

Oregon Water Resources Department

Final Order on Reconsideration Limited License Application LL-1765



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

Applicant	Weedman Brothers
Date Submitted	September 24, 2018
Source & Amount	A Well (GILL 50766): 30.0 gallons per minute, up to 8.5 acre-feet annually
Use	Agricultural and Domestic Use
Period of Use	Issuance through October 31, 2021
County	Gilliam County
POD Location	NE ¼, NE ¼, Section 34, Township 1 North, Range 21 East, W.M.

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.

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 October 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. On February 28, 2019, the Department issued a Final Order denying the limited license application, determining that groundwater is over appropriated.
5. On April 4, 2019, the applicant's agent submitted a petition for reconsideration of the Final Order, and proposed mitigation via forbearance of 15.9 acres under non-cancelled Certificate 83254.

6. The petition for reconsideration was filed within the 60-day period specified in ORS 137-004-0080.
7. On May 28, 2019, the Department granted the request for reconsideration.
8. The Department has determined that, with mitigation, groundwater is available for the requested use.
9. The Department's Groundwater Section has determined that the proposed source of appropriation is located above the John Day Scenic Waterway, and has stipulated conditions pertaining the regulation of use in favor of scenic waterway flows. A copy of this review is in the file.
10. The Department's Watermaster has stipulated conditions pertaining to installation of totalizing flow meters, measurement and reporting.
11. The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.200.
12. The Department may not issue a limited license for the same use for more than five consecutive years. (ORS 537.143)(8).
13. The Department has not received comments related to the possible issuance of the limited license.
14. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
15. Gilliam County has indicated that the proposed use is compatible with the applicable acknowledged comprehensive land-use plan. A copy of the land use compatibility statement 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

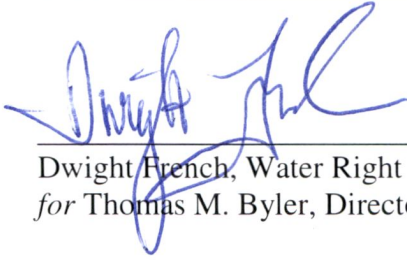
Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, application LL-1765 is approved as conditioned below.

1. Groundwater is available in the amount requested, provided the use is conditioned to require a totalizing flow meter, water-use measurement and reporting, and monitoring of the well to ensure non-use under Certificate 83254 during the period of forbearance. **Water use under this license is authorized only with forbearance of water use under Certificate 83254.**
2. The period and rate and volume of use for LL-1765 shall be from the date of this Final Order through October 31, 2021, for the use of 30.0 gallons per minute, up to 8.5 acre-feet annually, for the purpose of agricultural and domestic use from a well (GILL 50766).

3. The landowner shall forbear and refrain from all groundwater use authorized under Certificate 83254, specifically for the 15.9 acres appurtenant to the SW $\frac{1}{4}$, SW $\frac{1}{4}$, Government Lot 4, Section 18, Township 1 North, Range 20 East, W.M., during the period of this Limited License. Use of water under this Limited License is not authorized without meeting the requirement of forbearance.
4. 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. In the case of this application, this order serves as the notice described above.
5. Before water use may begin under this limited license, the licensee shall install a totalizing flow meter, to be approved by the Watermaster and installed prior to use, with instantaneous reads, and a real time water measurement device with digital readout to report water levels monthly, at the 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 limited license, the record of use shall be submitted to the Department monthly, and shall be submitted to the Watermaster upon request.
6. Use of water under authority of this limited license may be regulated if analysis of data available after the limited license is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
7. 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.
8. 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.
9. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
10. A copy of this limited license shall be kept at the place of use, and be made 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 NOV 21 2019



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

cc: Kenneth C. Thiemann, District Watermaster
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Smita Mehta, DEQ
John A. Short, Water Right Services, LLC
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
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