

Oregon Water Resources Department

Final Order Limited License Application LL-1804



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	Steven Wheat
Date Submitted	October 3, 2019
Source & Amount	A Proposed Well: 20 gallons per minute
Use	Agriculture – Watering Grapes on 20.0 acres
Period of Use	A season of May - August of each year, from 2020 through 2025
County	Polk County
POD Location	Well - SW ¼, SE ¼, Section 20, Township 8 South, Range 5 West, 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.

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 October 8, 2019, as required by OAR 690-340-0030(2).
3. The Department has received comments related to the possible issuance of the limited license from Oregon Department of Fish and Wildlife. No issues were raised in those comments that require additional conditions or limitations of this limited license.

4. This limited license request is limited to an area within a single drainage basin, as required by OAR 690-340-0030(3).
5. As part of its review to determine groundwater availability, the Department's Groundwater Section has determined that groundwater is not over appropriated, and is available for the requested use. The proposed use will, if properly conditioned, avoid injury to existing groundwater rights or to the groundwater resource. The Department's Groundwater Section has stipulated conditions pertaining to water-use and static water level measurements, and limiting groundwater production only from the Indurated Sedimentary Groundwater Reservoir. A copy of this review is in the file.
6. The Department may not issue a limited license for the same use for more than five consecutive years. (ORS 537.143)(8).
7. In this location, grapes do not necessarily require continuing irrigation after establishment. This limited license is issued to establish grapes. The director may issue a limited license for irrigation if the sole purpose of the use is to provide water necessary to establish a crop for which no further irrigation will be required after the crop is established. ORS 537.143 (6)(a).
8. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
9. Polk 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-1804 is approved as conditioned below.

1. The period and rate of use for LL-1804 shall be from **May 1, 2020 through August 31, 2024**, for the use of 20 gallons per minute from a well, for the purpose of agriculture – watering grapes.
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 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 annually, and shall be submitted to the Watermaster upon request.

4. Static Water Level Condition:

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the license. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The licensee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The Department may require the discontinuance of groundwater use, or reduce the rate or volume of withdrawal, from the well if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

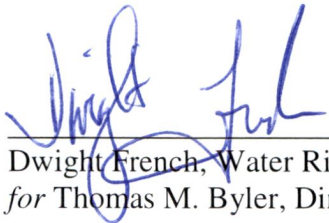
The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the licensee and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial

interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this license. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

5. Groundwater production shall be allowed only from the **Indurated Sedimentary Groundwater Reservoir between approximately 20 feet and 150 feet below land surface.**
6. Water may be used under this limited license only to establish a crop for which no future irrigation will be required after the crop is established (ORS 537.143(6)(a)).
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 JAN 27 2020



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

cc: Joel Plahn, District Watermaster #22
Elise Kelley, ODFW
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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