the well. The Well ID Number shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

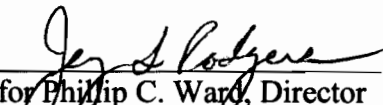
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This license is renewed upon finding that:

- i) the licensee(s) demonstrated to the Director's satisfaction that further testing is necessary, and
- ii) the licensee(s) complied with the terms of the ASR limited license.

This license shall be in effect beginning April 28, 2009, and shall expire April 28, 2014.


WITNESS my hand this 27<sup>th</sup> day of April 2009.

  
for Phillip C. Ward, Director  
Water Resources Department

**CERTIFICATE OF SERVICE**

I certify that on April 29, 2009, I mailed the attached final order approving renewed ASR testing and ASR Limited License #010 by certified mail and first class postage prepaid to:

City of Tualatin  
c/o Mike McKillip, P.E., City Engineer  
18800 SW Martinazzi Avenue  
Tualatin, OR 97062-7092

  
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Donn Miller  
Oregon Water Resources Department